



**Meeting Minutes  
Nisqually River Council Meeting  
November 20, 2020  
Online Meeting**

*Attendees:*

**Council Members:**

Chris Barnes – City of DuPont  
Anne Baxter – Ecology  
Dan Calvert – Puget Sound Partnership  
Amy Cruver – Pierce County  
Gary Edwards – Thurston County  
Terry Kaminski – City of Yelm

Dani Madrone – City of Olympia  
Darrin Masters - WDFW  
Glynnis Nakai - BFJNNWR  
Rene’ Skaggs – Pierce CD  
David Troutt, chair – Nisqually Indian Tribe

**CAC Members:**

Phyllis Farrell  
Howard Glastetter  
Paula Holroyde

Martin McCallum  
Lois Ward

**Guests:**

Roger Andrascik – NLT/NSS  
Jeff Barney – Pierce County SWM  
Jesse Barham – City of Olympia  
Warren Bergh – NLT/NSS  
Sarah Cassal – Ecology  
Yanah Cook  
Andrew Deffobis – Thurston County  
Chris Ellings – Nisqually Indian Tribe  
Cathy Hamilton-Wissmer – JBLM  
Shelley Kneip  
Sheila Marcoe – Ecology

John McCallum  
Zach Meyer – Ecology  
Linda Murtfeldt – NLT  
Mark Nipper  
Jeremy Perkhun – Nisqually Indian Tribe  
Julie Rector – City of Lacey  
Etsuko Reistroffer – NLT/NSS  
Eric Rosane – Nisqually Valley News  
Rebecca Rothwell – Ecology  
Pete Stoltz - CalPortland  
Maya Teeple – Thurston County

**Staff:**

Jeanette Dorner – NLT  
Julia Fregonara – NRF  
Justin Hall – NRF

Emily McCartan – NRF  
Maya Nabipoor – NRF  
Sheila Wilson – NRF

**1. Call to Order, Introductions, Approval of Minutes and Agenda**

David called the meeting to order at 9:03am. Minutes from the October 16 meeting were approved, as was the agenda for the day.

**2. Committee Reports and Updates**

**Advisory Committee Reports:**

*Citizens Advisory Committee – Phyllis Farrell*

The CAC met on Tuesday and discussed RAP, Alder Dam management, proposed flood retention dam on the Chehalis River, tree planting, and Sequelitchew Creek restoration.

*Chair Report – David Troutt*

The South Sound Military Community Partnership and partners including the Nisqually Tribe are doing legislative outreach to fund the I-5 project, which is significant for transportation, economy, treaty rights, national security, and salmon and orca recovery. The final cost will be up to \$4 billion in total. David is scheduled to meet with Thurston County Commissioners on the Nisqually sub-area plan to address the Tribe's concerns about RAP and other issues. The Puget Sound Salmon Recovery Council is discussing proposals to incorporate net ecological gain into local planning requirements, which would create a funding stream tied to capital projects to support the major environmental improvements needed for salmon recovery. Private investment funding for mitigation credit banks is also under discussion (similar models like Blue Forest Resilience Bond have demonstrated success in providing funds). The Treaty Tribes held the annual Centennial Accord meeting with the State of Washington last week, including a report from a task force created last year to address riparian restoration issues. The next step will be work groups addressing specific issues. David is leading the group on salmon recovery and salmon restoration issues, including connections to forestry practices and improving environmental baselines through capital projects. The Nisqually Tribe has reached a historic MOU with State Parks to be full co-managers in creating the Nisqually State Park, which is a unique model in the country.

*Staff Report – Emily McCartan*

The Cities of DuPont and Olympia have officially joined the NRC – welcome! Lacey is in the process of formalizing their membership. Updates to the NWSP will be circulated for NRC approval soon. The NRF participated in the South Puget Sound Community Foundation's Give Local program this year for the first time, and with generous donations from the community with match from the board, raised over \$7,000.

*Thurston Subarea Plan – Maya Teeple*

The Board of County Commisisoners has a public hearing on the proposal to allow Recycled Asphalt (RAP) in the Nisqually sub-area scheduled for 5:30pm on 12/1/20. Written comments can be submitted to [maya.teeple@co.thurston.wa.us](mailto:maya.teeple@co.thurston.wa.us) until 4pm on 12/1. Discussion and potential commissioner decision will be on 12/2. NRC's previous comment letters will be provided with the record. David requested that the NRC's most recent letter to the Planning Commission be resubmitted to the BOCC's attention. An hearing on the mineral lands update is scheduled for 11/24 at 5:30pm, and comments can be provided to Maya or at the meeting. Subarea plan update is still on hold, hoping to have staff capacity to work on next year depending on Board's docket.

