

Chapter 173-517 WAC

WATER RESOURCES MANAGEMENT PROGRAM FOR THE QUILCENE-SNOW WATER RESOURCES INVENTORY AREA (WRIA 17)

PART A - GENERAL PROVISIONS

NEW SECTION

WAC 173-517-010 Purpose and Introduction. (1) The purpose of this chapter is to retain rivers, streams, lakes and ponds in the Quilcene-Snow water resource inventory area (WRIA 17) with instream flows and levels necessary to protect and preserve wildlife, fish, stock water, scenic, aesthetic, recreation, water quality and other environmental values and navigational values.

(2) WRIA 17 is located on the northeastern Olympic Peninsula and includes portions of Jefferson and Clallam counties. This chapter excludes part of the Clallam County portion of WRIA 17.

(3) This chapter sets forth the department of ecology's (ecology) policies to guide the protection, use and management of WRIA 17 surface water and ground water resources. It establishes instream flows and closures, and sets forth a program for the administration of future water appropriation and use. For the Chimacum subbasin, where water availability is severely limited, a small amount of water is reserved for restricted out of stream use to provide a transition until alternative sources of water can be developed. This chapter also includes provisions regarding the use of rainwater collected from rooftops.

(4) This chapter designates two types of management areas for administering future water appropriation and use:

(a) **Reserve management areas.** This chapter establishes reserves of water within specified reserve management areas.

(b) **Coastal management areas.** This chapter designates coastal management areas and sets limits on future ground water withdrawals in these areas.

(5) This chapter does not release anyone from complying with other relevant laws and rules.

NEW SECTION

WAC 173-517-020 Authority and applicability. (1) This chapter is adopted under the authority of the Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Watershed Planning Act (chapter 90.82 RCW), Water code (chapter 90.03 RCW), Regulation of public ground waters (chapter 90.44 RCW) and the water resources management program rule (chapter 173-500 WAC).

(2) Except as provided in subsection (3) of this section, this chapter applies to the use and appropriation of:

(a) All surface waters within WRIA 17, including all streams, and their tributaries, that drain to salt water; and

(b) All ground water within WRIA 17, including ground water hydraulically connected to surface water bodies, as well as ground water that drains to salt water.

(3) The following portion of WRIA 17 located in Clallam County, as shown in Map B in WAC 173-517-070, will be addressed through future rule making and is excluded from coverage under this chapter:

- Johnson Creek;
- West Sequim Bay;
- Dean Creek;
- Jimmycomelately Creek;
- Chicken Coop Creek; and
- The portion of Miller Peninsula in Clallam County.

(4) This chapter shall not affect existing water rights, including perfected riparian rights, or other appropriative rights, existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(5) This chapter shall not affect federal or Indian reserved rights. The Jamestown S'Klallam, Port Gamble S'Klallam, Lower Elwha Klallam, and Skokomish Tribes reserve the right to claim a treaty-derived off-reservation instream flow right with senior priority. The extent of such rights can only be determined in other forums outside of this chapter.

(6) This chapter does not limit ecology's authority to establish flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

NEW SECTION

WAC 173-517-030 Definitions. For the purposes of this chapter, the following definitions apply. If these definitions differ from those in related rules, the definitions presented here shall apply for this chapter:

(1) "Allocation" means the designating of specific amounts of water.

(2) "Appropriation" means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with ground and surface water codes and other applicable statutes. This term refers to both surface and ground water right permits and to ground water withdrawals exempted from permit requirements under RCW 90.44.050.

(3) "Commercial agriculture" means the production of crops for sale, crops intended for widespread distribution (e.g., markets), and nonfood crops such as hay and lavender. Commercial agriculture includes livestock production and livestock grazing. Commercial agriculture does not include crops grown for household consumption (e.g., household vegetable gardens or fruit trees).

(4) "Consumptive use" means a beneficial use of water that diminishes the amount or quality of water in the water source.

(5) "Domestic use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary requirements, cooking, laundering and other incidental household uses, including potable domestic water requirements associated with commercial and industrial purposes.

(6) "Ecology" means the Washington state department of ecology.

(7) "Group domestic system" means domestic use of the ground water exemption for two or more residences.

(8) "Hydraulically connected" means saturated conditions exist that allow water to move between two or more sources of water, either between surface water and ground water or two ground water sources.

(9) "Individual user" means all uses on an individual parcel or adjoining parcels under common ownership that do not qualify as a group domestic system.

(10) "Instream flow" means a stream flow level set in rule to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, and navigational values. The term "instream flow" means a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW, or a minimum instream flow under chapter 90.82 RCW.

(11) "Interruptible use" means a use, authorized under a water right, which must cease diversion or withdrawal when stream flows fall below the instream flow levels established in this rule.

(12) "Mitigation plan" means a plan, submitted to and approved by ecology, to offset the impacts of a proposed consumptive use. A mitigation plan may address impacts to a stream, basin, reach, or other area, for an individual withdrawal or for multiple withdrawals in a subbasin.

(a) A mitigation plan must show that the proposed withdrawal with mitigation in place, will not:

- Impair existing water rights, including instream flow rights;

- Be detrimental to the public interest; or

- Consume water from a closed source.

(b) The plan must include financial assurance, ensure mitigation measures for the duration of the water use and prohibit

water provided for the purpose of mitigation from appropriation for any other purpose.

(c) The plan must include a monitoring and reporting plan, including a quality assurance/quality control plan.

(13) "Outdoor irrigation" means watering greenhouse or outdoor plants, lawns, or gardens.

(14) "Permit-exempt withdrawals" or "permit-exempt well" means a ground water withdrawal exempted from permit requirements under RCW 90.44.050, but otherwise subject to the surface and ground water statutes and other applicable laws, including this chapter.

(15) "Reserve" means a one-time, finite allocation of water for future appropriations.

(16) "Stream management unit" means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular instream flow level applies.

