Erica Marbet

Please find attached comments from the Squaxin Island Tribe on the 2025 Puget Sound Nutrient General Permit, along with two of our comment letters from 2021.

SQUAXIN ISLAND TRIBE

August 26, 2025

William Weaver
WA Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

Re: Comments on the 2025 Draft Puget Sound Nutrient General Permit

Dear Mr. Weaver,

The following are comments regarding the Puget Sound Nutrient General Permit and its implications for the Squaxin Island Tribe (the "Tribe"). Both the Tribe's 2021 comment letters are attached and remain relevant. The Squaxin Island Tribe is a federally recognized Indian tribe located in Southern Puget Sound in Mason County, Washington with treaty rights to harvest fish and shellfish, "at their usual and accustomed fishing places in the shallow bays, estuaries, inlets and open Sound of Southern Puget Sound and in the freshwater streams and creeks draining into those inlets." See generally United States v. Washington, 384 F.Supp. 312, 378 (W.D. Wash. 1974); United States v. Washington, 459 F.Supp. 1020 (W.D. Wash. 1978). The Tribe's culture and economic well-being depend upon clean water to support abundant and sustainable fisheries. Thus, the Tribe has vital interests in ensuring that laws and regulations intended to protect water quality, and related aquatic habitat, are implemented and enforced so that it can continue to exercise its federal treaty rights and successfully execute its role as a steward and co-manager of Puget Sound.

The federal government maintains a trust responsibility for protection of Tribal Treaty rights. In the case of the Puget Sound Nutrient General Permit ("PSNGP"), due to the delegation of authority for implementation of the Clean Water Act, this Treaty obligation must be fulfilled by the State of Washington. While the PSNGP describes an environmental justice evaluation on p. 14, 21, and 27, the evaluation focuses only on the burden to ratepayers and lost recreational and commercial fishing opportunities. The environmental justice evaluation should be edited to also address violations of Tribal treaty rights.

Elevated nutrients in Southern Puget Sound have a disproportionate impact on the Squaxin Island Tribe.

The Squaxin Island Tribe is uniquely positioned to offer a perspective on Puget Sound water quality. The Tribe's location at the south end of the sound, where nutrients discharged from all parts north accumulate, make regulating municipal wastewater in all areas of Puget Sound especially critical to the Squaxin Island Tribe. Because of low water circulation in Southern Puget Sound, discharged nutrients tend to accumulate there and exacerbate algae blooms, which lead to

low dissolved oxygen conditions and a disproportionate impact on the Squaxin Island Tribe's fisheries and the water quality in its Usual and Accustomed Areas ("U&A").

Harmful effects of low marine dissolved oxygen include acidification, which can prevent shellfish and other marine organisms from forming shells; shifts in the number and types of bottom-dwelling invertebrates; increases in abundance of macroalgae, which can impair the health of eelgrass beds; seasonal reduction in fish habitat and intensification of fish kill events; habitat fragmentation and reduction in habitat for some species; and potential disruption of the entire food web.[1] In particular, impaired conditions exist at the southern tip of Squaxin Island, which has one of the few remaining kelp beds in Southern Puget Sound. Other affected species of great importance to the Tribe include subtidal geoduck, Dungeness crab, sea cucumber, lingcod, and of course, salmon.

Output from Ecology's Salish Sea Model indicates that, in large swaths of the Tribe's U&A, anthropogenic nutrient levels cause violation of the state water quality standards for dissolved oxygen set under the federal Clean Water Act. Ecology is thus obligated to implement measures to reduce nutrient discharges that impact these areas. Treatment improvements across the Salish Sea will contribute to dissolved oxygen improvements in the inlets of concern to the Squaxin Island Tribe.[2] ***These treatment improvements need to be set in motion now through the capital planning of municipalities that own wastewater treatment facilities. The pace of the PSNGP is too slow, and its pressure for action too light, as described below***.

Action levels are too lax.

