

Meeting Minutes - Nisqually Watershed Planning Unit

June 28, 2018 9:00am-12:00pm

Nisqually Indian Tribe Natural Resources Meeting Room

Present:

George Walter, Nisqually Indian Tribe
David Troutt, Nisqually Indian Tribe
Rance Smith, Pierce County
Dan Cardwell, Pierce County
Gary Bahr, Department of Agriculture
John Weidenfeller, Thurston Public Utility District
Joe Rausch, City of Olympia
Julie Rector, City of Lacey
Mike Gallagher, Department of Ecology
Cindy Wilson, Thurston County
Joshua Cummings, Thurston County
Tom Kantz, Pierce County
Allison Osterberg, Thurston County
Davor Gjurasic, Nisqually Indian Tribe Lobbyist
Lisa Dally Wilson, Dally Environmental
Michael Grayum, City of Yelm
Justin Hall, Nisqually River Foundation
Emily McCartan, Nisqually River Foundation

Agenda Items

1. Introductions and Overview

George and David welcomed participants. George will be the general point of contact for the group. George distributed a Dept. of Ecology one-pager summarizing the ESSB 6091 law (Streamflow Restoration Act), which addresses the *Hirst* decision and requires that all development in rural areas must now certify water availability that doesn't conflict with instream flows and other water rights. Previously, counties relied on the state's exempt well certification. The original Nisqually watershed plan did not address streamflow mitigation from exempt wells, but we are much better positioned with current knowledge to address it as we are now required to. The assignment is to develop general mitigation or enhancement strategies for exempt wells that will be permitted in Thurston and Pierce Counties.

The Legislature identified the Nisqually and Nooksack WRIAs as places that could make progress very quickly, and has set a deadline of February 2019 for the final plan. A number of agencies and people here were participants in the original water planning efforts for the Nisqually. Eatonville will be involved but had a conflict today; we may also reach out to Lewis County, which was part of the original group. It was noted that while *Hirst* did not address endangered species or critical habitat issues, we should consider the ESA needs of the two listed salmonids in the Nisqually (fall Chinook and steelhead) in the final plan to avoid possible challenges.

Funding and Timing

Ecology has \$50,000 available as a grant/contract to Nisqually Tribe to pay for George's time on this effort. Additional \$150,000 for contracting for additional work for planning or research if needed. To meet the Legislature's deadline of February 2019, we will need to move quickly. Watershed plans take effect when adopted by county governments, so to give the counties time to formally approve the plan, our deadline is December/January to allow at least 6 weeks for county hearings and approval. We hope that the commissioners and councilmembers will be briefed along the way to facilitate approval, but will still need to go through the public process. Mike noted that because the deadline is in the legislation, it is pretty firm. If we are in process and have extenuating circumstances as February approaches, this group could send a letter to the Legislature about the status and timeline, but ideally it will be completed and adopted by the deadline. If the counties do not adopt the plan, it would move to Ecology to enact through rulemaking.

Davor's sense is that there will be a lot of competition for project dollars, and it will behoove us to show the Legislature and the Governor progress well prior to the deadline. ESSB 6091 authorizes creation of bonds to fund \$300m for mitigation projects over 15 years (roughly \$20m/year, with three priority tiers for awards: 17 designated watersheds; endangered species considerations; other entities across the state, including cities, counties, towns, water planning districts, tribes, non-profits, and others). David noted that our hope is to align this effort so we can submit a grant in September for the first round of project funds. Speaking as the Tribe's representative, David also noted that NIT's primary interests are looking at water quantity enhancement to provide benefits to salmon recovery and the tribal treaty fishing right, as well as meeting the goals of the counties and other agencies.

The group established a goal timeline of a draft plan by no later than December 30, 2018, with a commitment from both counties to bring back an approved resolution by no later than February 15. Communication with county council/commissioners will be important to keep them informed to expedite the approval process. This is an amendment to the current plan, which is already endorsed by the three counties, which should also help facilitate approval.

Mike confirmed that we can recommend ideas that reduce recommended daily use. We are calling this Stream Flow Restoration Act to not confuse it with previous watershed planning efforts. He recommended keeping a copy of the [ESSB 6091 bill as passed](#), because when codified, parts will end up embedded throughout different parts of the code. Ecology has published guidance for net ecological benefit and grant applications on its website: <https://ecology.wa.gov/Water-Shorelines/Water-supply/Streamflow-restoration>. George has copies of the final Watershed Management Plan on CD if anyone needs to refer to the previous volume, or he can make hard copies available to photocopy.

2. Process

Memorandum of Agreement

The last round of water planning was done under a formal Memorandum of Agreement between the governments, which was very helpful in defining Planning Unit members. For the current process, options include:

- Amend original MOA
- Adopt a new MOA
- Don't use/update MOA, but operate under original legislative authority with simple procedures as needed.

Other watersheds (ex: Spokane) have adopted a simplified voting procedure requiring approval of 4/5 key entities (counties, city, and Tribe). Pierce and Thurston county representatives indicated they would be comfortable with a "cogitate and proceed" approach for now, and they will discuss with county officials. The former plan operated almost completely by consensus, and there was general agreement that we could proceed on that path unless it becomes necessary to address differently.