(17) "Subbasin" means a reserve management area or coastal management area as shown on Map B in WAC 173-517-070.

(18) "Withdrawal" means the appropriation or use of ground water, or the diversion or use of surface water. Withdrawal includes both withdrawals under a water right permit and permit-exempt withdrawals.

NEW SECTION

WAC 173-517-040 Compliance and enforcement. (1) In accordance with RCW 90.03.605, to assist the public in complying with this chapter, ecology shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter.

(2) When ecology determines that a violation has occurred, it shall:

(a) First attempt to achieve voluntary compliance. One method is to offer information and technical assistance to the person, in writing, showing one or more means to legally accomplish the person's purposes.

(b) If education and technical assistance do not achieve compliance, ecology may issue a notice of violation, a formal administrative order under RCW 43.27A.190, or assess penalties under RCW 43.83B.336, 90.03.400, 90.03.410, 90.03.600, 90.44.120, and 90.44.130.

(3) Nothing in this section is intended to prevent ecology from taking immediate action to cause a violation to be ceased immediately if in the opinion of the department the nature of the violation is causing harm to other water rights or to public or tribal resources.

NEW SECTION

WAC 173-517-050 Appeals. All of ecology's final written decisions pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-517-060 Regulation review. (1) Ecology reserves the right to review and amend this rule as needed.

(2) Ecology, in consultation with the counties, the city of Port Townsend, Jefferson County PUD #1, tribal governments, other state agencies, and the WRIA 17 planning unit (if active), may initiate a review, and if necessary a modification through rule making, of this chapter as appropriate, including whenever:

- Applicable statutory changes are enacted.
- Significant new information becomes available.
- Significant changes in conditions such as population growth trends, water service areas and ground water levels occur.
- It appears that the collection and use of rainwater is causing impairment or adverse impacts to instream flows or existing water rights.

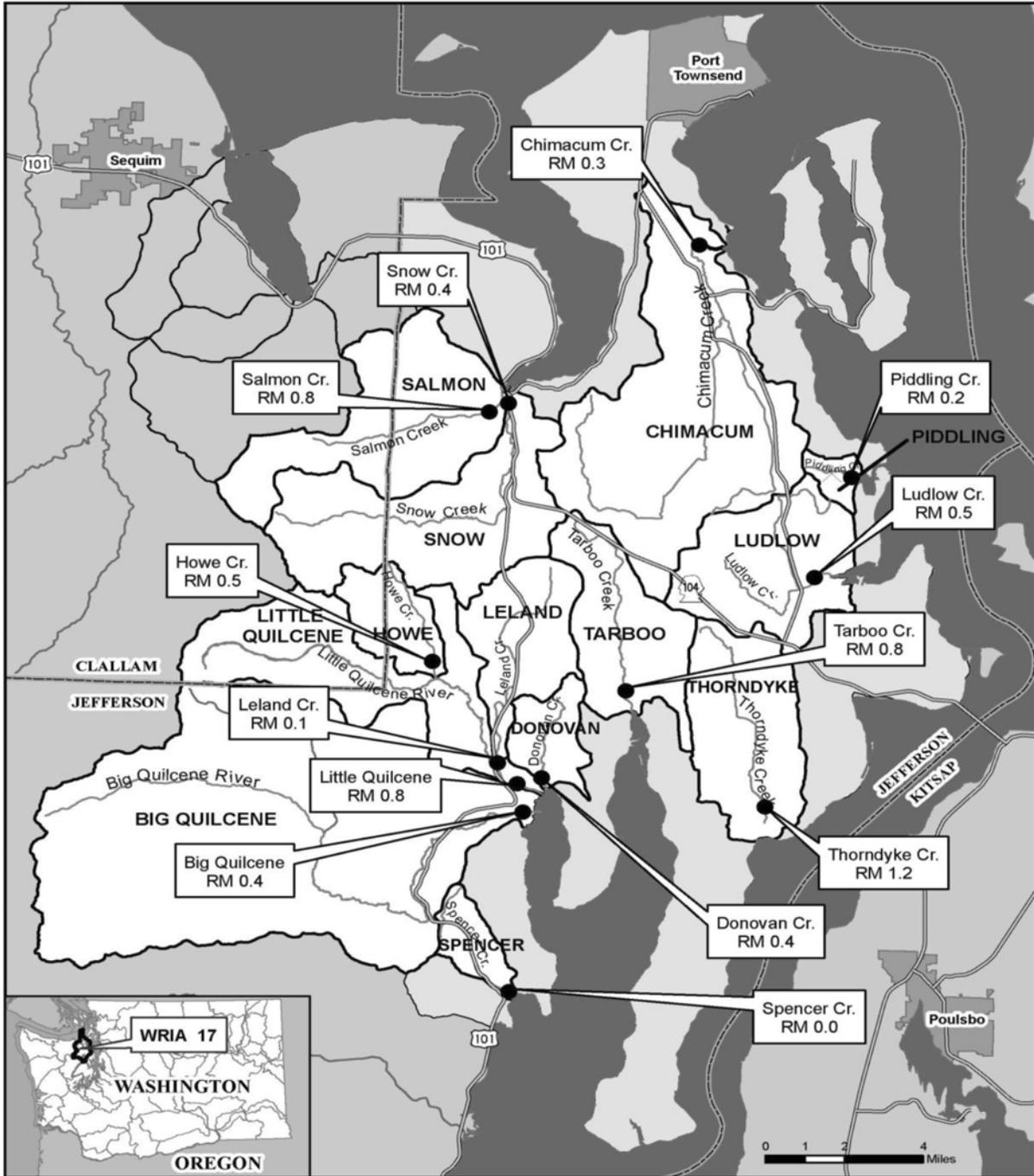
(3) Ecology, in consultation with the counties, Jefferson County PUD #1, tribal governments and the WRIA 17 planning unit (if active), will regularly review the allocated and unallocated amounts for each reserve management area.

