



**PORT GAMBLE S'KLALLAM TRIBE  
NATURAL RESOURCES DEPARTMENT**

31912 Little Boston Rd. NE – Kingston, WA 98346

Dear Director Duffy,

The Port Gamble S'Klallam Tribe possesses reserved water rights recognized by the U.S. Supreme Court (*U.S. v. Winters*, 1908) for consumptive use on the Reservation with a priority date tied to the 1855 Treaty of Point no Point. Aboriginal water rights are further interpreted to guarantee treaty fishing, gathering, and hunting practices. In Washington State, the *Hirst* decision restricts new development that would impact protected streamflow or impair a senior water right. PGST previously took part in the streamflow restoration planning process mandated under the Streamflow Restoration Act (RCW 90.94.030), in response to *Hirst*, ultimately voting against approval of the WRIA 15 Watershed Restoration and Enhancement Plan. The draft of the plan submitted to the Recreation and Conservation Office for review by the Salmon Recovery Funding Board is largely unchanged from the version disapproved by Port Gable S'Klallam Tribal Council Resolution 21-A-056. The Tribe is disappointed that the present draft and SRFB review panel comments do not directly address many of the Tribe's concerns, and we sustain the objections and comments made previously. Below, we offer further observations reflecting on the content of the review panel's comments.

- We agree that assumptions in the Watershed Restoration and Enhancement Plan concerning permit-exempt well development rate and consumptive use are consistent and technically sound. However, the plan does not adequately consider potential changes to typical behavior of permit-exempt well-users from levels established in the analysis. The Puget Sound Lowland is expected to experience an increase in overall annual precipitation over the coming decades, characterized by higher-intensity rainfall during wet winters and longer, drier summers<sup>1</sup>. High-intensity rainfall events may diminish rain infiltration into groundwater systems in Kitsap, limiting the impact of increased annual rainfall on groundwater recharge<sup>2</sup>. As the review notes, water offsets are assessed for continuous implementation and not designed to mitigate increased summer demand and outdoor consumptive use, when low flows have significant impacts on fish, water quality, and – later in the fall – may dramatically limit spawning. The RCO review accurately notes this seasonal variability must be considered in further detail.
- The WRIA report includes mitigation strategies intended to prevent future groundwater depletion rather than compensating directly for anticipated growth, including the acquisition and conservation of existing water rights and the

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<sup>1</sup> Pitz, C.F., 2016, *Predicted Impacts of Climate Change on Groundwater Resources of Washington State*, Washington State Department of Ecology, Publication No. 16-03-006.

<sup>2</sup> Ibid.



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preservation of mature forestland. These are important habitat projects needed for the purpose of attaining net ecological benefit in WRIA 15 riparian systems but do not directly replace water extracted by exempt wells. In the case of forest conservation, too much uncertainty remains in the impact to streamflow. For the purchase of water rights, it is not clear that this would entail discontinued groundwater appropriation rather than exclusion of unutilized pumping capacity. In both cases, the projects do not directly replace or mitigate anticipated water appropriation from future permit-exempt wells.

- The RCO review accurately questions the quantification of water offsets gained through forest conservation, as noted above. However, the review also calls attention to the importance of restoring natural processes and repairing stream degradation as important goals for streamflow restoration. Forest protection plays an important role in sustaining water table elevations, tree cover, and natural debris within vulnerable riparian systems.
- WRIA15 aquifers are fragmentary and offset projects in one part of the watershed may have little practical impact upon streamflow in areas where permit-exempt wells are concentrated. This issue is exacerbated by the Restoration and Enhancement Plan's use of elongated, heterogenous subbasins in accounting for finer-scale offsets between development and mitigation.

For the above reasons, the Tribe sustains its concerns regarding the WRIA15 plan, which appears insufficient to protect the Tribe's treaty reserved fishing and water rights. We welcome the opportunity to provide comments at this stage of review and look forward to engaging with the revision and rulemaking processes in the future. We continue to believe an adaptive management process, incorporating enhanced monitoring of Kitsap stream flows and seasonal water consumption, is necessary to avoid impairment. Within the watersheds of protected streams, restrictions should be in place on concentrated development of exempt wells until robust, quantified mitigation projects are planned and fully supported for implementation.

Sincerely,

Roma Call

Natural Resources Director  
Port Gamble S'Klallam Tribe