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The 2026 Chehalis River Basin SEPA Revised Draft Environmental Impact Statement (EIS) highlights significant adverse impacts on the natural resources and treaty rights of the Chehalis Tribe. The following list outlines the primary concerns identified in the [Revised draft environmental review](#):

- Degradation of Salmon and Steelhead Populations: The proposed flow-through dam would cause significant harm to salmon and steelhead at every life stage, magnifying current declines. Modeling predicts a reduction in genetic diversity for Chinook, coho, and chum salmon.
- Water Quality and Temperature Spikes: Construction and operation would degrade water quality by increasing river temperatures by up to 9°F and reducing dissolved oxygen levels, creating conditions lethal to many aquatic species.
- Loss of Habitat and Vegetation: The project would eliminate peak downstream flows necessary for natural channel formation. It would also remove 90% of trees in a 600-acre temporary reservoir area and impact approximately 11 acres of wetlands.
- Infringement on Treaty-Reserved Rights: As a co-manager of these resources, the Tribe's treaty-reserved rights to fish, hunt, and gather are directly threatened by the loss of sustainable fish populations and habitat.
- Impact on Cultural and Archaeological Sites: The project would cause significant and unavoidable adverse impacts to at least one known archaeological site and multiple Traditional Cultural Places (TCPs).
- Blockage of Migratory Pathways: Once operational, the dam and temporary reservoir would block critical migratory pathways for fish and wildlife, further isolating species from their headwater spawning grounds.
- Climate Change Magnification: The project is expected to exacerbate the negative effects of climate change, such as lower stream flows and warmer water, increasing the risk of local extinctions for spring-run Chinook and other species.

The revised draft environmental impact statement found constructing and operating the flow-through dam and temporary reservoir would significantly and negatively impact fish and wildlife as well as aquatic and land habitats, recreation, earth, water, transportation, wetlands, land use, Tribal resources, cultural resources, environmental health and safety, environmental justice, and public services and utilities.

The federal government has several foundational obligations to protect tribal treaty and reserved rights, particularly regarding environmental impacts in the Chehalis River Basin. These responsibilities are rooted in the U.S. Constitution, federal court rulings, and executive mandates.

The primary federal obligations include:

- The Federal Trust Responsibility: This is a legally enforceable fiduciary obligation that requires the federal government to protect tribal lands, assets, resources, and treaty rights. Agencies like the [Environmental Protection Agency \(EPA\)](#) and [Department of the](#)

[Interior](#) must ensure their actions do not harm the resources a tribe depends on for its survival and cultural practices.

- Protection of Fish Habitat (The "Culverts Case"): Federal courts, including the U.S. Supreme Court, have affirmed that treaty rights to take fish include an implied right to have the fish habitat protected. This means the government has a duty to refrain from building or operating structures (like dams or culverts) that block salmon migration or degrade the environment so severely that fish populations cannot support the tribes.
- Section 106 Consultation (National Historic Preservation Act): Federal agencies—specifically the [U.S. Army Corps of Engineers](#) for this project—are required to consult with tribes to identify and protect Traditional Cultural Places (TCPs) and archaeological sites that may be affected by federal undertakings.
- Executive Order 13175: This requires all federal agencies to engage in meaningful, regular, and robust "government-to-government" consultation with tribal officials when developing policies or taking actions that have tribal implications.
- Water Quality Standards: Under the [Clean Water Act](#), the federal government must ensure that water quality standards are stringent enough to protect treaty-reserved resources, such as fish and shellfish, ensuring they are safe for consumption and can thrive in their natural habitat.

As of 2026, the [Department of Ecology](#) and federal partners must weigh these obligations against the proposed flood project's impacts on the Chehalis and Quinault tribes before issuing a final decision.

The proposed Chehalis River Basin Flood Damage Reduction Project would have significant adverse impacts on several native species, including some that are already federally-listed as threatened, such as the Oregon spotted frog and marbled murrelet. For salmon and steelhead, populations currently not federally listed are predicted to decline so severely they could face local extinction.

The specific effects on endangered and sensitive species, based on the [Revised Draft Environmental Impact Statement \(EIS\)](#), include:

#### Federally-Listed Threatened Species

- Oregon Spotted Frog: The project area contains important habitat for this federally-listed threatened species.
- Marbled Murrelet: The project would put additional pressure on this endangered seabird due to the loss of hundreds of acres of quality forest and riparian habitat.

#### Species Facing Significant Impacts

- Salmon and Steelhead Trout:
  - Population Decline: Modeling predicts significant adverse impacts on spring-run and fall-run Chinook, coho, and chum salmon populations, with the dam potentially pushing some runs to extinction in the upper basin.