NEW SECTION

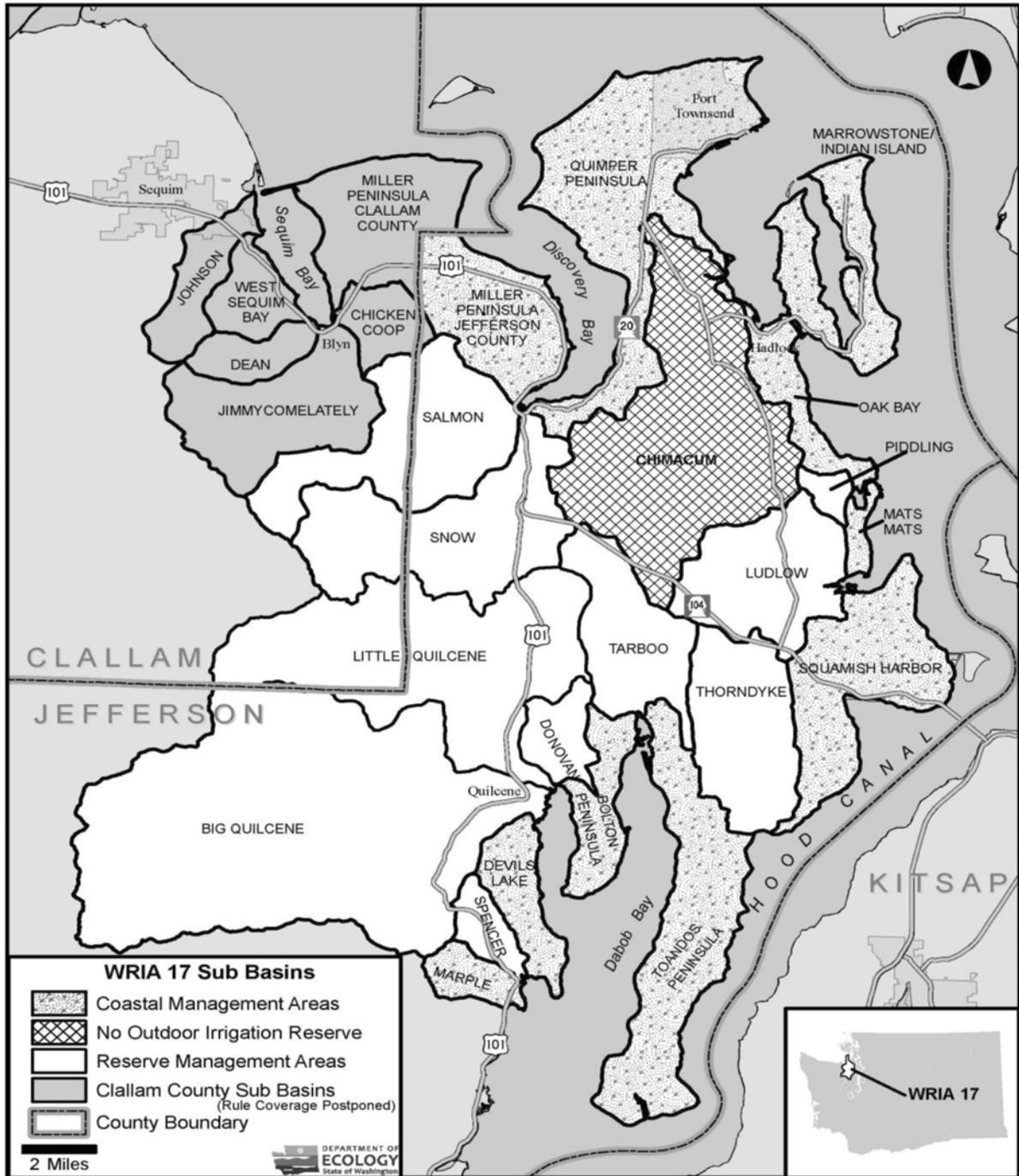
WAC 173-517-070 Maps. For the purposes of administering this chapter, three maps are provided. Map A shows the boundaries of the stream management units and the control points. Map B shows reserve management areas, coastal management areas, and the portion of WRIA 17 not covered by this chapter. Map C shows the locations and designates watershed boundaries for three streams identified in WAC 173-517-130 (3) (d).