The nutrient load action levels remain far too permissive. Ecology set these action levels at the 99th percentile upper confidence limit of current loads, inadvertently allowing tons of nitrogen pollution above safe levels for Puget Sound to protect a number that simply triggers planning activities. The highly permissive 99th percentile used as the action level means that Tacoma's loads, and those of several other plants, are well below these egregiously high action levels. We anticipate a scenario in which these lax values become the de facto load limits for far too long, allowing dischargers to continue with status quo approaches. Instead, we recommend that action levels be based on 75th percentiles of nitrogen load estimates by each plant.

Ecology can use the same program and values that produced the 99th percentile values in the January 1, 2022 permit to develop more reasonable statistics, such as the 75th percentile of values for action levels in this optional general permit.

City of Tacoma and King County should be removed from the general permit.

Together, the City of Tacoma and King County facilities represent >60% of the total nitrogen discharges from US plants to Puget Sound. As described above, the Squaxin Island Tribe, because of its location, suffers the impacts of outsized discharge from both of these facilities.

[1] WA Dept. of Ecology, Puget Sound Nutrient Source Reduction Project Volume 1: Model Updates and Bounding Scenarios 10 (2019).
[2] Id. at 80-84.

These two dischargers must make far more substantial progress toward modern sewage approaches than is outlined in the draft permit if a serious attempt at addressing low dissolved oxygen conditions in Southern Puget Sound is to be made. This should be done through individual permit limits and not the flexibility that a general permit may provide. All City of Tacoma and King County facilities should receive permit limits for nitrogen discharges in their individual NPDES permits. Without this pivot to individual permits, the reduction of nutrient discharge to Puget Sound will be insignificant.

We are keenly aware that the state required Spokane to modernize sewage treatment, and Ecology must hold Tacoma and King County to the same standard. That should be done through individual permit limits and not the flexibility that a general permit may provide. Because Tacoma and King County's loads are so large, there are no other entities that Tacoma and King County can trade with – a nutrient credit trading system is simply infeasible for these two large dischargers. The only way for portions of Puget Sound to recover in terms of oxygen is for Tacoma and King County facilities to adapt to modern sewage approaches.

Pace of actual design and construction is too slow.

Treaty resources and harvests have already been affected by excess nutrient loading. Under this permit, municipalities simply would need to monitor for a year, and if their loads go over the action levels, monitor for a second year. Because this permit expires December 31, 2027, and likely would not take effect until January 1, 2026, all of the permit conditions involving contingent planning and actions would produce no substantive progress.

Instead, all permittees should conduct the activities listed as only Corrective Actions in Special Condition S4.D and S5.D of the draft permit before December 2027, regardless of the actual nitrogen discharge levels. This would eliminate Special Condition S4.D.1 and S5.D.1 entirely and require permittees to submit for review a proposed approach to reduce the annual effluent load by at least 10% below the action level. Currently the permit lists those as contingent on discharging above the action levels. However, given that flows and loads are likely to inch up with population growth, dischargers need to begin adjustments to both cap and also begin reducing nitrogen loads to Puget Sound.

Ecology cannot approve any increases in flow for any plant discharging to Puget Sound without concomitant reductions in nitrogen concentrations.

The Tribe expects that some dischargers will seek Ecology's approval before any reductions in nitrogen loads are legally binding. If Ecology were to approve a flow increase for a plant without concomitant requirements to reduce nitrogen concentrations, that action would allow increasing nitrogen loads to Puget Sound. ***We add the utmost gravity to this statement: It is imperative that Ecology does not approve any sewage discharge flow increases without simultaneously requiring nitrogen load reductions resulting from decreases in concentrations.*** Given that treatment plant capital investments occur on a decadal basis, the state cannot afford to lock in what are already antiquated treatment technologies. It has already been our experience with Ecology permit writers that they allow additional pollutant loads in permit renewals unless an outside party

like the Tribe requests that they be limited. We are requesting now that Ecology does not allow additional flow without reductions in nitrogen concentration.

Do not let the wastewater treatment plants avoid or delay necessary improvements at the cost of resources and the health of Tribes and all Washington residents.