**Allied Program Reports:**

*Nisqually Land Trust – Jeanette Dorner*

Jeanette officially became NLT's executive director on November 1. Joe Kane is still continuing part-time to assist with administrative transition and several ongoing projects. A strategic plan update will be a major focus for NLT in the next year, including aligning with salmon and steelhead recovery plans. A webinar on the Community Forest was held on

October 28. It is available online at <https://www.youtube.com/watch?v=fs0skMxG8xo>. NLT has plans to continue offering webinars with partners about the science behind their efforts for the next year. The office is closed due to the Governor's COVID order. Volunteer events for work parties are now strictly limited to four volunteers and one staff member, with advance sign-up required. The stewardship team has worked with volunteers and NREP to get over 3,000 plants in the ground so far this year. Plantings on Anderson Island properties are coming up next month. NLT also participated in Give Local along with the year-end appeal. Because the pandemic has disrupted normal fundraising events, remote fundraising has been even more important.

*Nisqually River Education Project – Sheila Wilson*

NREP delivered 500 at-home water quality monitoring kits to students, with more teachers participating than expected thanks to the story map and these resources. 18 teachers have signed up for online water quality professional development, which offers them a stipend and clock hours. A virtual Student GREEN Congress is being planned for this spring. Tree plantings were finished ahead of schedule with volunteer assistance. Other virtual student resources include Zoom salmon dissections and an online field journal replacing chum spawning field trips to McLane Creek. Grant modifications for the No Child Left Inside grant have been approved to include guides for Native youth to explore Nisqually State Park independently with their families.

*Nisqually River Foundation and Nisqually Community Forest – Justin Hall*

Staff will be conducting salmon tosses this winter in the absence of volunteer events. Justin is working on updating administrative procedures for the Foundation. The Northwest Community Forest Coalition forum was held online with good discussions and presentations from around the region. The Community Forest has worked with the Tribe to finalize the Clean Water Revolving Fund Loan. With this and other funding sources, the NCF is preparing to purchase 3-4 new sections with north of the current holdings. Harvest has concluded for the season. May need to hire additional logging capacity next year to treat large areas of overly dense timber, although it can be challenging as the logging industry shrinks and demand will be high to salvage timber from this year's large fires. Justin will follow up with David about partnering with TERO at the Nisqually Tribe. The Tribe's YMCA agreement is moving forward, which will include acquisition of water rights for the camp. Mitigation requirements may be able to be addressed through forest management by working with the Community Forest.

*Salmon Recovery – Chris Ellings*

The Nisqually Tribe's Natural Resources team is planning a pilot project to place Christmas trees donated by tribal members in the intertidal in the Delta, testing this as a technique to boost herring spawning. The practice of supplementing wood in the intertidal zone to create herring spawning habitat (used to harvest roe) has been historically used by Indigenous communities along the West Coast, and Nisqually elders have used Christmas trees for this purpose in the past. Today, although herring do appear in sampling data, there is no officially identified herring stock in the Nisqually eelgrass beds, which are the most southern in Puget Sound and significantly degraded from historic extents. Herring are crucial to the ecosystem, especially for Chinook, as prey for adult salmon, highly nutritious preferred prey for juvenile

salmon if they are available, and as alternative prey for marine mammals, sparing juvenile salmon from some predation. Herring spawning habitat is impaired by BNR rail line along the shore, which has blocked sediment and eelgrass beds and steepened gradient. This pilot will study whether wood supplementation with Christmas trees can boost herring spawning in the intertidal zone eelgrass beds, and will enable sampling for genetic data to learn more about the herring population locally. Salmon Recovery is also collecting LIDAR data of Nisqually Valley from Muck Creek to the delta, including around Sequelitchew/Hogum Bay, for a detailed update on topography and bathymetry of the region.

### **3. Shoreline Master Planning**

*Sarah Cassal, Rebecca Rothwell, and Zach Meyer, Department of Ecology*

The Shoreline Management Act (SMA) began as a citizen initiative passed in 1970 to keep all future waterfront development 200 feet away from shoreline. Subsequent RCW and WAC rules were created by the Legislature and Ecology. The SMA is administered at the local level through county and city Shoreline Master Programs (SMPs). SMA applies to all counties and marine waters and “shorelines of the State, (rivers and streams with at least 20 cfs annual flow, lakes 20 acres or larger, shorelands within 200 feet of these waters, and wetlands and floodplains associated with these waters). It governs “water-oriented” activities according to several priorities:

- Protection – no net loss of ecological functions, balancing development and protection of natural resources
- Preferred use – highest preference is to reserve shorelines and shoreland for water-dependent or related uses/development. “Reasonable orderly development” consistent with comp plan is allowed while protecting shoreline ecological resources; preferred use includes single family residences.
- Public access at publicly owned shoreline areas.

