



10/12/2023

Megan Duffy
Director, Washington State Recreation and Conservation Office
PO Box 40917
Olympia, WA 98504-0917

Sent via electronic mail to rco-director@rco.wa.gov

RE: Snoqualmie Tribe's comments on the Watershed Restoration and Enhancement Plan Review Report (WREPRR)

Dear Director Duffy,

Thank you for the opportunity to review and provide comments on the Watershed Restoration and Enhancement Plan Review Report.

The Snoqualmie Indian Tribe ["Tribe"] is a federally-recognized sovereign Indian Tribe and a signatory to the Treaty of Point Elliott of 1855 in which it reserved to itself certain rights and privileges, and ceded certain lands to the United States. As a signatory to the Treaty of Point Elliot, the Tribe specifically reserved to itself, among other things, the right to fish at usual and accustomed areas and the "privilege of hunting and gathering roots and berries on open and unclaimed lands" off-reservation throughout the modern-day state of Washington. Treaty of Point Elliot, art. V, 12 Stat. 928." The Snoqualmie Tribe was a member of the WRIA 7 (Snohomish) and WRIA 8 (Cedar-Sammamish) Watershed Restoration and Enhancement Planning Committees.

As RCO is aware, the Snohomish and Cedar-Sammamish basins are home to ESA-protected salmon and steelhead and resident coldwater fish populations, which contribute to important regional and international fisheries as well as the physical, cultural and mental health, vitality, and well-being of the Snoqualmie People. These watersheds have been degraded over the years due to development, channelization, and reduction in summer flows due to agricultural, residential, and commercial use of the basin's water. Fish runs have been severely reduced, and some species are on the verge of disappearance from the watersheds.

Climate forecasts indicate that the Snoqualmie River basin and the Cedar-Sammamish basin will transition from transient-snow-basins to rain-dominated basins before the end of the century, resulting in higher winter flows, lower summer flows, and higher water

temperatures during the summer. These impacts, coupled with increasing demand for domestic, agricultural, and industrial water supply, are expected to further degrade the productivity of cold-water fish habitat. Focused planning and adaptation work is needed to address future climate forecasts, ensure a reliable water supply for the Tribe, the environment, and other water users, to reverse diminishing trends in native fish populations, and to manage the river basins' water to support both instream and out of stream uses. Unfortunately, the WRIA 7 (Snohomish) and WRIA 8 (Cedar-Sammamish) WRE plans do not provide the necessary level of assurance that the impacts of Permit Exempt Wells (PEWs) will be mitigated (or in the parlance of the plans, "offset") over the course of the planning period, which will end in 2038. We urge RCO to modify the plans as the Snoqualmie Tribe worked tirelessly to do while the Committees worked to meet the deadline imposed upon them, so that at a minimum, there are mechanisms in place for monitoring, assessment, accountability, and critically, **adaptation**, if the offset projects considered in the plans are not being implemented effectively, as the plans project.

Monitoring and assessment, and adaptive management, were originally included in the Draft WRIA 7 and WRIA 8 Plans, but, disappointingly, Ecology removed those sections, likely because Ecology views such elements as an additional burden upon the agency. As the state agency responsible for managing water resources, however, it is incumbent upon Ecology to ensure that WAC mandated minimum instream flows are met and that new development is not illegally and unfairly further impacting water and aquatic resources, and it is unclear how they can meet this responsibility given the high uncertainty around many of the WRIA 7 and 8 WRE offset projects, including lack of project sponsors, lack of adequate funding for projects within basins and across the state, and lack of confidence in offset project effectiveness, even if they are constructed. Furthermore, without this component, nobody is tracking the rate, location, and on-the-ground actual impacts to streamflow from new and future PEWs. Consider the current legislative push to enable quicker development, streamline permitting, etc., to meet housing demand at a vastly increased pace. None of that was considered in the WRE planning processes.

Both the WRIA 7 and 8 committees spent considerable time and effort discussing how to monitor and assess WRE Plan status and effectiveness up until 2038, even without funding or other support from Ecology or the legislature (which we asked for and did not receive). We urge RCO to look to the draft plans from which Ecology stripped those parts. Therein lie clever proposed solutions that the Committee considered for this clearly desperately needed, but curiously and discouragingly absent component. For example, RCO's comment summary table notes broad concerns for both WRIAs 7 and 8 that the plans do not fully offset subbasin-by-subbasin impacts. At a minimum, this must be monitored; ideally, it would be adaptively managed. Unfortunately, neither plan contains these components.

Snoqualmie Tribe is concerned that the Watershed Restoration and Enhancement Plan Review Report glosses over a critical flaw in the WRE Plans: namely, that some of the offset projects identified as needed to offset the expected impacts of PEWs, are ultimately unproven in their feasibility, and untested and unevaluated in their ability to provide any actual mitigation/offset water or net ecological benefit. RCO's comment summary table for WRIA 7 notes that "[e]stimates may be high for water offsets - state assumptions clearly.