In conclusion, act now and act aggressively, as the current circumstances violate the law. The Tribes are not the only communities impacted by dissolved oxygen impairments. Commercial, recreational, and tribal fisheries all experience harm. Tribes and these other interests should not bear the continued externalized cost of excess WWTP nutrient discharges. A slow pace will fail to protect the health and well-being of the resources and the people who depend on them.

Sincerely,

Erica Marbet
Water Resources Biologist
Squaxin Island Tribe

Attachments

SQUAXIN ISLAND TRIBE

August 16, 2021

Eleanor Ott, PSNGP Permit Writer
Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Dear Ms. Ott,

The following are comments about the Puget Sound Nutrient General Permit and its implications for the Squaxin Island Tribe. Please also refer to our March 15th, 2021 letter during the informal comment period, also submitted with this letter. Our comments remain the same.

We would like to address municipalities who submitted comments on the Puget Sound Nutrient General Permit during the informal comment period. The majority of their comments have common themes. They say: We have already done enough to treat wastewater, and the necessary upgrades are too costly and will be a burden to our lower income ratepayers. They say: The Salish Sea Model still lacks the precision to indicate if low dissolved oxygen in Puget Sound is due to elevated nutrients. They say: If we come into compliance with this proposed general permit, we are not certain it will improve dissolved oxygen conditions in Puget Sound.

It is predictable to watch these entities cast doubt upon the science and claim the burden of excessive cost. They are a powerful influence on this process. That makes it easy for them to externalize the cost, the burden of the dominant and ever-growing source of human nutrients in Puget Sound on the ecosystem and the humans who derive food, health, wellbeing, culture, and income from it. These are not just the Tribes of Puget Sound, but every shoreline resident, boater, swimmer, shellfish harvester, tourist, fisherman, diver, and so on. If Ecology obliges these entities, the ecosystem and human health and wellbeing will notch down, year by year, as the nutrient burden increases, and an additional 1.6 million people move into Puget Sound by the year 2050.[1]

And yet these municipalities are in Tribal Country. They are in the treaty-protected Usual and Accustomed areas of so many Tribes whose members turn to Puget Sound daily as the foundation of their culture and income. Elevated nutrients in the South Salish Sea have a disproportionate impact on

[1] https://www.psrc.org/whats-happening/blog/region-planning-18-million-more-people-2050

Tribes. Fishermen and women of the Squaxin Island Tribe set their nets in the very inlets of South Sound that are most impacted by additional nutrients and low dissolved oxygen (Figure 1).

Regarding the science, over the past twenty years, the Salish Sea Model has been reviewed, criticized, and improved over multiple iterations. Those successive iterations have produced results that repeatedly say the same thing with more certainty: Anthropogenic nutrients are the dominant source of nutrients in Puget Sound, especially in summer, and those nutrients cause a decrease in dissolved oxygen in the heads of inlets. This is a reality right now, and so the timeline of implementation of the Puget Sound General Permit should be rapid, with load reductions from the largest dischargers addressed in the first permit cycle. The proposed extended schedule for implementation is unacceptable.

Regarding the claim of excessive financial burden to the ratepayer, we would like to point to the City of Shelton and LOTT Clean Water Alliance. Both have been able to maintain a reasonable rate for their customers, while they have planned for and implemented nutrient removal. LOTT has done this at its Budd Inlet plant, and also with its Martin Way reclaimed water plant. The City of Shelton has done this by establishing a reclaimed water plant up-watershed and away from Puget Sound. Creative and reasonable solutions are available to meet the requirements of the Puget Sound Nutrient General Permit. These communities have already invested significant resources in meeting Clean Water Act requirements. Other community owners of wastewater treatment plants should not be allowed to defer the costs of upgrades by pleading poverty. In fact, parity should be the order of the day.

Implementation of water quality trading should not result in unaddressed impairments to tribal treaty resources. State fulfillment of these treaty obligations can help address the state's legal responsibilities, in addition to its important environmental justice obligations.