- Habitat Degradation: The project would eliminate critical spawning grounds and negatively affect water quality, increasing water temperatures and reducing dissolved oxygen levels, which are lethal to fish.
- Migration Blockage: The dam structure and temporary reservoir would disrupt migratory pathways, especially for species that need access to headwater streams to complete their life cycles.
- Other Aquatic Species:
  - Significant Adverse Impacts: The EIS identified significant impacts on lamprey, mountain whitefish, freshwater mussels, amphibians, and macroinvertebrates (insects, worms, snails, and crayfish).
- Wildlife:
  - Habitat Loss & Disruption: The project would destroy hundreds of acres of forest, riparian habitat, and wetlands, disrupting key migration corridors for various wildlife species, including elk.

Overall, the EIS concludes that the project would magnify the adverse effects of climate change on these species, which are already struggling with habitat loss and warming waters.

- "Significant and Unavoidable" Impacts: Despite mitigation, the EIS still finds that the project would cause significant adverse impacts on salmon and other aquatic species.
- Unproven Effectiveness: The trap-and-transport method is often criticized by tribal and environmental groups as inadequate for maintaining the genetic diversity and high survival rates of wild salmon populations compared to a free-flowing river.
- Temporal Loss: Replanted vegetation takes decades to provide the same level of shade and habitat as the mature forests that would be cleared (90% of trees in the 600-acre reservoir area).
- Climate Change Vulnerability: Critics argue the mitigation does not sufficiently account for climate change, which will likely exceed the cooling capacity of new plantings, potentially leading to local extinctions of spring-run Chinook regardless of restoration efforts.

I agree with the Confederated Tribes of the Chehalis Reservation and the Quinault Indian Nation have raised profound concerns regarding the adequacy of the mitigation proposed in the 2026 Revised Draft Environmental Impact Statement (EIS).

MY Key concerns include:

- Inadequacy of Realignment: To address tribal concerns about a Traditional Cultural Property (TCP), the dam structure was moved approximately 1,300 feet upstream. However, the [Quinault Indian Nation](#) maintains major concerns, stating the realignment still threatens to extinguish spring- and fall-run Chinook spawning aggregations upstream of Pe Ell.
- Irreversible Loss of Cultural Resources: Even with the relocation, the [Revised Draft EIS](#) admits significant and unavoidable adverse impacts to at least one known archaeological site and multiple TCPs. Mitigation measures for these cultural losses are

still under discussion through the Section 106 process and are not yet fully defined or guaranteed to be effective.

- Failure of Fish Passage: Despite "improved" fish passage designs, modeling shows the project would still place additional burdens on salmon and steelhead, magnifying declines already exacerbated by climate change. Tribes have voiced skepticism that trap-and-transport or ladders can prevent the extinction of local fish populations that rely on access to the upper basin.
- Long-Term Habitat Degradation: Tribes are concerned about the permanent loss of hundreds of acres of quality forest and riparian habitat. The project would eliminate peak flows necessary to maintain natural river channels and habitat. Replanting efforts cannot immediately replace the shade and ecosystem functions of the mature forests being cleared.
- Genetic Diversity: Modeling in the 2026 report predicts a reduction in genetic diversity for Chinook, coho, and chum salmon. This loss of biodiversity is a critical concern for tribes who view these species as irreplaceable natural and cultural resources.
- Disproportionate Burden: The [Revised Draft EIS](#) explicitly states that impacts on natural resources during construction and operation will significantly affect Tribal resource uses, creating a disproportionate burden on indigenous communities.

When a federal undertaking causes significant and unavoidable impacts to Tribal resources, it triggers complex legal obligations rooted in the U.S. Constitution, federal statutes, and established case law.

The primary legal implications as of 2026 include:

#### 1. A Violation of the Federal Trust Responsibility

- Legal Mandate: The federal government has a legally enforceable fiduciary obligation to protect tribal lands, assets, and treaty-reserved resources.
- Implication: Agencies must act in the best interests of the Tribe. Failure to protect resources necessary for a Tribe's survival or cultural identity can lead to federal court challenges.

#### 2. This would be an Infringement on Treaty-Reserved Rights

- Usufructuary Rights: Treaties (such as the Treaty of Olympia) secure rights to fish, hunt, and gather in "usual and accustomed" places.
- Right to Habitat Protection: Federal courts (e.g., the "Culverts Case") have ruled that these rights include an implied right to have enough habitat to sustain fish populations. Significant impacts that threaten local extinction of salmon directly infringe upon these constitutional "highest law of the land" protections.