Map A

WRIA 17 Stream Management Units and Control Points

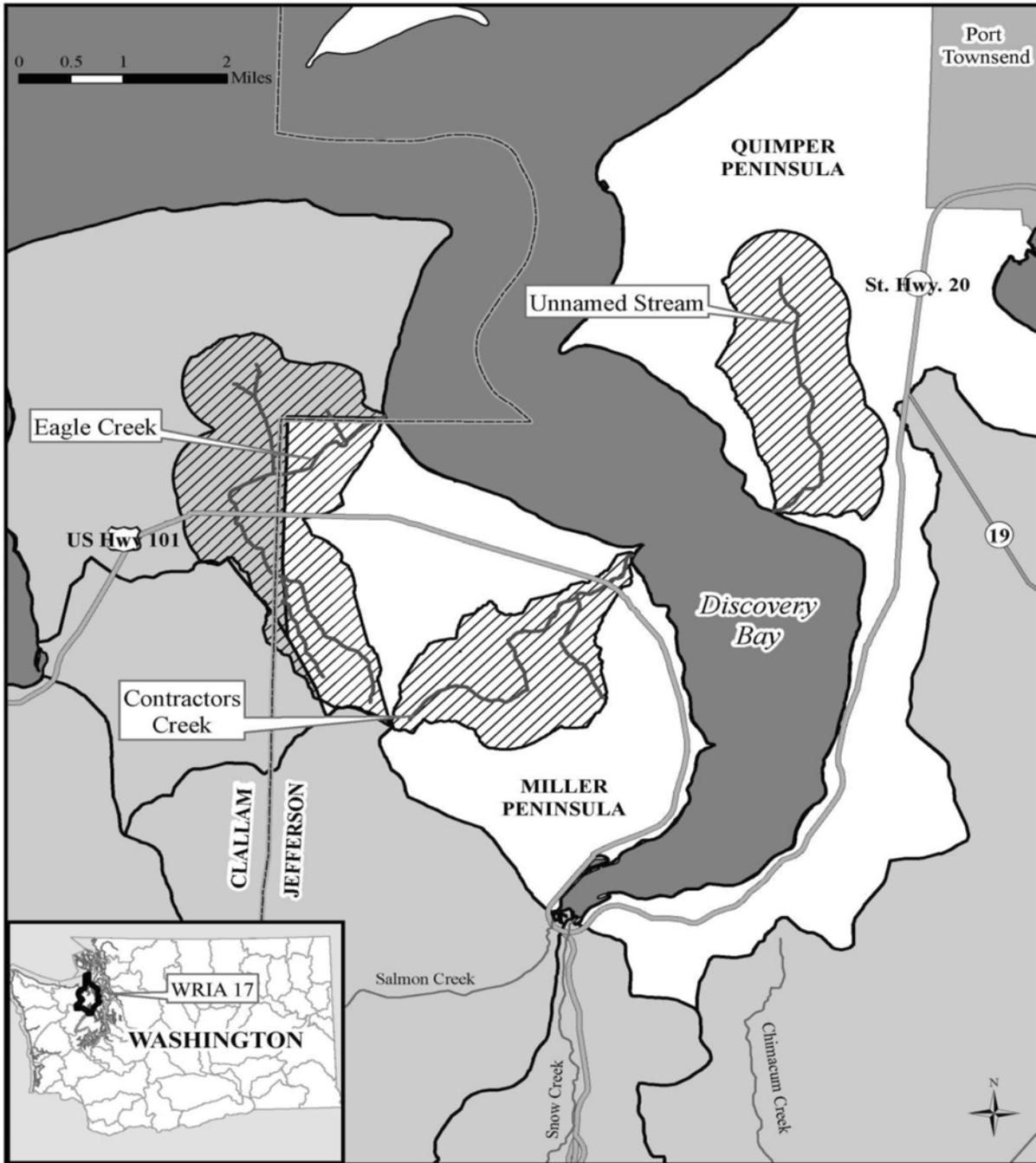


Map B



Map C

WRIA 17 Protected Streams on Miller and Quimper Peninsulas



PART B - INSTREAM FLOWS AND CLOSURES

NEW SECTION

WAC 173-517-080 Establishment of stream management units.

Ecology hereby establishes the following stream management units, with accompanying control points. A control point is a designated location on a stream used to set and measure instream flow levels. Each control point location is identified by estimated river mile and approximate latitude and longitude in Table 1. The control points and boundaries of the stream management units are shown on Map A in WAC 173-517-070.

**Table 1
Stream Management Unit Information**

Stream Management Unit Name	Control Point by River Mile (RM); Latitude North (Lat) and Longitude West (Long)	Stream Management Reach
Big Quilcene River	RM 0.4 Lat 47° 49' 07" N, Long 122° 52' 17" W	From mouth to headwaters, including tributaries.
Chimacum Creek	RM 0.3 Lat 48° 03' 00" N, Long 122° 47' 07" W	From mouth to headwaters, including tributaries.
Donovan Creek	RM 0.4 Lat 47° 49' 58" N, Long 122° 51' 43" W	From mouth to headwaters, including tributaries.
Howe Creek	RM 0.5 Lat 47° 52' 43" N, Long 122° 55' 24" W	From mouth to headwaters, including tributaries.
Leland Creek	RM 0.1 Lat 47° 50' 18" N, Long 122° 53' 10" W	From mouth to headwaters, including tributaries.
Little Quilcene River	RM 0.8 Lat 47° 49' 48" N, Long 122° 52' 30" W	From mouth to headwaters, including tributaries except Leland and Howe creeks.
Ludlow Creek	RM 0.5 Lat 47° 55' 00" N, Long 122° 43' 00" W	From mouth to headwaters, including tributaries.

Stream Management Unit Name	Control Point by River Mile (RM); Latitude North (Lat) and Longitude West (Long)	Stream Management Reach
Piddling Creek #17.0200	RM 0.2 Lat 47° 57' 27" N, Long 122° 41' 54" W	From mouth to headwaters, including tributaries.
Salmon Creek	RM 0.8 Lat 47° 58' 49" N, Long 122° 53' 49" W	From mouth to headwaters, including tributaries.
Snow Creek	RM 0.4 Lat 47° 59' 02" N, Long 122° 53' 12" W	From mouth to headwaters, including tributaries.
Spencer Creek	RM 0.0 Lat 47° 44' 45" N, Long 122° 52' 33" W	From mouth to headwaters, including tributaries.
Tarboo Creek	RM 0.8 Lat 47° 52' 08" N, Long 122° 49' 03" W	From mouth to headwaters, including tributaries.
Thorndyke Creek	RM 1.2 Lat 47° 49' 24" N, Long 122° 44' 23" W	From mouth to headwaters, including tributaries.

NEW SECTION

WAC 173-517-090 Instream flows. (1) Instream flows established in this chapter are flow levels which protect and preserve wildlife, fish, stock water, scenic, aesthetic, recreation, water quality and other environmental values, and navigational values.

(2) Instream flows established in this chapter are water rights, which protect instream values from future consumptive appropriations. The priority date of the instream flows is the effective date of this chapter.

(3) Instream flows will be protected from impairment by any new water rights commenced after the effective date of this chapter and by all future changes and transfers of senior and junior water rights, including both surface and ground water rights. The following water rights are not subject to instream flows:

(a) Water rights existing on the effective date of this chapter as explained in WAC 173-517-020(4).

(b) Water rights appropriated from the reserves of water established in WAC 173-517-150.

(c) Future withdrawals for environmental restoration purposes under WAC 173-517-200, unless included as a permit condition.