We will repeat what we said in March (attached letter): Act now and act aggressively. The current circumstances violate the law. A slow, bureaucratic pace will fail to protect the health and well-being of the resources and the people who depend on them. The lack of direct action to achieve compliance with the law will compel more immediate responses from those that are seeing their culture slip away.

Sincerely,

Jeff Dickison

Assistant Director of Natural Resources
Squaxin Island Tribe

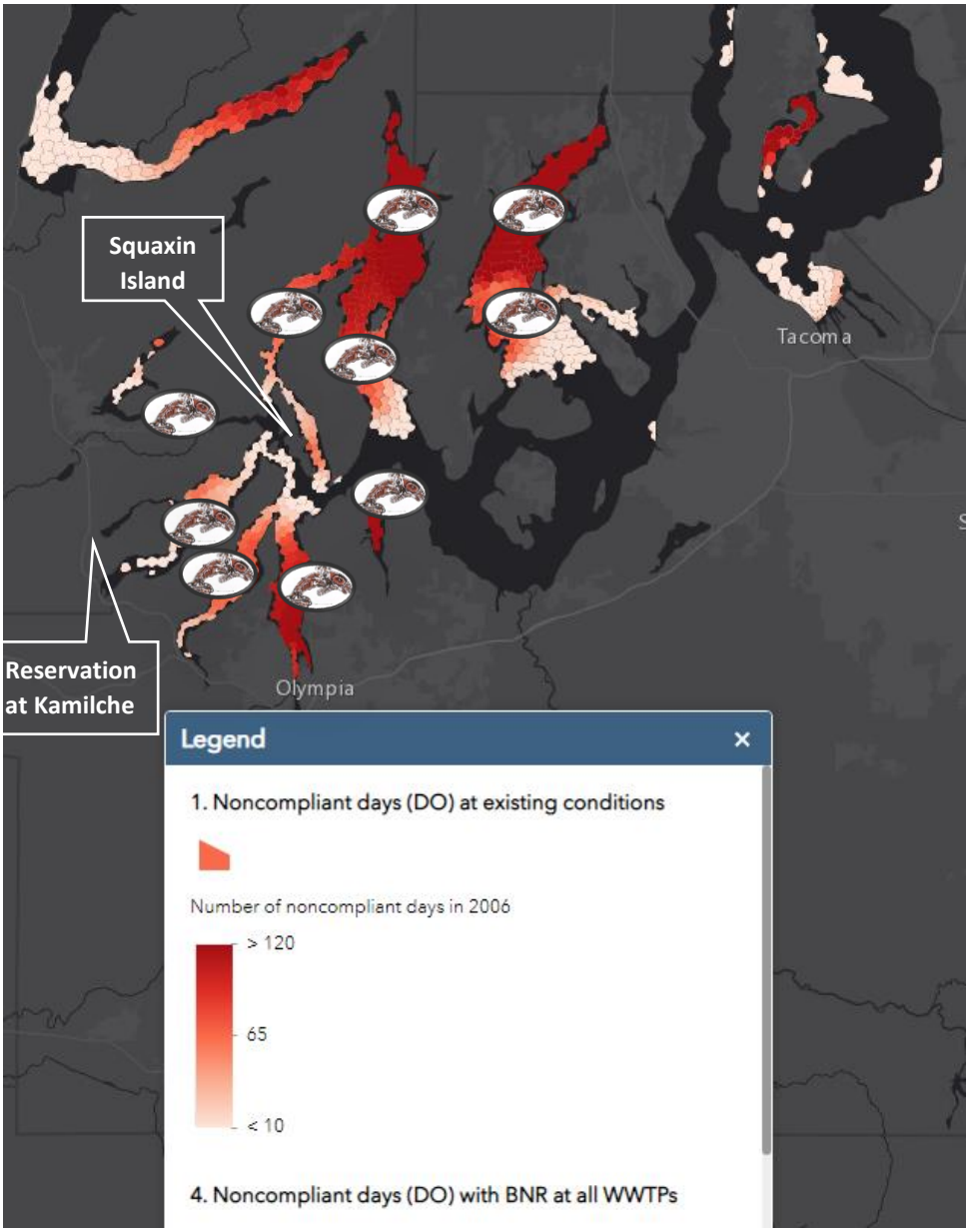

Figure 1. Output from Ecology's Salish Sea Model:
https://www.arcgis.com/apps/webappviewer/index.html?id=2a5d5e519a9d40df8a88f6910786c51f

= Where impairments overlap with ancestral fishing and shellfishing areas of the Squaxin Island Tribe.

