

David Troutt



NISQUALLY INDIAN TRIBE

Department of Natural Resources

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December 18, 2024

Sam Meng
Project Manager
Toxics Cleanup Program
Washington Department of Ecology

RE: Eatonville Landfill Cleanup Action Plan Comment; Facility Site ID# 85933; Cleanup Site ID# 15271

Dear Sam Meng:

Squalli Absch (the Nisqually Indian Tribe or Tribe) has lived on and stewarded the waters and lands of South Puget Sound to Mt. Rainier (*Ta-co-bet*) and beyond since time immemorial. The Tribe is a federally recognized sovereign nation and a successor-in-interest to the bands and tribes who were signatories to the 1854 Treaty of Medicine Creek. *See United States v. Washington*, 384 F. Supp. 312, 367–68 (W.D. Wash. 1974), *aff'd* 520 F.2d 676 (9th Cir. 1975), *cert. denied*, 423 U.S. 1086, 96 S. Ct. 877 (1976); *see also Treaty of Medicine Creek*, 10 Stat. 1132 (1854). The Treaty of Medicine Creek recognizes the Tribe's sovereign right to self-governance and self-determination and guarantees the Tribe the reserved "right of taking fish, at all usual and accustomed grounds and stations [(U&A)], ... together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands[.]" 10 Stat. 1132, Art. 3.

The Tribe's U&A and traditional lands includes South Puget Sound and the Nisqually watershed. We are a co-manager of fisheries resources with the State of Washington. We have also dedicated innumerable resources to protecting and restoring the ecosystem in our territory, including Endangered Species Act-listed salmon.

The Eatonville landfill is located near the Town of Eatonville in rural Pierce County. It is surrounded by Nisqually State Park. The landfill was operated as an uncontrolled dump site for approximately 30 years beginning in 1950, until its closure in March 1980. The approximately two-acre landfill area is unfenced and consists of highly irregular terrain and exposed refuse, including debris such as abandoned appliances, car bodies, drums, and tires. The lower face of the landfill terminates in a high-quality wetland. This wetland area receives stormwater runoff from over the landfill and the surrounding bluff, and from natural springs that discharge at various points along the bluff.

Water from the wetland flows downstream about a quarter mile to the Mashel River. The Mashel River is a major tributary of the Nisqually River. As described above, the Nisqually Indian Tribe holds treaty fishing, hunting, and gathering rights in the Nisqually watershed. Not only is the area around the site culturally important to the Tribe, but both rivers provide key habitat for fall Chinook salmon and steelhead trout. Salmon are a mainstay of our diet and the foundation of our lifeway.

By this letter, the Nisqually Indian Tribe expresses support for the Department of Ecology's plan to remediate the Eatonville landfill site, which includes both the "Landfill Area" and the "Wetland Area." Remediation will permanently remove a known source of heavy metals and other toxics impacting fish health in the nearby Mashel River. Reducing these toxic threats will contribute to increased fish population health that can better support the Nisqually Tribe's treaty-secured fishing rights. Honoring treaty rights is also key to ensuring that the principles of environmental justice are achieved.

The Tribe is supportive of the separate selected cleanup action plans for both the Landfill Area and the Wetland Area identified in the Draft Cleanup Action Plan. It is the Tribe's understanding that for the Landfill Area, all waste and impacted soil beneath the waste prism exceeding clean up levels will be excavated to the maximum extent practicable. The Tribe additionally understands that full excavation will likely not occur at the Wetland Area but encourage removal of as much waste as possible without disrupting the wetland ecosystem. The Tribe believes that monitored natural attenuation at the Wetland Area is essential and urges Ecology to be diligent in ensuring that the monitoring program is followed. The Tribe additionally asks to be updated on monitoring results.

The Draft Clean Up Action Plan provides that a compliance monitoring program will be implemented at the Site both during and after the cleanup. It is the Tribe's understanding that this will include multiple types of monitoring, including 1) protection monitoring (ensuring that both human health and the environment are being protected during the cleanup), 2) performance monitoring (ensuring that the cleanup action is being successfully implemented), and 3) confirmation monitoring (ensuring that the cleanup remedy continues to be effective). The Tribe recognizes that Ecology expects the cleanup to take approximately ten years, and as such, firmly believes that continued monitoring is of the utmost importance. Given the Tribal significance of the Nisqually Rivershed, as well as the fact that the Tribe faces a disproportionate risk for exposure to and contact with contaminants from the Site, we strongly believe that the Nisqually Indian Tribe should continue to be consulted throughout the remediation and monitoring process. If after ten years contaminants are still above cleanup levels, we urge Ecology to work closely with the Nisqually Indian Tribe to identify and address Tribal interests in advance of any further cleanup actions.

Cleanup of the Eatonville landfill should be one of the highest priority Puget Sound cleanup actions and we applaud the Department of Ecology for taking these much needed first steps.

Thank you for your consideration of the Nisqually Indian Tribe's comment letter and please contact me at 360-456-5221 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Troutt", with a stylized flourish extending to the right.

David Troutt
Natural Resources Director