

December 4, 2025

Washington State Department of Ecology
Water Resources Program
300 Desmond Dr SE
Lacey, WA 98503

RE: Comments on Proposed “Consumptive and Nonconsumptive Water Use Policy and Interpretive Statement” (POL 1020) Update

Dear Director Sixkiller and Water Resources Program Staff:

We appreciate the opportunity to comment on the Department of Ecology’s (“Ecology”) proposed update to the Consumptive and Nonconsumptive Water Use Policy and Interpretive Statement (“POL 1020”). Public Utility District No. 2 of Grant County, Washington (“Grant PUD”) owns and operates the Priest Rapids Hydroelectric Project, consisting of Priest Rapids and Wanapum dams licensed by the Federal Energy Regulatory Commission (“FERC”). Our mission is to safely, efficiently and reliably provide electric power and fiber optic broadband services to our customers, and one of our key objectives is to operate responsibly and protect the natural and cultural resources the public entrusts to us. As such we share Ecology’s commitment to managing Washington’s water resources consistent with law and science.

In accordance with the requirements of our FERC operating license, Grant PUD is committed to achieving the highest standard of No-Net-Impact for both listed and non-listed anadromous fish species, such as Wenatchee River Basin Spring Chinook and Methow Basin Summer Chinook. To support achievement of this high standard, Grant PUD owns, operates, and/or funds the operation of fourteen hatchery facilities across Washington State and Canada. In total, these hatchery programs produce over eight million smolts (salmon, steelhead, sockeye, and coho) annually into the mid and upper Columbia River and its tributaries and play a critical role in recovery and supplementation efforts. Fish produced via hatchery programs advance regional salmon recovery efforts and provide harvest opportunities from the Columbia River to Alaska. These supplementation and mitigation measures are mandated by existing biological opinions and settlement agreements associated with Grant PUD’s FERC license.

Grant PUD is concerned that draft POL 1020 introduces uncertainty and unnecessary risk to existing water rights, historically recognized as nonconsumptive. These nonconsumptive rights are critical to the success of its hydroelectric projects, as well as those associated with its key hatchery facilities. Grant PUD is concerned that the new constructs included in the draft POL 1020 will create barriers to these critical efforts, jeopardizing ongoing efforts towards renewable energy and salmon recovery.

Grant PUD respectfully requests Ecology pause its current intent to issue a revised POL 1020 to allow time for meaningful consideration of these issues and the potential impairment to critical renewable energy needs and vital salmon restoration efforts important to Washington.

1. Grant PUD Support of Northwest Hydropower Association Comments

As a member of the Northwest Hydropower Association (“NWhA”), Grant PUD fully supports and endorses the comments submitted by the NWhA.

2. Grant PUD Support of Tacoma Power Comments

As a signing party to comments submitted by Tacoma Power, Grant PUD fully supports and endorses the comments submitted by Tacoma Power.

3. Grant PUD Supplemental Comments

a. POL 1020 Should Provide Certainty Related to Existing Water Rights and Permits

As currently written, draft POL 1020 introduces uncertainty and risk concerning existing water rights historically recognized as nonconsumptive. Grant PUD holds water right certificates and permits for water use recognized as nonconsumptive that are necessary for its ongoing hydroelectric and hatchery operations. By virtue of their operations, many if not all, existing hatchery facilities throughout the state include short bypass reaches. Water rights and permits necessary to support these programs have been previously recognized by Ecology to be nonconsumptive under the current POL 1020. The draft POL 1020 raises significant questions regarding how Ecology may view these authorizations in the future, including during the certification process, potential future change applications, or other regulatory processes. As Grant PUD is required by its FERC license to represent it holds sufficient permits and rights for its ongoing operations, the added uncertainty created by the policy requires clarification from Ecology.