Signature:

Email: jdickison@squaxin.us

Squaxin to ECY PS Nutr Gen Permit 16Aug2021

Final Audit Report 2021-08-16

Created:	2021-08-16
By:	Christine Marbet (emarbet@squaxin.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAp5cN4R0hQaU4GKFPZgr2JrpYcx3nbLQS

"Squaxin to ECY PS Nutr Gen Permit 16Aug2021" History

Document created by Christine Marbet (emarbet@squaxin.us)
2021-08-16 - 10:53:27 PM GMT- IP address: 216.235.106.129

Document emailed to Jeff Dickison (jdickison@squaxin.us) for signature
2021-08-16 - 10:53:59 PM GMT

Email viewed by Jeff Dickison (jdickison@squaxin.us)
2021-08-16 - 11:08:52 PM GMT- IP address: 67.168.0.123

Document e-signed by Jeff Dickison (jdickison@squaxin.us)
Signature Date: 2021-08-16 - 11:10:14 PM GMT - Time Source: server- IP address: 67.168.0.123

Agreement completed.
2021-08-16 - 11:10:14 PM GMT

SQUAXIN ISLAND TRIBE

March 11, 2021

Eleanor Ott, PSNGP Permit Writer
Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Dear Ms. Ott,

The following are comments about the Puget Sound Nutrient General Permit, and its implications for the Squaxin Island Tribe. The Squaxin Island Tribe is descended from maritime people who have lived and prospered along the shores of the southernmost inlets of the Salish Sea for millennia. Their leaders signed the Medicine Creek Treaty with the U.S. Government in 1854, reserving the right to hunt, gather and fish at all usual and accustomed places. Tribal members continue to this day to exercise their Treaty rights for subsistence, ceremonial and commercial purposes. The original reservation was established on Squaxin Island in the center of the South Salish Sea. The island is located downstream of the seven southern inlets—Case Inlet, Hammersley Inlet/Oakland Bay, Totten/Little Skookum Inlet, Eld Inlet, Budd Inlet, Henderson Inlet, and Carr Inlet (Figure 1). In addition to the marine waters, more than twenty-two small watersheds upstream of Squaxin Island impinge upon waters of the Indian Reservation. The federal government maintains a trust responsibility for protection of Tribal interests preserved in the Medicine Creek Treaty. In the case the Puget Sound Nutrient General Permit, due to the delegation of authority for implementation of the Clean Water Act, this Treaty obligation must be fulfilled by the State of Washington.

Elevated nutrients in the South Salish Sea have a disproportionate impact on the Squaxin Island Tribe:

Output from Ecology's Salish Sea Model (Figure 1) indicates that, under current conditions, anthropogenic nutrients violate the state water quality standards for dissolved oxygen set under the federal Clean Water Act. Ecology is thus obligated to implement measures to reduce nutrient discharges. The areas of impairment overlay large parts of the Usual and Accustomed fishing area of the Squaxin Island Tribe. Low dissolved oxygen will cause habitat fragmentation and reduction in habitat for some species.[1] In other words, the red areas of impairment in Figure 1 represent fragmentation and loss of habitat for the Treaty fisheries of the Squaxin Island Tribe. Harmful effects of low marine dissolved oxygen include acidification, which can prevent shellfish and other marine organisms from forming shells; shifts in the number and types of bottom-dwelling invertebrates; increases in abundance of macroalgae, which can impair the health of eelgrass beds; seasonal reductions in fish habitat and

[1] Long, M.C., C. Deutsch, and T. Ito. 2016. Finding forced trends in oceanic oxygen. Global Biogeochemical Cycles 30(2): 381-397.

intensification of fish kill events; and potential disruption of the entire food web.[2] Impaired conditions exist at the southern tip of Squaxin Island, which has one of the few remaining kelp beds of the South Salish Sea.

