

Nisqually Planning Unit Meeting

*Wednesday, January 16, 2019, 9:00am-12:00pm,
Nisqually Indian Tribe Natural Resources*

Present:

George Walter, Nisqually Indian Tribe

Dan Cardwell, Pierce County

Rance Smith, Pierce County

Mike Gallagher, Dept. of Ecology

Tom Kantz, Pierce County

Matt Curtis, WDFW

David Troutt, Nisqually Indian Tribe

Paula Holroyde, League of Women Voters

James Slape, Nisqually Indian Tribe

Jesse Barham, City of Olympia

Grant Beck, City of Yelm

Joshua Cummings, Thurston County

Cynthia Wilson, Thurston County

Allison Osterberg, Thurston County

Lee Napier, Lewis County

Julie Rector, City of Lacey

Kevin Hansen, Thurston County

Tom Culhane, Dept. of Ecology

Justin Hall, Nisqually River Foundation

Lisa Dally Wilson, Dally Environmental

Emily McCartan, Nisqually River Foundation

1. Welcome, Introductions, and Administrative

Minutes from the December meeting were approved. The Planning Unit reviewed voting representatives present from each participating government agency.

Lisa thanked the Planning Unit for contributing a significant amount of in-house resources and staff effort to produce this document within such a short timeframe. Mike Gallagher also acknowledged the remarkable effort made here to deliver a plan 362 days after the Streamflow Restoration law was signed. Ecology noted they will not offer many comments today because they will be reviewing the results after submission. They may provide interpretation of the legislation from Ecology's perspective if needed.

2. Watershed Plan Addendum Review

Summary of submitted comments from Planning Unit review:

- Technical comments regarding quantitative analyses of mitigation and description of hydrogeology.
- Comments regarding water use estimates (WDFW only)
- Implementation, Tracking Mitigation, Funding – how will this work? (Not addressed in legislation)
- Need for additional project details, schedule (conceptual nature of mitigation strategies and actions)
- County responsibility
- Adaptive Management (robustness, approval of changes, etc)

Lisa and Emily noted that because Nisqually is setting precedent, they left a lot of review comments on the document as a record of the review process. It is understood that agencies are attempting to set a bar that could be applied consistently to other watersheds moving through this process.

Discussion of changes and final edits to Addendum:

- Changed some language in the overview to be limited to the narrow purview of the legislation, which is about fulfilling counties' obligations under GMA, and does not address implementation, funding, or adaptive management.
- Executive summary and summary tables use the Ecology method for forecasting water use from new PE wells, because it is more conservative. Some concerns were noted with this method because it is less applicable to local data.
- Many changes to language suggesting that counties were obligated to change or add new regulations to fulfill the law, made at the request of Pierce County (now read "may" rather than "will"). Pierce County emphasized that local jurisdictions are not required to make changes under the law. Counties also noted that they are working within other WRIA processes that will be ongoing for two more years, and they will need room to adapt through those processes.
- Mitigation funding via permitting fees at the county level: Thurston County proposed leaving room to ask Ecology to restructure the current \$500 permitting fee at some point in the future, so that counties could collect funds to support mitigation projects. Thurston County emphasized that the more ambitious projects described in this plan could not be funded at the necessary scale through fees in their current form.
- WDFW provided a number of comments asking for more detailed project timelines and descriptions, which are not available at this time. Matt noted that WDFW has had internal discussions between stream restoration and salmon recovery teams about this process and is comfortable with the responses provided.
- Justin Hall provided clarification on long-term goals and acreages for the Community Forest. There are 30,000 acres identified for eventual acquisition in the Mashel, which was the original (medium-term) goal. Looking at all the commercial forestland in the watershed, given funding and willing sellers, would approach the 70,000 to 100,000 acre total.
- Language about agricultural lands was changed at the request of Pierce County.
- Added a figure showing hydrogeology/aquifer layers from the 2003 Watershed Plan to clarify which aquifers are referenced in the mitigation strategies. The Yelm model could be run to quantify the impacts and identify whether distance mitigation would be needed for finishing wells in deeper aquifers – this has not been done, given time and capacity limitations. Any PU member would be welcome to take this project on.
- The PU approved adding language supporting the approval of Yelm's water right, subsequent to meeting mitigation requirements.
- Thurston County noted that they did not want to require individuals to drill to a deeper aquifer at this time, but it could be an option in further review of permitting process. Would likely involve adding incentives, because the burden of drilling deeper is very high. Many mitigation strategies that have come up in this process are burdensome to property owners and would require county regulation, which we have tried to avoid as a first-tier strategy.
- The Washington Water Trust report on water right acquisition came out after the first draft of the Addendum was distributed. It is now included, along with clarification on how the numbers were applied for min/max estimates in the summary tables. The

WWT analysis, upon request of the Planning Unit focused only on the Prairie Tributary sub-basin because that was the area most lacking in mitigation.

