

To: Annie Sawabini
Department of Ecology
Water Resources Program
PO Box 47600
Olympia WA 98504-7600

January 16, 2020

RE: Chapter 173-501 WAC Draft Rule & Supporting Documents

Dear Ms. Sawabini,

Thank you for taking the time to consider our comments on the draft rule and supporting documents for Chapter 173-501 WAC, also known as the Nooksack Rule.

RE Sources is a non-profit organization located in northwest Washington and founded in 1982. We work to protect the health of northwest Washington's people and ecosystems through the application of science, education, advocacy, and action. Our priority programs include Protecting the Salish Sea, Freshwater Restoration, Climate Action, and Fighting Pollution—all critical issues affecting our region. Our North Sound Baykeeper is also a member of the Waterkeeper Alliance, with over 300 organizations in 34 countries around the world that promote fishable, swimmable, drinkable water. RE Sources has thousands of supporters in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf.

Comments on proposed amendments to WAC 173-501:

- 1. Please maintain the 500 gallon per day indoor water use limit and maintain the one-twelfth acre outdoor domestic use.** As stated and analyzed in the supporting document, 500 gallons per day is more than enough water to meet the needs of most households in Whatcom County. The largest source of consumptive water use is watering lawns in the summer. Our assessment is that one-twelfth of an acre is reasonable for either lawn or subsistence gardening
- 2. Clarify how will Ecology reconcile people using more than 500 GPD.** Households with nine or more people will exceed this limit based on the 60 GPD per person estimate as extrapolated from page 18 of the supporting document. Will they be given a special exemption for the indoor water use limits?
- 3. Clarify how will Ecology enforce indoor and outdoor watering limits.** It is clear in the rule that Ecology will not mandate metering of new permit exempt domestic wells. What other ways will Ecology prevent rural wells from impairing senior water rights? Please include this either in the rule amendments or supporting document so the public has confidence that water rights are not being abused.

4. **Will Ecology accept and respond to citizen reports of households on permit exempt domestic wells (after August 2020) exceeding the one-twelfth per acre outdoor watering limit with documented evidence?**
5. **What are the applicable laws as mentioned in the following under the amendatory section (173-501-074)?** Please clarify which applicable laws. “(4) New interruptible uses may be approved from streams regulated under WAC 173-501-040 if the department determines through the water right appropriation procedure under chapter 90.03 RCW that the proposed use is consistent with: (b) Applicable laws and restores and enhances streamflows.”

Comments on Draft Rule Supporting Document

1. **Clarify the rationale behind choosing the 13 projects out of the 45 that the Planning Unit and Watershed Management Board considered.** Many of these projects chosen are highly conceptual (project 24) or overly optimistic in the amount of water offset they'll produce during the life of the project and/or the project's primary intent was not to benefit streamflow (i.e. projects 19 and 24).

These 13 projects will have a better likelihood of receiving Streamflow Restoration grant funding over projects that could have a direct and immediate benefit to improving streamflows in critical subbasins. We suggest Ecology provide an explanation for selecting these 13 projects for the benefit of taxpayers.

2. **How will Ecology address anticipated climate impacts on streamflows?** The Streamflow Restoration Act is an opportunity for Ecology to address climate impacts and promote watershed resilience through project selections. Climate change is only mentioned three times in the entire supporting document and not mentioned once in the proposed rule amendments.
3. **What is Ecology's rationale for including projects that are currently underway?** Impacts to streamflow from new permit exempt wells will likely not take place until a few years from now when some projects have been completed.
4. **Why did Ecology choose five year self-assessments for projects under the Adaptive Management chapter?** Wouldn't Ecology want to receive yearly updates on progress to be able to see trends over time and adaptively manage more accurately? We suggest revising this to yearly self-assessments.
5. **Please include more information about estimated water offsets for project 46NG modified.** As with our last comment from May 2019, Ecology can generate this information. We are disappointed to see no changes to this project despite information we provided (see page 4 of this letter) as well as other citizens. We urge Ecology to consider the information and resources we and others provided to bolster this project.

Thank you for considering our comments. Please contact Karlee Deatherage (KarleeD@re-sources.org) if there are any questions.

Sincerely,

Shannon Wright
Executive Director

Below are some rudimentary examples of water savings for water use efficiency.

Public Education

200,000 existing population, 1 gal/person/day = 224 acre-ft

Toilet rebates

Pre-1990 toilets: 50,000 homes at 2 toilets each = 100,000 pre-1990 toilets

Change 500 additional toilets per year, 10,000 over 20 yrs, 25 gals/toilet/day = 280 acre ft

Current exempt well over usage – Public Education

5,000 wells – 10% watering more than ½ acre

100gals/day, 60 days, 50 = 1 acre-ft

Volunteered individual metering assistance program

40,000 existing units not individually metered

1,000 meters/yr = 20,000 meters 10 gals/day/meter = 224 acre-ft

Landscape change out assistance

1,000/yr = 20,000 total, 50 gals/day for 60 days = 1,377 acre-ft

Estimated total savings = **1882 acre-ft**