Consider stating assumptions of water offset clearly.” This statement downplays a major flaw; without the Managed Aquifer Recharge projects included in the WRIA 7 plan, it cannot meet its needed offset quantity, but confidence is very low in the ability of MAR to provide meaningful offset, let alone the large offset quantities that Ecology proposes. These offset deficiencies persist, in spite of clear concerns with the technical merits and feasibility of MAR projects in Western Washington post-glacial transient-snow basins such as the Snohomish and Cedar-Sammamish, which are also already moving toward a precipitation-driven hydrographs as a result of climate change. The result of all this is far too much uncertainty.

During the WREC process, the WRIA 7 Committee had strong concerns about the technical merits of the Snoqualmie MAR projects. The offset quantities proposed for each MAR project was agreed upon by the committee to be included at a much lower number than what is in the plan that ECY puts forth. The WRIA 7 Snoqualmie MAR sites were picked by an ECY staff person by looking for public land near the river. This sole criteria was used because it is more feasible to implement projects on public land. However, this lone criterion fails to account for any other critical technical aspects, such as: soils, hydrology, saturation, phenology, biota, life histories and ecology, climate change, etc. Furthermore, the offset quantities that ECY are simply the predicted maximum possible annual diversions at those locations, equating all diversion at all times of year as all the same “offset” water. This is clearly an overly crude concept that is ecologically deficient—the concept that all water diverted at all the considered sites, at all times of year, will re-enter the stream at a beneficial time of year, and in an appropriate sub-basin. All of this is absolute conjecture, completely unknown, and most likely untrue, which is why the members of the WRIA 7 technical subcommittee were vocal with their discomfort with it, and why they modified it from the overly optimistic numbers that ECY proposed.

RCO should not be comfortable using ECY’s offset quantities for Snoqualmie MAR projects, which are not founded in scientific findings and methodology. We suggest RCO apply further scrutiny and modification to this component of the plan, and consult with local experts such as Tribes and other WREC members as to how to plausibly strive to meet offset targets. MARs using natural streamflow as the source water in the Snoqualmie/Snohomish are completely unproven as to their efficacy for providing offset water or ecological benefit—not at the subject sites nor at any site, since none have been sufficiently considered. Snoqualmie Tribe is more comfortable with the MAR proposed in the WRIA 8 plan, since it proposes to use reclaimed water (and has a project sponsor), not to divert streamflow directly for MAR, which is a critical difference.

As to project sponsors—only a small subset of projects in either plan have identified sponsors, and these sponsors must compete with others (and themselves) across the state for funding to implement projects. Projects in King and Snohomish Counties are more expensive than anywhere else in the state, as well. All of this adds more than considerable uncertainty to the plan, which is why monitoring and adaptive management were originally included by the Committees. As is, the WRE Plans include zero assessment and zero accountability. Without them, Snoqualmie Tribe is not optimistic that the basins will meet

their offset requirements. Rather, we anticipate that streamflows will continue to diminish in part because of the impacts of PEWs, and watershed conditions will continue to degrade.

We respectfully request that RCO look to the draft plans that the WRIAs 7 and 8 WRE Committees produced. Look for the innovative sections about code changes, collaboration across agencies and groups to fill in water resource planning gaps (like including WA Department of Health), where we encouraged thoughtful solutions to obvious problems with Washington State's failed water management policies. For example, the Committee included specific, well-thought out recommendations to fund and implement science-based adaptive management monitoring programs for water offset and habitat projects in the WRE program. The Committee recommended an increase in available funding for projects and policy implementation. We recognized the need for and encouraged statewide policies that protect streamflow throughout the state, by upgrading the tracking database for permit-exempt wells, encouraging connections to public water sources, initiating permit-exempt well metering, delivering water conservation education in non-urban areas, and implementing mandatory water conservation measure for permit-exempt well users during statewide drought events. If additional enforcement capacity is determined to be needed to effectively implement those actions, we also recommended funding staff pertinent to those programs. Additionally, we urged the inclusion of salmon recovery experts in the Streamflow Restoration Competitive Grant review process. We stand by all these recommendations today as critical to Plan success.

Please look to the above listed areas of the Draft Plans prepared by the Committees to help give the WREPs a chance of success between now and 2038, and please give more scrutiny to the offset projections of the offset projects in the plans, especially MAR projects in the glacially created watersheds that are pervasive across Western Washington. Streamflow-sourced MAR projects in these systems have not been widely accepted as a universally beneficial approach and requires a great deal more investigation before being included so specifically in such an important water resource management plan.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew J Baerwalde', with a long horizontal line extending to the right.

Matthew J Baerwalde
Environmental Policy Analyst
Environmental and Natural Resources Department
Snoqualmie Tribe