Do not let the wastewater treatment plants avoid or delay necessary improvements at the cost of resources and the health of Tribes and all Washington residents.

- Wastewater treatment plants (WWTPs) deliver 81% of dissolved inorganic nitrogen loads to the Salish Sea during the summer months when river loads are low due to lower flows.[3] This results in a violation of water quality standards.
- The largest estimated improvements to water quality conditions will occur with implementation of seasonal biological nitrogen removal at all WWTPs. Treatment improvements across the Salish Sea will contribute to dissolved oxygen improvements in the inlets of concern to the Squaxin Island Tribe.[4]
- For those WWTP's that have already implemented biological nitrogen removal, they are already on their way to meeting water quality standards (LOTT). For those WWTP's that have built the foundation for biological nitrogen removal (Pierce/Chambers), compel them to complete the project. They are the largest discharger by volume to the southern Salish Sea. It should be noted that these communities have already invested significant resources in meeting Clean Water Act requirements. Other community owners of WWTPs should not be allowed to defer the costs of upgrades by pleading poverty. In fact, parity should be the order of the day.
- Treaty resources and harvests have already been affected by excess nutrient loading, so the Puget Sound nutrient general permit should be implemented rapidly with load reductions from the largest dischargers addressed in the first permit cycle. The proposed extended schedule for implementation is unacceptable.
- The costs of nutrient reduction should appropriately be allocated to permittees whose discharges contribute to violations of water quality standards. Ecology should implement significant nutrient effluent limits starting with the first general permit cycle, as well as through any interim or other individual permits.
- The Tribes are not the only people impacted by dissolved oxygen impairments. Commercial, recreational and tribal fisheries experience harm as well. Tribes and these other interests should not bear the continued externalized cost of excess WWTP nutrient discharges.
- Puget Sound nutrient general permit monitoring and reporting methods must be sufficient to document discharges and reductions, inform adaptive management, and determine compliance with water quality based effluent limits.
- All Puget Sound nutrient discharge permits should require water quality based effluent limits and application of all known, available, and reasonable treatment technologies to protect and restore water quality and fishery uses.
- If permit effluent limits in the context of the Puget Sound Nutrient Reduction Plan are insufficient to promptly demonstrate compliance with water quality standards, then Ecology should consider other alternatives including an overarching Clean Water Act Total Maximum Daily Load for Puget Sound nutrients and dissolved oxygen.

---

[2] WA Dept. of Ecology, Puget Sound Nutrient Source Reduction Project Volume 1: Model Updates and Bounding Scenarios 10 (2019).

[3] WA Dept. of Ecology, Puget Sound Dissolved Oxygen Model Nutrient Load Summary for 1999-2008 xvi (2011).

[4] Id. at 80-84.

- Implementation of water quality trading should not result in unaddressed impairments to tribal treaty resources. State fulfillment of these treaty obligations can help address the state's legal responsibilities, in addition to its important environmental justice obligations.
- Effluent discharges should be calibrated to the water bodies where they occur and the impacts on water quality that may lie further afield. The southern head of the Salish Sea (Puget Sound) is already significantly impacted by diminished water quality compliance. It is already documented that northern discharges are affecting these conditions. The severity of this situation should be addressed immediately and not be constrained by ill-conceived notions of financial equity with other locations. Ecology should direct implementation to the problem. You cannot afford to pursue the typical slow and measured response where the resource is already critically endangered.

In conclusion, act now and act aggressively. The current circumstances violate the law. A slow, bureaucratic pace will fail to protect the health and well-being of the resources and the people who depend on them. The lack of direct action to achieve compliance with the law will compel more immediate responses from those that are seeing their culture slip away.