(4) Instream flows are expressed in cubic feet per second (cfs), and measured at the control points identified in WAC 173-517-080.

(5) Instream flows are established in Tables 2 through 4 below, for the stream management units identified in WAC 173-517-080.

**Table 2
Instream Flows (in cfs) for Big and Little Quilcene Rivers, with Ecology Gauge Number and River Mile (RM)**

Month	Big Quilcene River Ecology Gauge #17A060 RM 0.4	Little Quilcene River Ecology Gauge #17D060 RM 0.8
January	120	61
February	120	61
March	190	100
April	190	100
May	190	92
June	190	66
July	190	66
August	167	27
September	94	30
October	180	48
November	120	61
December	120	61

**Table 3
Instream Flows (in cfs) for Named Creeks with Ecology Stream Gauges (including gauge number and River Mile (RM))**

Month	Chimacum Creek Ecology Gauge #17B050 RM 0.3	Salmon Creek Ecology Gauge #17F060 RM 0.8	Snow Creek Ecology Gauge #17E060 RM 0.4	Tarboo Creek Ecology Gauge #17G060 RM 0.8	Thorndyke Creek Ecology Gauge #17H060 RM 1.2
January	25	21	35	20	24
February	25	21	35	20	24
March	46	40	50	25	45
April	46	35	50	16	45
May	32	26	50	8	30
June	10	26	35	8	30
July	10	9	17	8	12
August	10	9	15	8	12
September	17	9	20	8	12
October	20	12	35	8	12

Month	Chimacum Creek Ecology Gauge #17B050 RM 0.3	Salmon Creek Ecology Gauge #17F060 RM 0.8	Snow Creek Ecology Gauge #17E060 RM 0.4	Tarboo Creek Ecology Gauge #17G060 RM 0.8	Thorndyke Creek Ecology Gauge #17H060 RM 1.2
November	25	21	35	20	24
December	25	21	35	20	24

Table 4
Instream Flows (in cfs) for Other Named Creeks (including River Mile (RM))

Month	Donovan Creek RM 0.4	Howe Creek RM 0.5	Leland Creek RM 0.1	Ludlow Creek RM 0.5	Piddling Creek RM 0.2	Spencer Creek RM 0.0
January	15.5	17.1	33.1	32.1	5.8	13.3
February	10.2	11.3	21.8	21.2	3.8	8.8
March	29.8	32.6	58.3	56.8	12.4	26.1
April	29.8	32.6	58.3	56.8	12.4	26.1
May	19.7	21.5	38.5	37.9	8.2	17.2
June	19.7	21.5	38.5	37.9	8.2	17.2
July	6.1	6.8	13.9	13.5	2.1	5.2
August	6.1	6.8	13.9	13.5	2.1	5.2
September	6.1	6.8	13.9	13.5	2.1	5.2
October	6.1	6.8	13.9	13.5	2.1	5.2
November	15.5	17.1	33.1	32.1	5.8	13.3
December	15.5	17.1	33.1	32.1	5.8	13.3

NEW SECTION

WAC 173-517-100 Closures. (1) Based on past and current low flows, ecology has determined that no waters are reliably available for new consumptive uses from the streams and tributaries in WRIA 17 listed in Table 5, with the exception of certain times of year in the Big Quilcene River and Chimacum Creek. Therefore, all surface waters listed in Table 5 are closed to any further consumptive appropriation, except as provided in WAC 173-517-110.

Ecology finds that there is some water available above the instream flows at specific locations and times of year in the Big Quilcene River and Chimacum Creek that could be appropriated for storage or other projects that do not require year-round water supplies. These withdrawals require a water right permit from ecology and are subject to the seasonal restrictions in Table 5, the instream flows established in WAC 173-517-090, and the allocation limits defined in WAC 173-517-140.

(2) Based on small stream size and the need to protect instream values, all streams within coastal management areas

designated in WAC 173-517-130 are closed to new surface water withdrawals.

(3) Closures in subsections (1) and (2) of this section include future withdrawals from ground water that would have an adverse impact on closed surface water, including permit-exempt withdrawals.

(4) Exceptions to the closures are provided in WAC 173-517-110.

**Table 5
Surface Water Closures**

Stream Management Unit Name	Affected Reach	Timing
Big Quilcene River	From mouth to headwaters, including tributaries.	June 16 to November 15
Chimacum Creek	From mouth to headwaters, including tributaries.	March 1 to November 30
Donovan Creek	From mouth to headwaters, including tributaries.	All Year
Howe Creek	From mouth to headwaters, including tributaries.	All Year
Leland Creek	From mouth to headwaters, including tributaries.	All Year
Little Quilcene River	From mouth to headwaters, including tributaries except Leland and Howe creeks.	All Year
Ludlow Creek	From mouth to headwaters, including tributaries.	All Year
Piddling Creek #17.0200	From mouth to headwaters, including tributaries.	All Year
Salmon Creek	From mouth to headwaters, including tributaries.	All Year

Stream Management Unit Name	Affected Reach	Timing
Snow Creek	From mouth to headwaters, including tributaries.	All Year
Spencer Creek	From mouth to headwaters, including tributaries.	All Year
Tarboo Creek	From mouth to headwaters, including tributaries.	All Year
Thorndyke Creek	From mouth to headwaters, including tributaries.	All Year

PART C - FUTURE NEW WATER USE

NEW SECTION

WAC 173-517-110 Future new water use--Generally. A new surface or ground water appropriation (including any permit-exempt ground water withdrawal) or other new use may occur only if consistent with the surface and ground water statutes and the applicable requirements of law and if any one of the following eight conditions (subsections (1) through (8) of this section) apply:

(1) The proposed use is nonconsumptive.

(2) The proposed surface water appropriation would not have an adverse effect on any of the surface waters closed in WAC 173-517-100 (1) and (2).

