



January 15, 2020

Annie Sawabini  
Department of Ecology  
Water Resources Program  
P.O. Box 47600  
Olympia, WA 98504-7600

Department of Ecology

JAN 24 2020

Water Resources Program

Re: Proposed instream flow rule WAC 173-501 (Nooksack WRIA)

Dear Ms. Sawabini,

I am submitting this letter for the administrative record for the proposed instream flow rule amendment for chapter 173-501 Washington Administrative Code (WAC) in the Nooksack WRIA.

The Department of Ecology (DOE) is incorrectly implementing the Hirst fix legislation the Legislature passed in 2018. The department's proposed rule includes a "conservation standard" that would limit permit-exempt domestic wells to no more than 500 gallons per day for indoor use and not to exceed a total of 1/12 of an acre for outdoor usage. The Legislature authorized a reduction of water usage from 5,000 gallons per day to a maximum annual average withdrawal of 3,000 gallons per day per connection.

I would add that there is no agreed upon watershed plan for Water Resource Inventory Area 1. Therefore, in accordance with RCW 90.94.020 (7)(a) *the department must adopt rules that meet the requirements of RCW 90.94.020* by Aug. 1, 2020. This statute is clear in that DOE is directed to abide by the legislative negotiated levels of a maximum annual average withdrawal of 3,000 gallons per day per connection in its rulemaking.

The department's propose rule also includes a drought triggered water use restriction while a drought emergency order is in effect. However, there is no curtailment authorization under RCW 90.94.020 for the Nooksack watershed.

Finally, the department's proposed rule proposes to meter future water use. The Legislature never authorized this in the *Hirst* fix. You may recall, RCW 90.94.040 limits metering under the Hirst fix legislation to a pilot project exclusively reserved for the area covered under the Dungeness water rule within WRIA 18 and in the water bank program area in WRIA 39 in Kittitas County. There is no mention of metering in WRIA 1.

This rule directly affects the citizens in my legislative district. The draft rule goes against everything the Legislature spent countless hours on and negotiated in the *Hirst* fix. There are many frustrated and upset people. I am also very concerned that the department's proposed rule amendment is not consistent with and ignores the Legislature's work. I appreciate your attention to these concerns.

Sincerely,

*Luanne*

Luanne Van Werven  
State Representative, 42<sup>nd</sup> District