

## **Summary of Preliminary *DRAFT* Chapter 173-518 WAC Water Resources Management Program for the Dungeness Portion of the Elwha-Dungeness Water Resource Inventory Area (WRIA 18)**

### **WAC 173-518-010 General provisions**

The rule applies to:

- All surface and groundwater in the Dungeness River Watershed.
- The use and appropriation of surface and groundwater started after the effective date of the rule.

The rule will not affect:

- Existing water rights, including permit-exempt withdrawals if regular beneficial use for the purpose of use began before the effective date of the rule.
- Serving water to a parcel that is part of a group use, if: the new use is within 5 years of the first regular beneficial use within the group, and the first use was prior to effective date of rule.
- Federal and tribal reserved rights.

### **WAC 173-518-020 Purpose**

- To manage water to better satisfy both present and future human needs.
- To retain surface water in the Dungeness River watershed with stream flows at levels necessary to protect instream values and resources.
- To implement Ecology's obligations under the 2005 Elwha-Dungeness Watershed Plan.

### **WAC 173-518-030 Definitions**

### **WAC 173-518-040 Establishment of instream flows**

The rule establishes control (measuring) points and instream flows for the following water bodies:

- Bagley Creek
- Bell Creek
- Cassalery Creek
- Dungeness River
- Gierin Creek
- Matriotti Creek
- McDonald Creek
- Meadowbrook Creek
- Siebert Creek

Unless allowed as an exception, new water uses established after the effective date of the rule will be subject to interruption when stream flows drop below the established instream flow levels.

### **WAC 173-518-050 Closures**

The rule closes all streams listed above to further year-round appropriation, except the Dungeness River which will only be seasonally closed from July 15 to November 15.

### **WAC 173-518-060 Metering and reporting water use**

All new water uses (except rainwater collection) must be measured by a water meter, including new permit-exempt uses. Reporting must be in accordance with Ch. 173-173 WAC, or as directed by Ecology. (Note: Ecology intends to require installation of remote read meters. State staff will read meters. Homeowners will not be required to submit reports.)

### **WAC 173-518-070 Future groundwater appropriations**

- Ecology finds that new groundwater withdrawals have a high likelihood of impacting surface water.
- New permit-exempt uses may occur only if there is written evidence that connection to a public water supply cannot be provided in a timely and reasonable manner.
- Under specified conditions, certain new groundwater uses will **not** be subject to instream flows and closures:
  1. If the impacts to surface water are offset through an Ecology-approved mitigation plan.
    - a. Mitigation can occur either through the Dungeness water exchange or through a separate Ecology-approved plan.
    - b. The 2008 Dungeness Groundwater Flow Model (Pacific Groundwater Group) will be used to determine the extent of the consumptive use impact needing to be offset through mitigation.
    - c. Drilling to the middle or deep aquifer, where available, will be encouraged.
  2. If the use is non-consumptive.
  3. The proponent shows that the proposed use will not adversely affect any closed surface waters.
- New water right permits (not permit-exempt wells) may require that owners allow access to well and meter upon request.

### **WAC 173-518-075 Mitigation**

A mitigation plan must have Ecology approval and be implemented before a new water use begins.

- The rule includes the conditions necessary for the mitigation plan to be approved and remain in effect, including, among others:
  1. The proposed withdrawal, with mitigation in place, must not be detrimental to the public interest, including consideration of: projected domestic use in the area, projected stream depletions within affected subbasins, the likelihood that mitigation to offset such depletions can be accomplished, water budget neutrality with respect to the Dungeness river watershed (offsetting the predicted consumptive loss to streams with an equal or greater flow improvement to one or more Dungeness basin streams), and maximizing instream benefits during the critical period.

2. The proposed withdrawal with mitigation in place must not result in a net loss of water from a closed source greater than the applicable maximum depletion amounts. [See section 085].