(3) The proposed ground water withdrawal is located where it would not adversely affect any of the surface waters closed in WAC 173-517-100 (1) and (2), by meeting either condition (a) or (b) of this subsection:

(a) The person or entity seeking to commence a proposed ground water appropriation shows, through scientifically sound studies and technical analysis, that the ground water use would not have an adverse effect on any of the surface waters closed in WAC 173-517-100 (1) and (2), and receives approval of a water right.

(b) The proposed ground water appropriation occurs in a coastal management area designated in WAC 173-517-130, and meets the criteria in that section.

(4) The person or entity seeking to commence the new appropriation chooses to submit a mitigation plan as defined in WAC 173-517-030(12), and such plan is approved by ecology. If monitoring shows the mitigation is not effective, use of water under the appropriation shall then be subject to the instream flows. In the case of a closed basin, the use shall cease until an effective mitigation plan is put in place.

(5) The proposed water appropriation qualifies as an interruptible use and meets the criteria in WAC 173-517-140.

(6) The proposed water appropriation qualifies for the reserves established and conditioned in WAC 173-517-150.

(7) The proposed water appropriation is for an environmental restoration project and meets the criteria in WAC 173-517-200.

(8) The proposed use relies on rainwater collected from the rooftop of a structure that serves another primary purpose (such as a house or barn) and all of the following criteria are met:

(a) The water is collected in barrels, cisterns, or lined impoundments that do not allow mixing with water from unauthorized sources;

(b) The water is used on site; and

(c) The usage is consistent with state and county health and storm water requirements. Ecology reserves the right to regulate water collected from rooftops under applicable laws.

NEW SECTION

WAC 173-517-120 Conservation standard. Ecology has determined that a conservation standard for new permit-exempt withdrawals authorized under RCW 90.44.050 is necessary to conserve available water and protect instream resources.

(1) For the purposes of this chapter the conservation standard for permit-exempt withdrawals is defined as follows:

(a) Water use from a permit-exempt well must be consistent with Jefferson County or Clallam County code, as applicable, and other applicable laws, including the statute on permit exemptions, RCW 90.44.050.

(b) A permit-exempt well serving an individual user shall not exceed a maximum of 500 gpd or an annual average more than 350 gpd, for all permit-exempt uses authorized under RCW 90.44.050.

(c) A well serving a group domestic system shall not exceed a maximum use of 500 gpd or an annual average more than 350 gpd, for each residence, and shall not exceed a total use of 5,000 gpd for the group. The design and construction of group domestic systems must be consistent with applicable state department of health requirements and applicable Jefferson County or Clallam County

requirements.

(2) New permit-exempt well use exceeding 500 gpd for an individual use may occur provided all of the following are met:

(a) Water use greater than 500 gpd must be offset through implementation of an approved mitigation plan as described in WAC 173-517-030(12). If monitoring of a mitigation plan shows the mitigation is not effective, departmental approval of the mitigation plan shall be suspended and the water use shall cease until the department approves a new or revised mitigation plan; and

(b) Total water use shall not exceed 5,000 gpd.

(3) New permit-exempt withdrawals must measure water use in accordance with WAC 173-517-180.

NEW SECTION

WAC 173-517-130 Designated coastal management areas. (1) It is the policy of the state to protect rivers and streams to retain flows necessary to preserve wildlife, fish, scenic, aesthetic and other environmental values (RCW 90.54.020 (3)(a)). It is also the policy of the state that adequate and safe supplies of water be preserved and protected in potable condition to satisfy human domestic needs and to protect the natural environment (RCW 90.54.020(5) and 90.48.010; WAC 173-200-030). Ecology has determined there are areas within WRIA 17 where future ground water withdrawals could negatively impact the instream values of small streams, or contribute to sea water intrusion.

(2) Therefore ecology designates coastal management areas and establishes limits on future ground water withdrawals and well construction in those areas. The boundaries of these areas are shown on Map B in WAC 173-517-070. Table 6 lists the areas.

(3) Future ground water withdrawals from designated coastal management areas shall be subject to the following limits:

(a) Except for areas served by the city of Port Townsend water supply, future permit-exempt well use may not occur where connection to a public water supplier can be provided in a timely and reasonable manner. Determinations of what it means to provide water service in a timely and reasonable manner shall be consistent with public water system plans if applicable, and applicable state and local laws including, but not limited to, Jefferson County code;

(b) New water use from a permit-exempt well must be consistent with Jefferson County code and other applicable laws;

(c) New water use from a permit-exempt well is limited to the conservation standard defined in WAC 173-517-120, except as allowed in subsection (d) of this section; and

(d) In the Miller Peninsula and Quimper Peninsula designated coastal management areas, expanded permit-exempt well use up to 5,000 gpd for an industrial purpose consisting of commercial

agricultural use is allowed if the withdrawal is located outside of three designated watersheds including: Contractors Creek and Eagle Creek on Miller Peninsula and an unnamed stream on Quimper Peninsula (#0215 Admiralty Inlet drainage), as shown on Map C in WAC 173-517-070. Such users must register with ecology or its designee. If the commercial agricultural use should cease, then water use must be limited to the conservation standard defined in WAC 173-517-120.

**Table 6
Designated Coastal Management Areas**

Bolton Peninsula
Devil's Lake
Marple
Miller Peninsula (Jefferson)
Oak Bay/Mats Mats Bay
Quimper Peninsula
Squamish Harbor
Toandos Peninsula
All islands, including Marrowstone and Indian islands

NEW SECTION

WAC 173-517-140 Maximum future allocations for interruptible use. (1) Ecology finds there may be water available in excess of instream flows at certain times of year, which may be appropriated for interruptible uses. This water is only available from the Big Quilcene River from November 16 to June 15 and from Chimacum Creek from December 1 to February 29.

(2) A person or entity seeking a new interruptible appropriation must provide assurances that any negative effects on surface water that may result from withdrawals will be limited to the above locations and times.

(3) In no case shall total cumulative appropriations exceed the allocation limit specified in Table 7 for each river. However, ecology may lower these allocation limits on a case-by-case basis, upon consultation with the state department of fish and wildlife and tribes, whenever more protection of habitat-forming functions is needed.