Sincerely,

Andy Whitener
Director
Squaxin Island Tribe

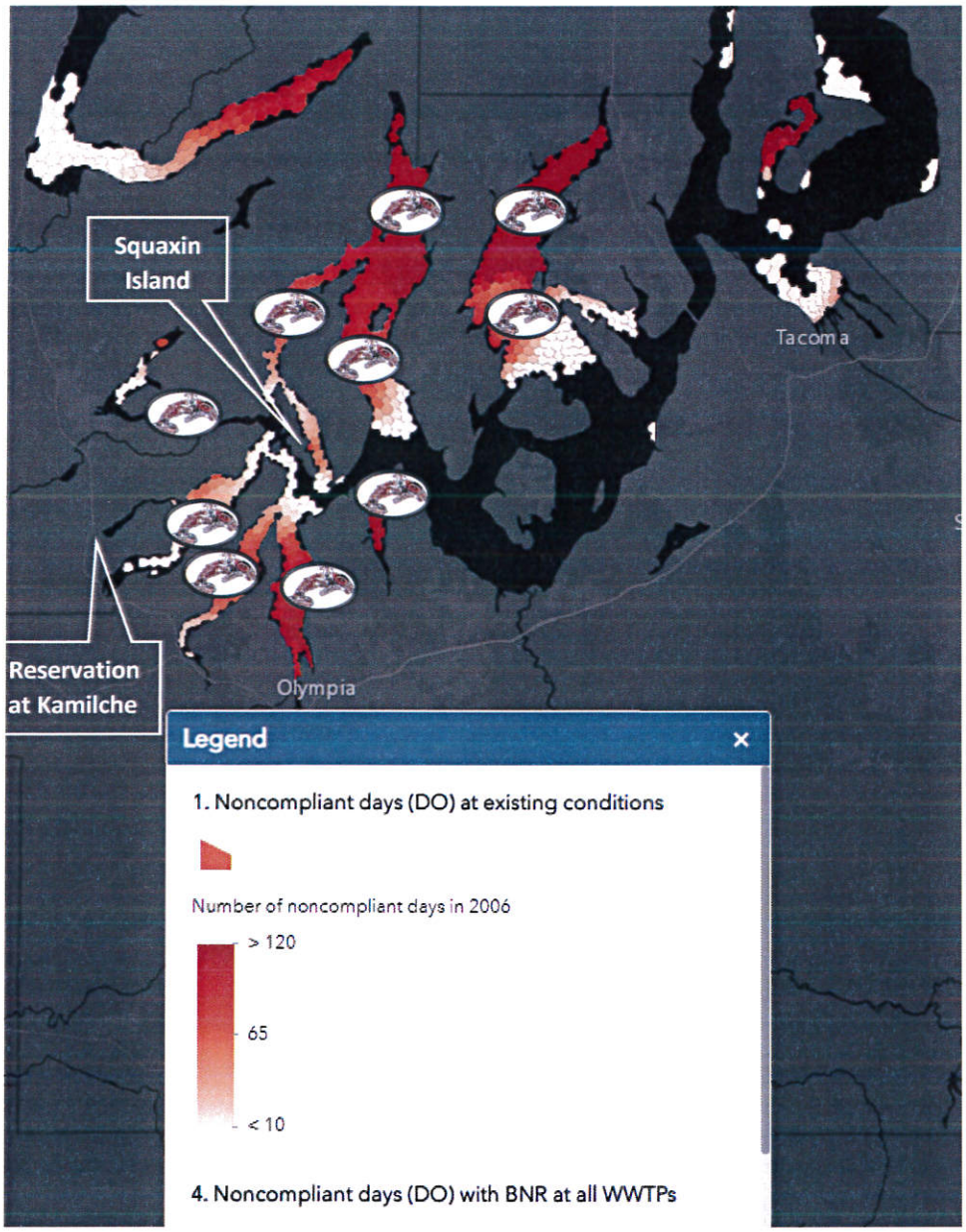

Figure 1. Output from Ecology's Salish Sea Model:
https://www.arcgis.com/apps/webappviewer/index.html?id=2a5d5e519a9d40df8a88f6910786c51f

= Where impairments overlap with ancestral fishing and shellfishing areas of the Squaxin Island Tribe.