- Clarification on the Ohop template: looked at four different ways of calculating flow benefit from the Ohop restoration groundwater data and picked the lowest (one-sided cfs from ditch removal). The numbers are quite conservative, which allows confidence in extrapolating the results to different reaches of the Ohop and other streams. “Streamflow restoration” is an umbrella term encompassing several different techniques. Two of them (beaver analogs and ditch removal) were determined to have a streamflow benefit in the Ohop project, based on piezometer data. Other technologies, including engineered logjams and vegetation, didn’t have enough longitudinal data to show flow benefits (yet).
- Concerns from WDFW about including barrier removal projects that may be eligible for other funding. Lewis County stated that the law doesn’t specify that we can’t count projects that might be required or funded elsewhere, and believes these projects should be considered.
- Pierce County’s position is that, based on the summaries of mitigation available from projects, there is no need for the county to implement additional regulatory strategies.
- It was agreed that we could round summary table numbers to the 1000ths and add note about more significant figures being available.
- Upper Nisqually is not closed. Flows are often met. Because the Nisqually Hydroproject regulates flows below Alder Dam, streamflows in Upper Nisqually do not impact mainstem flows below that.
- Thurston County suggestions indicate the potential need for follow-up conversations with Ecology, noting that we are not setting out a new strategy or new rulemaking in this plan, but might go there in the future with a request for rule changes.

3. Planning Unit Vote to Approve Transmitting Addendum

The Planning Unit reviewed voting procedures established in the Working Agreement:

- PU Voting Members only
- One vote per entity
- Strive for Consensus
- If Consensus is not possible, affirmative decision by consensus of Implementing Governments and 2/3 majority vote of all other governmental and non-governmental participants present.

Motion to approve:

The Nisqually Planning Unit is voting to approve the Watershed Plan Addendum, with changes as agreed to in today’s meeting (January 16, 2019), for transmittal to Ecology and Implementing Governments for their review and initiation of their respective adoption processes.

Understanding that:

Per the Nisqually Watershed Planning Unit Working Agreement of November 5, 2018, this Plan Addendum does not obligate an Implementing Government or other participating entity to take any specific implementing action, unless the Implementing Government or entity so agrees.

Ecology review will not alter the Addendum as agreed to on Jan. 16, 2019 prior to initiation of adoption processes with Implementing Governments.

Ecology clarified that their staff will review the Addendum, as approved today, to determine Net Ecological Benefit and if it satisfies the law. Staff will then make a recommendation to the Director, who will make the final decision on adopting. Adoption will be an order, which is appealable for 30 days (non-adoption would not be an order or subject to appeal, because no action would be taken). Ecology does not believe they can make changes to the plan as received from the Planning Unit prior to adoption. If the Director does not adopt by February 1, it will go to rulemaking.

Thurston County: We have relayed to our Board of County Commissioners that this has been a positive and collaborative process, and that Ecology has been a partner throughout. Ecology has had the opportunity to review consumptive use estimates and the draft document. We expect a positive outcome.

Nisqually Indian Tribe: David Troutt has attended some Thurston BOCC meetings on this topic, and noted that the Board has been well-supported by staff in this process. The Nisqually Tribe also anticipates a positive outcome. David offered to personally deliver the final plan to the Director of Ecology when it is ready.

- Pierce County: This process has been well-facilitated, but it was very fast. Executive departments at Pierce County have been very well informed throughout the process, but because we received the full document just last week, we have not had an opportunity to brief the County Council. Council staff have been briefed. The plan has support on the executive side but cannot guarantee county council side reception. Once it is approved by Ecology, we hope that we will have the support and participation of other PU members in going before county council to present for their adoption.

Approval of the Watershed Plan Addendum was moved and seconded. Recorded votes from Planning Unit members:

Nisqually Indian Tribe – yes

Lewis County – yes

Pierce County – yes

Thurston County – yes

City of Lacey – yes

City of Olympia – yes

City of Yelm – yes

Town of Eatonville – yes in absentia (email from Abby Gribi, 1/9/19)

Thurston PUD – yes in absentia (email from John Weidenfeller, 1/19/19)

Nisqually River Council Citizens Advisory Committee – yes in absentia (email from Lois Ward, 1/14/19)

Dept. of Ecology – abstained from voting.

WDFW – yes

Dept. of Agriculture – yes in absentia (email from Gary Bahr, 1/13/19)

The motion to transmit the Addendum to Ecology and Implementing Governments was adopted by a consensus vote.

David commended the Planning Unit for working hard to get to this point. Hopefully, the consequence will be that we are able to bring in the resources needed to implement. He noted that the 2004 plan also had a lot of promise and identified important projects, but state funding moved on and there were not adequate resources to implement the work. A plan without action is a daydream: we now need to put this into action.

Lisa acknowledged very heavy lifting from a few parties: the Water Forecast Workgroup (Thurston PUD staff, Rance Smith, Allison Osterberg, and Fred Evander); Thurston County (Allison Osterberg and Kevin Hansen) for quantitative work and contracting support; and to George Walter for keeping the ball rolling.

4. Next Steps

At the last PU meeting, members determined that the PU needs to continue to work. The PU will meet at least once more, on February 20 (9:00-12:00, location TBD), to discuss the results of Ecology's review and start working on implementation.

The Tribe has requested an extension of the planning grant that has funded PU support to date (extension will expire on June 30). There is \$46,000 left in the original grant, which could be used to extend the facilitation contract and/or start one of the studies requested by the PUD or another entity.

It was acknowledged that while our work needs to continue, counties are spread thin working on other WRIA processes now ramping up.

5. SEPA

Pierce County updated on SEPA review, which can start now that the document is available. It will be an addendum to the 2003 plan's determination, which is allowed if there are no significant environmental impacts. There is not enough time to go through a full 28-day notice and comment period. Pierce County will send a draft checklist to the PU with a short review period to add anything missing, and will write up the determination.

The Planning Unit will officially transmit the Plan Addendum to Ecology via electronic submittal (dropbox) on Friday. David will hand-deliver to Director Maia Bellon as well.

There was no public comment.