It was decided that the committee of the whole would meet approximately monthly (George will schedule meetings by Doodle poll). Meetings will be here at the NIT Natural Resources office unless otherwise noted.

Work Groups

Several work groups will report back next month to the whole unit:

- Growth and Water Demand Forecasts (Lead – Rance and Allison)
 - Key questions and challenges:
 - How many future permit-exempt wells are we projecting?
 - Consistency issues with adopted targets in Pierce County – the county has concerns that the Puget Sound Regional Council's Regional Growth Strategy (Vision 2040) might be unrealistically low. Consider estimating low, medium, and high growth projections to accommodate adjustment if official forecasts change in the next several years.
 - Should we be looking at the entire WRIA or at the sub-basin level? Nisqually water quantity challenges tend to be in tributaries rather than the mainstem, and there may be different strategies indicated in Yelm sub-basin than in Ohop or Muck. General consensus to focus on established sub-basins from 2514 planning, but will need to clearly define assumptions and boundaries for the analysis since aquifers don't line up and projection margins of error increases with smaller areas.
 - Addressing consumptive use vs. maximum allowed use under status quo for exempt wells (3,000 gal/day) and other assumptions for mitigation needs.

- Making sure Pierce and Thurston County assumptions and boundaries are aligned and consistent within plan (may be helpful to have an outside consultant for this).
 - Deliverables for July meeting:
 - Recommendation about boundaries for projections (full vs. sub-basin) and accompanying assumptions in methodology
 - Recommendation about engaging a consultant
 - Eventual goal: high, medium, and low estimates of growth and consumptive use for a 20-year planning horizon (2040)
- Habitat (Lead – David, with Tom and Cindy)
 - Key questions and challenges:
 - What opportunities are there to support enhancement for salmon habitat?
 - Summer flows are a critical habitat issue that could be addressed in long-term funding opportunities through this process.
 - Balance of projects that would address water quantity and quality? Ecology gives top priority to quantity (streamflow restoration in time and place), but David would encourage starting with a broad list of possible projects. Prairie streams vs. those in forested uplands may have different issues and preferred strategies.
 - Use same geographic sub-basins as the growth work group for consistency.
 - Deliverables for July meeting:
 - David will ask the Nisqually Salmon Recovery Habitat Work Group to identify projects that could provide streamflow benefits in tributaries.
 - Eventual goal: Recommended project(s) to submit for September grant round and future funding opportunities.
- Other Strategies (Lead – George)
 - Key questions and challenges:
 - What are interactions between ground and surface water in different parts of the WRIA? Geology and aquifer interactions are important factors in the type of low flow issues for upland vs. prairie streams, and may indicate different mitigation strategies.
 - Costs/benefits/risks of finishing rural wells in lower aquifers? Less impact to surface flows, but greater cost and uncertainty for well drilling.
 - What technical analysis/modeling is needed to accurately assess aquifer interactions in the Nisqually? (USGS, Kevin Hanson with Thurston County, other experts could be helpful).
 - What other strategies should be on the table? Water banks, impounding water right acquisitions, conservation, others.
 - Deliverables for July meeting:
 - Reach out to USGS/county hydrologists for briefing on local aquifers.

- George will reach out to Lewis County.
- Eventual goal: Recommended strategies for mitigation/enhancement in WRIA sub-basins.

3. **Other Discussion**

Tom asked about water quality. Low flows can impact water quality (it's almost impossible to meet a TMDL without adequate water quantity). Mike noted that Ecology's top priority for grant awards is restoring streamflow in time and place, rather than restoration/plantings/specifically targeting water quality, but it is an important note under the benefits of improving flow volume.

Contractors and Funds

Lisa departed for the remaining group to discuss engaging her as a contractor. George noted her experience in the Nisqually and substantial knowledge about water planning statewide. He has not costed out having her on board for this process, but is estimating \$30,000-50,000 from available funds to coordinate with the work groups, assemble materials, and author reports. There was a consensus that it would be very helpful to have Lisa's assistance, especially in doing the write-ups. George will initiate bringing her on as a contractor through NIT, hopefully quickly. Justin offered the Nisqually River Foundation as an alternative contracting agent to bring her on if needed.

NIT already has a contract with USGS for other projects, and could explore bringing them in if needed. Dan noted he has been approached by other consultants and will share with George to see what value they may be able to add. There was also interest in hearing from Kevin Hanson or another hydrologist.

Mike said he would look into possible uses of any leftover funds. It is unlikely they could be returned as fee refunds to landowners, because they presumably need to be used for planning efforts and not directly for mitigation. May be able to direct towards a specific project, or towards future studies or follow-up.

Final Summary

- 3 workgroups will report back in July meeting on their progress.
- George will meet with Lewis County and USGS and report back.
- Government representatives will report back on need for an MOA/interlocal agreement, versus pursuing work under existing structures within the Legislative mandate.

Mike noted that Ecology is excited to be implementing policy based on legislation, rather than court cases, for the first time since the early 2000s. It's a great opportunity for governments to make a proactive difference about how we manage wise growth and protect streamflow.

Next meeting: Late July TBD – George will send everyone a Doodle Poll.