#### 3. Mandatory Section 106 Consultation (NHPA)

- The Process: Under Section 106 of the National Historic Preservation Act (NHPA), federal agencies must identify and assess effects on historic and cultural properties.

- Achieving Resolution: If a project has "adverse effects" on Tribal cultural resources, the agency is legally required to explore alternatives to avoid, minimize, or mitigate those effects. This often requires a Memorandum of Agreement (MOA) between the agency, the Tribe, and other parties to legally bind the mitigation measures.

#### 4. Clean Water Act (CWA) and Water Quality Standards

- Tribal Reserved Rights Rule: Federal regulations require states and agencies to establish water quality standards that protect aquatic resources where Tribes hold rights.
- Permit Denial: If a project (like a dam) causes temperature spikes or pollution that makes a river unable to support treaty-protected fish, the U.S. Army Corps of Engineers may be legally barred from issuing essential Section 404 permits.

#### 5. Potential for Litigation and Injunctive Relief

- Judicial Review: Tribes can seek judicial review to stop a project if they can prove the federal agency failed to meet its trust obligations or follow procedural requirements like NEPA or NHPA.
- Legal Uncertainty: Ongoing litigation or the failure to reach a consensus with Tribes can result in significant delays, "legal limbo" for land and resources, and increased administrative burdens for the federal government.

For the Chehalis River Basin project, these legal frameworks ensure that any "unavoidable" impact must still be addressed through formal [government-to-government consultation](#) before a final decision is reached in late 2026.

The Chehalis Tribe has stated it remains "unalterably opposed" to the dam project. In 2020, they formally rejected the proposal due to its cultural and environmental risks, and they have indicated they will continue to fight the project on environmental, cultural, and religious grounds as it moves toward finalization in 2026.

Government-to-Government Consultation: Tribes have been "engaged" in the evaluation process alongside the [Department of Ecology](#).

I agree with the Tribes! Specifically, the Chehalis Tribe raised concerns about a Traditional Cultural Property (TCP) that would have been destroyed by the original design, leading the Flood District to propose an "updated alignment" 1,300 feet upstream to avoid that specific site.

- Board Representation: The Quinault Indian Nation has been represented on the Chehalis Basin Board since 2017 to ensure tribal perspectives are included in the long-term strategy.
- I agree with the Current Testimony: Both tribes are currently reviewing the 2026 Revised Draft EIS. The Quinault Nation has already expressed "major concerns," stating that even the revised design could extinguish spring- and fall-run Chinook populations in the upper basin.

The Confederated Tribes of the Chehalis Reservation and the Quinault Indian Nation maintain that the proposed dam design and mitigation plans in the 2026 Revised Draft EIS are fundamentally insufficient to protect their sovereign resources and treaty-reserved rights.

The agree with the Tribe's specific objections to the current proposal include:

- Failure of the Realignment: While the dam was moved 1,300 feet upstream to avoid a specific Traditional Cultural Property (TCP) identified by the Chehalis Tribe, the [Quinault Indian Nation](#) maintains that this "realignment" still threatens to extinguish both spring- and fall-run Chinook spawning aggregations in the upper basin.
- Scientific Uncertainty: Tribal leaders have cited a "lack of thorough scientific data" regarding the dam's basic feasibility, arguing that the [Department of Ecology's analysis](#). Failed to answer their primary concerns about long-term ecosystem health.
- Ineffectiveness of Mitigation: Tribes argue that the proposed fish passage systems (trap-and-transport and ladders) cannot prevent the irreversible decline of salmon and steelhead. The 2026 Revised Draft EIS itself acknowledges that the project would place additional burdens on these species "even with the fish passage and other mitigation measures."
- Irreplaceable Cultural Loss: Despite redesigns, the project is still expected to cause significant and unavoidable impacts to multiple other Traditional Cultural Places and archaeological sites. Tribes maintain that no amount of technical mitigation can compensate for the destruction of these irreplaceable cultural landmarks.
- Magnification of Climate Change: Tribal ecologists object to the design because it is likely to magnify the adverse impacts of climate change, such as rising water temperatures, rather than providing the resilience needed to protect sensitive runs like spring-run Chinook.
- Preference for Alternatives: The Tribes have consistently called for a shift toward "Local Action Non-Dam" (LAND) alternatives—such as floodwall improvements, home elevations, and floodplain restoration—which they argue can meet flood reduction goals without the catastrophic environmental costs of a dam.

I agree with the Chehalis Tribe who remains at the table for consultation but officially opposes the dam as currently designed.