(4) Interruptible uses must not impair existing water rights and instream flows set in WAC 173-517-090.

**Table 7
Open Period and Allocation Limit**

Water Source	Open Period	Allocation Limit in Cubic Feet Per Second (cfs) and Gallons Per Day (gpd)
Big Quilcene River	Open Period: November 16 to June 15	Allocation Limit: 15 cfs; 9.69 million gpd
Chimacum Creek	Open Period: December 1 to February 29	Allocation Limit: 3 cfs; 1.94 million gpd

NEW SECTION

WAC 173-517-150 Reserves of water for future use. (1)

Ecology has weighed the public interest that supports reserving a limited amount of water for new consumptive uses against the potential for negative impact to instream resources. For the subbasins discussed in this section ecology finds that the public interest advanced by limited reserves clearly overrides the potential for small negative impact to instream resources.

Based on this finding, ecology hereby allocates an amount of water for each reserve management area as indicated in Table 8. These reserves of water are not subject to the instream flows established in WAC 173-517-090 or closures established in WAC 173-517-100. The priority date of an appropriation from a reserve is the effective date of this chapter.

These reserves are available to a user only if the conditions set forth in this section are met, as well as any applicable requirements of law, including, but not limited to, all water resource laws and regulations.

(2) These reserves shall be available for use only after the county with jurisdiction commits to ecology in writing confirming that determinations of adequate potable water for building permits and subdivision approvals will be consistent with this chapter.

(3) Permit-exempt well withdrawals from reserves may not occur where a public water supplier can provide a connection in a timely and reasonable manner. Determinations of what it means to provide water service in a timely and reasonable manner shall be consistent with public water system plans, if applicable, and applicable state and local laws including, but not limited to, Jefferson County or Clallam County code.

(4) Withdrawals from the reserves of water in Donovan, Ludlow, Piddling, Spencer, and Tarboo reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120.

(5) Withdrawals from the reserves of water in Salmon and Snow

reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, or the following: Up to 5,000 gallons per day of the Salmon Creek reserve, and up to 3,000 gallons per day of the Snow Creek reserve may be used for a permit-exempt withdrawal for commercial agriculture.

(a) Each user must register with ecology or its designee before water use for commercial irrigation begins.

(b) If the commercial agricultural use ceases, then the balance of the water returns to the reserve and use of the well shall be consistent with the conservation standard defined in WAC 173-517-120.

(6) Withdrawals from the reserves of water in Little Quilcene (includes Leland and Howe creeks), and Thorndyke reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, or the uses listed below through approval of a water right permit subject to a public interest evaluation that takes into account water availability for future domestic use in the subbasin:

(a) Municipal or community domestic water supply with domestic hookups consistent with the conservation standard defined in WAC 173-517-120.

(b) Agricultural irrigation.

(c) Industrial.

(7) Withdrawals from the reserve of water in the Big Quilcene reserve management area shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, or the following:

(a) Permit exempt withdrawal for commercial agriculture.

(i) Each user is limited to 5,000 gpd as a permit-exempt well under RCW 90.44.050.

(ii) Each user must register with ecology or its designee before water use for commercial irrigation begins.

(iii) If the commercial agricultural use ceases, then the balance of the water returns to the reserve and use of the well shall be consistent with the conservation standard defined in WAC 173-517-120.

(b) The uses listed below through approval of a water right permit subject to a public interest evaluation that takes into account water availability for future domestic use in the subbasin:

(i) Municipal or community domestic water supply with domestic hookups consistent with the conservation standard defined in WAC 173-517-120.

(ii) Agricultural irrigation.

(iii) Industrial.

(8) Future withdrawals from the reserve of water in the Chimacum reserve management area shall be limited to domestic permit-exempt well use, and such use shall not include outdoor irrigation, except for the following:

(a) When alternative water supply or a mitigation strategy is approved by ecology and implemented, this restriction on outdoor irrigation for the Chimacum basin no longer applies and permit-

exempt well use consistent with the conservation standard defined in WAC 173-517-120 is allowed.

(b) If the report for U.S. Geological Survey ground water model currently under construction for the Chimacum Creek subbasin identifies specific areas where new well pumping will not have any effect on creek flows, withdrawals from new wells in those areas will not be deducted from the reserve and will not be subject to the restriction on outdoor irrigation. Instead, use of new permit-exempt wells will be regulated by the statutory permit exemption found in RCW 90.44.050. If such a change occurs, ecology shall notify the public of these findings through publication of a *Chimacum Creek Water Supply Bulletin*.

(9) The place of use of water taken from the reserve is limited to the reserve management area from which it is withdrawn unless ecology, in consultation with the applicable county, department of fish and wildlife, and the tribes allows specific transfers between subbasins. An applicant for a water right that includes out of subbasin water use must comply with WAC 173-517-210.

(10) When each reserve is fully appropriated, the applicable reserve management areas are hereby closed to any further consumptive appropriation. Under such circumstances water for new uses may be available if:

- Mitigation is provided;
- The use is nonconsumptive;
- Alternative sources of water are available; or
- An existing water right can be changed or transferred.

Table 8
Reserve Management Areas, Reserve Quantities and Allowed Uses

Reserve Management Area Water Source (including tributaries)	Reserve Quantity Maximum Average Daily Use in Gallons (gpd)	Allowed Uses of Reserve*
Big Quilcene	200,400 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120 ● Permit-exempt withdrawals for agriculture ● Water right permits subject to public interest test for domestic availability
Chimacum	1,940 gpd	<ul style="list-style-type: none"> ● Permit-exempt withdrawals for domestic use, no outdoor irrigation
Donovan	2,326 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120
Little Quilcene (includes Leland and Howe creeks)	38,800 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120 ● Water right permits subject to public interest test for domestic availability

Reserve Management Area Water Source (including tributaries)	Reserve Quantity Maximum Average Daily Use in Gallons (gpd)	Allowed Uses of Reserve*
Ludlow	7,830 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120
Piddling	1,845 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120
Salmon	9,050 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120 ● Permit-exempt withdrawals for agriculture
Snow	4,140 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120 ● Permit-exempt withdrawals for agriculture
Spencer	2,200 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120
Tarboo	7,110 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120
Thorndyke	31,670 gpd	<ul style="list-style-type: none"> ● Permit-exempt uses under the conservation standard per WAC 173-517-120 ● Water right permits subject to public interest test for domestic availability

*This table lists the types of allowed uses. See the text of the rule for specific requirements for each use.