#### **WAC 173-518-076 Expedited processing**

The rule allows expedited processing of requests that are expected to fully offset impacts to surface water, benefit stream flows, or otherwise substantially enhance or protect the quality of the natural environment.

#### **WAC 173-518-080 Reserves of water for domestic use**

The rule establishes small reserves of water for domestic use, based on a finding that these reserves meet an Overriding Consideration of Public Interest (OCPI) legal standard.

- Reserved water is for groundwater appropriations only.
- Uses of reserved water are not subject to the instream flows and closures.
- Participation in mitigation is required for all consumptive uses that would impact closed surface water sources.
- Use of reserved water will be metered and tracked.
- Debiting from the reserves will be calculated based on the percentage of the consumptive portion of water use that affects surface water. This percentage is divided up among all affected surface water bodies based on application of the Dungeness groundwater flow model.
  1. 15 gallons per day = standard consumptive amount for domestic use on septic system
  2. 150 gallons per day = standard consumptive amount for domestic use on sewer
  3. Amounts may be adjusted based on actual water use information.
- Debits to reserves will be determined after consideration of any implemented mitigation.

#### **WAC 173-518-085 Maximum depletion amounts**

Note: "Maximum depletions amounts" are limits on how much impact to specific streams from groundwater withdrawals are allowable before Ecology will not allow additional withdrawals.

The rule establishes maximum depletion amounts for each subbasin. Impacts from consumptive uses of water from the reserves will be debited against the maximum depletion amounts. In addition, impacts from other consumptive uses of water authorized through Ecology-approved mitigation plans will be debited from the maximum depletion amounts.

- The maximum depletion amounts are the same as the sizes of the reserves, but are not in addition to the reserves.
- The maximum depletion amounts cannot be exceeded. If cumulative impacts on a stream reach the maximum depletion amount for that stream, no new uses can be authorized until additional mitigation is in place.
- Deductions from the maximum depletion amounts will be calculated based on the percentage of the consumptive portion of water use that affects surface water. This

percentage is divided up across all affected surface water bodies based on application of the Dungeness groundwater flow model.

1. 10% of indoor water use is assumed consumptive amount for uses on septic system
2. 100% of indoor use is assumed consumptive amount for uses on sewer
3. 90% of outdoor use is assumed to be consumptive
4. Amounts deducted may be adjusted based on actual water use information.

#### **WAC 173-518-090 Future maximum allocation from the Dungeness river mainstem**

The rule establishes maximum allocations (limits on how much total water can be used for new uses) from the Dungeness River from November 16 to July 14.

- Maximum allocations are for new interruptible water rights during times when stream flows exceed the instream flows.
- The maximum allocation from November 16 to April 30 is 25 cfs.
- The maximum allocation from May 1 to July 14 is 35 cfs.
- Permits may be issued after consultation with the Department of Fish and Wildlife and the Jamestown S'Klallam Tribe.
- The water use must be for storage and uses pursuant to RCW 90.03.370, or for Dungeness River mitigation or flow restoration.

#### **WAC 173-518-095 Storage Projects**

The rule states that Ecology may, on a case-by-case basis, authorize storage projects for environmental enhancement and other beneficial uses consistent with the 2005 Elwha-Dungeness Watershed Plan.

- Consultation with Tribes, Clallam County and WDFW is required.
- Criteria for decision-making are included in the rule.

#### **WAC 173-518-100 Lakes and ponds**

Lakes, ponds and other small bodies of water must be retained in their natural condition.

#### **WAC 173-518-110 Compliance and enforcement**

The rule describes Ecology's process of technical assistance, education, compliance and enforcement.

#### **WAC 173-518-120 Incorporating new hydrologic investigations and information in rule**

If further scientific investigations or changing conditions indicate the rule should be updated, Ecology may amend the rule after consultation with local, tribal, and state governments.

#### **WAC 173-518-130 Appeals**

Decisions issued under this rule are appealable to the Pollution Control Hearings Board.

#### **WAC 173-518-140 Maps**