Based on the foregoing, if Ecology moves forward with a policy revision, Grant PUD requests that Ecology, include in the draft POL 1020:

- Recognition that existing nonconsumptive permits and certificates as valid authorizations in good standing, and that POL-1020 does not modify or require modification of these existing rights, nor will Ecology revisit or reclassify prior nonconsumptive determinations.

b. POL 1020 Should Retain Existing Bypass Reach Language

Ecology should maintain the recognition that a case-by-case analysis is important to considering nonconsumptive nature of water use that includes bypass reaches. The existing POL 1020, in defining “*by-pass reach*,” POL 1020 (Section 1) provided for a site-

specific analysis in lieu of a bright line rule, recognizing that water use “may” be consumptive to a specific reach, yet, also providing for site-specific analysis and exceptions. This recognition provides critical flexibility for hatchery facilities that typically have a short bypass reach between the inflow and outflow of surface water intake. The existing POL 1020 provides such use “may” be consumptive if water is returned at a point “not in close proximity to the point of diversion.” POL 1020 recognition of this necessary case-by-case analysis is consistent with basin-specific rules,¹ existing definitions of water sources,² acknowledgment of “pools,”³ and recognized gauge and control stations. The draft POL 1020 removes any consideration of these site-specific factors.

The existing POL 1020 also includes an important exemption providing; “*Water use can be classified as nonconsumptive when the water is returned to the same pool from which it is diverted and the pool’s water elevation is not changed by the initial start-up and stopping of the diversion.*” POL 1020 (Exception to 2.B). The existing POL 1020 defines a “*pool in a river system*” as “*a body of water which has the same water surface elevation, within 0.05 of one foot, at any point between the point of diversion and the point of discharge.*” These definitions further recognize the case-by-case analysis required for these types of water right applications, and recognizing that hydraulic modeling efforts and basin-specific analysis may support characterizing use as nonconsumptive, including uses that require incidental short bypass reaches. Again, this recognition is entirely lacking in the draft POL 1020.

The draft POL 1020 removes this required case-by-case analysis, removes specific reference to fish hatcheries, and outright eliminates the potential for a bypass reach to be associated with a nonconsumptive water right (outside of lakes, reservoirs, or Columbia River pool system). This would effectively eliminate the possibility for any new hatchery facilities to be constructed.⁴ Hatchery programs are vital to both listed and non-listed anadromous fish species recovery and supplementation programs throughout Washington State and will be severely jeopardized by the draft policy.

Based on the foregoing, if Ecology moves forward with a policy revision, Grant PUD requests that Ecology retain language from the current POL 1020 that:

- Defines the bypass reach that includes that it “may” be consumptive, allowing modeling and case-by-case analysis as currently provided in the current POL 1020.
- Includes specific reference to fish hatcheries in Section 3.b of the draft POL 1020.
- Retains language from the current POL 1020 that supports the ability to classify a bypass reach as nonconsumptive (see “Exception to 2.B” in current POL 1020).
- Retains the “Definitions” language in Section 2 of the current POL 1020 related to a pool in a river and lake systems, including Ecology’s statements related to bank storage and evaporation rates.

¹ See, e.g., WAC 173-545-060(10).

² See, e.g., WAC 173-152-020(19).

³ See POL 1020 at 2 (rev. Oct. 31, 1991); see also WAC 173-152-035.

⁴ As noted above, additionally, without a specific non-retroactive statement regarding existing water rights and permits, it creates significant risk to existing hatchery facilities.

c. Draft POL 1020 Imposes Roadblocks to Future Hatchery Operations

Water right applications necessary to support hatchery operations have historically been deemed “water budget neutral,” and, as such, eligible for priority processing under the Hillis Rule, chapter 173-152 WAC. The Hillis Rule provided for priority processing of applications where “a proposed water use that is nonconsumptive and if approved would substantially enhance or protect the quality of the natural environment.” WAC 173-152-050(2)(c). Draft POL 1020 may have the unintended consequence of excluding these vital hatchery programs from future priority processing, thereby significantly delaying and impeding any new hatchery programs. This could lead to significant adverse consequences.

Grant PUD supports Ecology’s mission to safeguard Washington State’s water resources through protection, sustainable management, and long-term availability for future generations. We value the opportunity to contribute to this important policy discussion and remain committed to working collaboratively toward shared environmental goals. Please feel free to contact me at rhendr1@gcpud.org or 509-793-1468 if you have any questions, need additional information, or would like to discuss our comments further.

Sincerely,

Ross Hendrick

Ross Hendrick
Director – Environmental Affairs