NEW SECTION

WAC 173-517-160 Accounting for use under the reserves. (1) Ecology shall maintain a record of all appropriations from the reserves.

(2) For an appropriation under a permit, ecology will account for water use under the reserve based on authorized quantities under water right permits or certificates, and metering data.

(3) For permit-exempt ground water appropriations from reserves other than Chimacum subbasin, ecology will deduct a standard amount of 250 gpd for each single domestic use. For a permit-exempt agricultural use, ecology will deduct 5,000 gpd for the Big Quilcene and Salmon Creek subbasins and 3,000 gpd for the Snow Creek subbasin. The amounts deducted from the reserves may be

adjusted periodically by ecology, to reflect actual use during low flow conditions based on metering data or other measurements.

(4) For permit-exempt ground water appropriations from the Chimacum reserve, ecology will deduct a standard amount of 13 gpd for each single domestic use.

(5) If a water user permanently ceases use of water from a reserve, ecology may credit the water back to the appropriate reserve, upon demonstration, through written certification, that the well or surface water diversion has been decommissioned.

(6) Ecology shall notify the county (or counties) with jurisdiction when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of a reserve is appropriated.

(7) If a new appropriation, located in a subbasin with a reserve, is fully offset through implementation of an approved mitigation plan as described in WAC 173-517-030(12), then ecology will not deduct the amount of new water use from the reserve.

NEW SECTION

WAC 173-517-170 Lakes and ponds. RCW 90.54.020 (3)(a) requires, in part, that the quality of the natural environment shall be protected, and where possible, enhanced, and that lakes and ponds shall be retained substantially in their natural condition.

Any withdrawal from a lake or pond in WRIA 17 requires a water right permit from ecology, and must be consistent with the provisions of this chapter.

NEW SECTION

WAC 173-517-180 Measuring water use. All future new appropriations of ground water or surface water, including permit-exempt well use, are required to install and maintain a measuring device (water source meter) meeting specifications provided by ecology. The user must report to ecology, by December 31 of each year, meter readings demonstrating water use for the previous water year, October 1 through September 30, as directed by ecology.

NEW SECTION

WAC 173-517-190 Conveying stock water away from streams. (1) Ecology recognizes that removing livestock from streams will protect water quality and improve vegetative zones associated with stream banks. The change of water right process (RCW 90.03.380) will not be required in WRIA 17 when small amounts of water consistent with historic practice are diverted (screened and piped) to nearby stock water tanks for consumption by livestock provided that:

(a) If a float or demand type valve is not used, the tank overflow must return to the same source, at or near the point of diversion.

(b) The stock tank must serve no greater number of stock than historically range that parcel of property. The quantity consumed from the stock tank should not exceed the quantity consumed if the stock drank directly from the stream.

(c) Stock water tanks shall be located close to the surface water source, and have as short a bypass reach as possible, not more than is necessary to provide gravity flow.

(d) The purpose in modifying an existing direct access to the stream by stock must be to afford protection to the water body, stream bank, and associated vegetative zone.

(2) The decision to divert stock water from the stream and into a tank does not constitute an adjudication of any claim to the right to the use of the water as between the claimant and the state, or as between one or more water use claimants and another or others.

NEW SECTION

WAC 173-517-200 Future surface water withdrawals for environmental restoration. Ecology finds that the public interest advanced by future withdrawals for environmental restoration projects (ERPs), as defined and conditioned in this section, clearly overrides the minimal negative impacts on instream flows.

(1) Ecology may approve a future withdrawal for an ERP only if it meets all the following:

(a) The proposed water use is for a bypass flow for salmonid habitat restoration, or for riparian planting, and the primary purpose of the project is restoration of salmonids;

(b) The proposed project will result in aquatic habitat benefits, and such benefits will exceed any detriment to aquatic habitat that may be caused by reductions in flow at specific locations and times of withdrawal; and

(c) The proposed use qualifies for a temporary permit.

(2) Ecology, in consultation with the department of fish and wildlife and tribes, will evaluate proposed ERPs. ERPs approved by

ecology are not subject to closures or instream flows set in this chapter, unless otherwise conditioned by the permit.

NEW SECTION

WAC 173-517-210 Out of subbasin water use. (1) Ecology recognizes that rainfall patterns, and the rain shadow effect of the Olympic Mountains, affect water availability in WRIA 17. In addition, population growth patterns in WRIA 17 have historically shown highest growth in areas with less rainfall. For these reasons, ecology recognizes that future water right applicants may request using water from one subbasin in a different subbasin, and that such out of subbasin water use may have lasting effects on the community. Such use may occur only if consistent with all applicable requirements of state and federal law.

(2) An applicant for a water right that includes out of subbasin water use shall:

(a) Provide the public an opportunity to review and comment on the proposed application. The applicant shall:

- Advertise and convene a public meeting to explain the proposal; and

- Allow for public comment on the potential for the proposed use to be harmful to the public interest.

(b) The applicant shall provide ecology a report which identifies:

- Alternatives examined;

- Any alternatives/modifications that the applicant has rejected and why; and

- Any alternatives/modifications that the applicant accepts and, if relevant, have been made.

(c) The report in (b) of this subsection shall also summarize the comments received through the public meeting in (a) of this subsection on the potential for the proposed use to be harmful to the public interest.