



PHONE (360) 598-3311
Fax (360) 598-6295
<http://www.suquamish.nsn.us>

THE SUQUAMISH TRIBE

PO Box 498 Suquamish, WA 98392-0498

April 26, 2021

Mary Verner, Water Resources Program Manager
Water Resources Program Northwest Regional Office
Washington State Department of Ecology
3190 - 160th Ave. SE, Bellevue, WA 98008

RE: WRIA 15 Watershed Restoration and Enhancement Plan

Dear Ms. Verner:

The Suquamish Tribe (“Tribe”) is a federally recognized tribe and signatory to the 1855 Treaty of Point Elliott within which the Tribe reserved its right to take fish at all of its “usual and accustomed (U&A) fishing grounds and stations”. Over appropriation of water and the cumulative impacts of water withdrawals has resulted in stream flows that continue to decline putting Treaty reserved fishing rights at risk.

The Streamflow Restoration Act (RCW 90.94) passed in 2018, clarifies that local governments can issue building permits for homes that intend to use permit exempt wells for their water supply. The law directs local planning groups in 15 watersheds to develop or update plans that, if implemented, is intended to offset (or “mitigate”) impacts to instream flows associated with permit-exempt domestic groundwater withdrawals; and provide a Net Ecological Benefit to the Water Resource Inventory Area (WRIA). Offsets are projects or actions intended to compensate for permit-exempt consumptive water use over the next 20 year planning period (2018-2038). NEB is the outcome that is anticipated to occur through implementation of projects and actions identified in the plan that result in a benefit greater than the impact within the planning period.

Over the past two years, the Tribe has participated in good faith in the WRIA 15 Watershed Restoration and Enhancement Planning Committee and has collaborated with other federally recognized tribes and regulatory agencies engaged in the WRIA planning effort under this law. Comments were provided to Ecology on Chapters 1-7 of the draft plan via email on 10/2/2020 and on the complete draft plan (all chapters) also via email on 1/14/2021. After participating in the WRIA 15 committee meetings, providing comments to Ecology on the draft WRIA 15 plan, and further deliberating on the potential impacts to streamflow and water resources in WRIA 15, the Tribe is opposed to plan approval. A summary of the Tribe’s key concerns are provided below.

Uncertainty regarding streamflow benefits

Although many of the projects have some offset benefit there is not enough detailed analysis to accurately estimate the offset benefit amount. The law requires that plans include projects that have reasonable assurance of success and provide sufficient documentation of those methods, assumptions, data, and implementation considerations. None of the projects include estimates of the timing on when the benefit would be realized. Ecology Guidance (Final Guidance for Determining Net Ecological Benefit, GUID-2094 Water Resources Program Guidance, July 31, 2019) requires both annual and seasonal impacts of water offset projects be considered and this information is not provided. The Tribe cannot support this lack of certainty.

Over Reliance on Habitat Projects

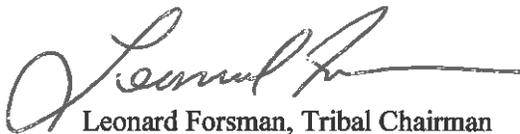
Although the draft plan contains some great projects with specific regard to streamflow, the draft plan places an over reliance on habitat projects. For example, for West Sound there are only three water offset projects (Koch Creek regional storm water facility, Kitsap Creek outlet structure removal and KPUD stream augmentation); six habitat projects with some offset; nine habitat projects with no offset component; and three managed aquifer recharge projects. The only offset projects that may provide assurance of “in time” and “in kind” instream flow benefit are the Kitsap Creek outlet structure removal and the KPUD stream augmentation. Even then, while augmentation has its assurances it is essentially taking water from deeper aquifers to augment shallow aquifers, in other words robbing Peter to pay Paul.

Adaptive Management and Assurance of Plan Implementation

According to the law and Ecology Guidance, once a WRIA plan is finalized Ecology will cease participation and involvement with the stakeholder group. There are no assurances or requirements on local governments that the projects will be implemented. Commitments to plan implementation made by local jurisdictions are laden with funding contingencies. This is unacceptable given the juxtaposed certainty that future permit exempt wells will impact instream flows, habitat, and fish. Furthermore, many of the projects are still very conceptual and lack an assigned ‘sponsor’ with responsibility for project implementation and monitoring. This is not consistent with Ecology Guidance. Finally, there is no enforcement mechanism, monitoring program or robust adaptive management plan including performance standards to ensure project success or address failures to comply with the identified offsets required in the plan.

For the key reasons stated above, the Suquamish Tribe will vote against plan approval during the meeting on Monday April 26, 2021. There was a very short timeline for developing this plan which may have hampered the committees ability to incorporate elements that would better assure beneficial stream flow and habitat outcomes. We hope that Ecology will strongly consider the comments that the Tribe, other tribes and WDFW have provided throughout the process to bring forward a revised plan that will more effectively and more assuredly mitigate the impacts of permit-exempt wells on stream flows and ensure that there is water to support salmon for future generations. The Tribe extends its gratitude to Stacy Vinn-McKinstry for her diligent efforts in organizing and facilitating the WRIA 15 meetings.

Sincerely,



Leonard Forsman, Tribal Chairman
Suquamish Tribal Council