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4. While the Commission cannot impose water quality conditions that are less stringent than those contained in a water quality certification, it can adopt conditions that are more stringent. Today's order makes a single modification to the minimum flows set forth in the water quality certification: a three-day increase in flows from 100 cfs to 200 cfs to accommodate the interests of tourists visiting the Falls over the Labor Day weekend. The order offers no explanation for rejecting the other staff-recommended increases in minimum flows for the benefit of the Snoqualmie Tribe, beyond noting that the Snoqualmie Tribe asserts that only totally natural flows are acceptable. The Snoqualmie Tribe's refusal to accept any diversion of river flows does not relieve this Commission of its duty to make its own determination of the flows that best balance all competing interests, including those of the Snoqualmie Tribe. Given the minimal amount of other mitigation included in the license, I have concluded that the staff-recommended minimum flows (with the nighttime flows adjusted to comply with the water quality certification on daily fluctuations) would strike a better balance than the flows adopted by the majority.

Nora Mead Brownell

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