

WAC 173-518-075 Mitigation plans. The Dungeness water exchange and new water users choosing to mitigate must submit a mitigation plan to ecology to demonstrate how they will offset the impacts of their proposed consumptive use (see WAC 173-518-070 (3)(a)). The mitigation plan must receive ecology approval and be implemented before the proposed water use begins.

(1) The mitigation plan must:

(a) Ensure mitigation measures remain effective as long as the water use occurs.

(b) Include affirmative measures to prevent water provided for mitigation under the plan from being appropriated for any other purpose or by another person or entity.

(c) Include a monitoring and reporting plan, with a quality assurance/quality control plan.

(2) The mitigation plan must show that the proposed withdrawal, with mitigation in place, will not have any of the following impacts:

(a) Impair existing water rights;

(b) Be detrimental to the public interest, including consideration of projected domestic use in the area, the projected stream depletions within affected subbasins, the likelihood that mitigation to offset such projected stream depletions can be obtained or achieved, water budget neutrality with respect to the Dungeness River watershed, and maximizing instream benefits during the critical period;

(c) Result in a net loss of water from a closed source greater than the applicable maximum depletion amounts.

(3) The plan must include financial assurance for implementing the plan. Ecology may, for any reason, refuse any performance security ecology does not deem adequate. Financial assurances may include:

(a) A bank letter of credit;

(b) A cash deposit;

(c) A negotiable security;

(d) An assignment of a savings account;

(e) A savings certificate in a Washington bank;

(f) A corporate surety bond executed in favor of the department of ecology by a corporation authorized to do business in the state of Washington under Title 48 RCW; or

(g) Other financial assurance deemed adequate by ecology.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.42, and 90.44 RCW. WSR 12-23-054 (Order 07-17), § 173-518-075, filed 11/16/12, effective 1/2/13.]