



December 4th, 2025

Lora Flores
Policy Support Section Manager
Washington Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: Comments on Development Schedules for Water Right Changes and Transfers Policy and Interpretive Statement Policy (POL-1280)

Dear Lora Flores:

The Snoqualmie Indian Tribe [Tribe] is a federally recognized sovereign Indian Tribe and a signatory to the Treaty of Point Elliott of 1855 in which it reserved to itself certain rights and privileges and ceded certain lands to the United States. As a signatory to the Treaty of Point Elliott, the Tribe specifically reserved to itself, among other things, the right to fish at usual and accustomed areas and the “privilege of hunting and gathering roots and berries on open and unclaimed lands” off-reservation throughout the modern-day state of Washington. Treaty of Point Elliott, art. V, 12 Stat. 928. The Snoqualmie people have stewarded the waters of Tribal ancestral lands since time immemorial, and the Tribe seeks to work collaboratively with the Department of Ecology to protect these waters, both environmental and cultural resources, for future generations.

We recognize the efforts put forth by Ecology in the revisions to Policy 1280 to clarify the process for setting development schedules for water rights changes and transfers. However, we are concerned that these proposed edits will allow too much latitude for permitting development schedule changes and will result in adverse effects to water resources.

First, the 2025 draft struck the from the purpose statement “To assure that actual water usage and the departments records are consistent.” We do not understand why Ecology may not want to assure that actual water usage and department records are consistent, and we strongly urge that this statement be retained, as accurately recording actual water usage in department records is critical to understanding the impacts of water use on aquatic resources and water supply.



We noted several other definitions and descriptions within the policy that may allow for too much ambiguity in interpretation and in turn could allow less oversight for developing and allowing changes in development schedules. For example, the definition of “good cause” was changed from a “legally sufficient reason” to a “reasonable justification.” The existing definition is preferable should be retained in full, as it puts the onus on the user to appropriately develop the water right in the permitted timeline or to prove why it was not possible, whereas what is considered a reasonable justification is likely to vary widely based on the reviewer; this would create additional legal uncertainty where more certainty is needed and should therefore be avoided.

While we understand the intent of this document is to describe the process and criteria for setting development schedules and changes, we are concerned that without additional clarification and specific guidelines that this will obscure meaningful planning and management of water resources by allowing the retention of water rights without their being beneficially used, while in the meantime the water user makes investments based on speculation that Ecology will eventually approve the water user’s unspecified and unapproved plans; then, upon finally coming to Ecology for approval, the water user presents those investments (often made with public funds) as evidence toward a predetermined outcome of broad approval. Ecology should specify that these types of water user-sponsored speculative investments shall not be weighed against public interest concerns or tribal inherent & sovereign and treaty rights. All proposed changes and transfers, including consideration of the length of change development, must be considered in the context of public interest which includes environmental impacts, as well as the rights, opportunities and interests of federally recognized Tribes.

In Section 7, it is stated that if a change was not completed consistent with the change authorization, then permitting work may be necessary, beginning with technical assistance, followed by a list of potential corrective actions. However, Ecology is required to initiate this process, and the language should reflect that responsibility. We recommend the use of the word “may” be avoided here and that this section should state: “If the change verification phase of the development schedule shows that the change was not completed consistent with the change authorization, *then Ecology will initiate and implement the following steps to achieve compliance:*” This type of language reflects the legal, regulatory role of Ecology in providing oversight and enforcement.

Lastly, when developing and in granting extensions for change development schedules, Ecology should also consider how Tribal rights, interests, and privileges, public interest, and the



environment may be impacted. This should be performed **in consultation** with potentially affected Tribes per Executive Order [25-10](#).

These changes to the policy are needed to uphold Tribal sovereign & inherent and treaty rights and protect water resources now and for future generations. Thank you for the opportunity to comment on this policy.

Sincerely,

Signed by:

Matt Baerwalde

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Matthew J. Baerwalde

Senior Environmental Policy Analyst