

September 16, 2021

Comments on: Ecology's Policy and Interpretive Statement Administration of the Statewide Trust Water Rights Program

The Building Industry Association of Washington (BIAW) appreciates the opportunity to comment on Washington State Department of Ecology's (Ecology) draft policy and interpretive statement of the Statewide Trust Water Rights Program. The Building Industry Association of Washington (BIAW) is the voice of the housing industry as the state's largest trade association with nearly 8,000-member companies. The association is dedicated to ensuring and enhancing the vitality of the building industry for the benefit of its members and the housing needs of Washington residents so members can provide a variety of housing options that are affordable at all income levels of Washington residents. BIAW appreciates and opportunity to comment on this policy but thinks additional clarity needs to be provided moving forward.

Our first concern is that Ecology seems to have more narrowly defined the use of water banks to only allow for mitigation purposes. RCW 90.42.100 clearly states "The department is hereby authorized to use the trust water rights program for water banking purposes statewide. Water banking may be used for one or more of the following purposes: To authorize the use of trust water rights to mitigate for water resource impacts, future water supply needs, or any beneficial use under chapter 90.03, 90.44, or 90.54 RCW, consistent with any terms and conditions established by the transferor...". Ecology should follow the law and allow for future water supply needs and additional beneficial uses. Water Banking as a way to provide water for housing is an essential piece of the puzzle when planning for residential use. We urge Ecology not to limit water options and follow the statute.

Our second concern is with the broad sweeping definition of public interest. The current language is too broad to be a meaningful definition and almost any public opposition to the water bank could result in stopping the bank creation, transfers or changes. We think this definition needs more work and is of such importance that it would be wiser to be sorted out in statute during the legislative session rather than an internal policy.

Sincerely,

Josie Cummings
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Building Industry Association of Washington