“Development” is defined as any project (permanent or temporary) which interferes with normal public use of surface waters. The “ordinary high water mark” is used to determine the area governed by SMA requirements (based on biological criteria like where plants are growing, and subject to change).

There are four types of shoreline permits:

1. Substantial development (meeting monetary threshold – subject to change every 5 years, currently \$7,047,000)
2. Conditional use (flexibility in application of use regulations, such as for uses that require higher scrutiny under state or local requirements, or uses that aren’t defined in Master Program – dams, etc)
3. Variance permit (where development does not meet the standards of the SMP – being closer to the water, multiple homes, etc. High bar to demonstrate that the property limits you from being able to meet the standards.)
4. Exemptions: written authorization from local government that a proposal does not need a permit. Project must be consistent with SMA and SMP.

Shoreline Master Programs are defined in SMA as comprehensive use plan for a described area: how standards from RCW and WAC are implemented at the local level. Every local government has a unique SMP. SMPs regulate use, new development, redevelopment, and

changes to existing development within the shoreline jurisdiction. They do not regulate activities, development outside of the shoreline jurisdiction, or legally existing development. Under WAC 173-26, SMPs must include policies, regulations for general, modifications, and use, shoreline environmental designation map, permitting process, and supporting documents from plan development and adoption. Restoration planning is a required document, but does not require identifying funding for restoration activities and is not a regulatory document. Project applications sometimes note that the project was listed in the SMP as support.

Process for updating a SMP:

1. Draft public participation plan and begin implementing it immediately throughout process.
2. Inventory and characterize shorelines, including zoning and comp plan considerations, based on careful review of existing and available science and documentation of existing shoreline conditions, uses, and ecological resources. The process is intense, but it ultimately reflects the local conditions much better than a blanket statewide policy would. The State SMA does not require monitoring between updates, other than at project permit level. Local governments may implement tracking or monitoring systems for ensuring no net loss of ecological function in their jurisdictions, but requirements vary. Thurston County SMP includes monitoring, with reporting at the time of the next SMP update to allow course correction.
3. Designate shorelines.
4. Draft SMP and integrate required policies and regulations.
5. Draft restoration plan. Every project must follow the mitigation sequence (avoid/reduce/mitigate environmental impacts) on its own site, so salmon recovery projects or other restoration projects that raise the overall environmental baseline do not reduce project mitigation requirements. Inventory and characterization report identifies degraded ecological function on a reach basis and restoration plan identifies problems and goals to be improved over time. ECY is required to review conditional use and variance permits on top of local government review and can require more avoidance or more compensation for unavoidable impacts.
6. Demonstrate no net loss of ecological function.
7. Local adoption including SEPA, GMA, public comment and hearing, and ordinance/resolution.
8. ECY approval including public comment period, sometimes public hearing, and decision. Decisions are usually conditional based on recommended/required changes, and approval takes place after those are addressed.

Shoreline Environment Designations are similar to zones in local comp plans, with reaches designated based on ecological function as well as planned use. Must follow mitigation sequence within the designation to avoid ecological impacts as much as possible. Thurston County proposed SEDs include:

- Shoreline residential
- Urban conservancy (within UGAs)
- Rural conservancy (outside UGAs)
- Natural (currently undeveloped, goal to maintain as such)
- Aquatic (below the ordinary high water mark)

Thurston is taking a fairly conservative approach and has designated a large amount of shoreline as natural. Thurston's draft Restoration Plan is available now for review. It targets functions and processes that the inventory designated as impaired or degraded, and identifies viable projects for implementation with timeline to complete. Permit and administrative provisions describe how county and state make decisions on proposed development (local permit approval and appeal processes).

Ecology's Planners Toolbox has a handbook useful for this group:

<https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-planners-toolbox>

Discussion:

- Is avoidance part of evaluating protection of natural resources? – Yes, avoidance is the first step in the mitigation sequence (avoid, reduce, mitigate). Preferred uses shouldn't be placed in an ecologically functioning area, so permits might require moving proposed building to avoid wetland or mature stand of trees on shoreline. Preferred use doesn't mean a free-for-all: always required to avoid all impacts possible, then reduce or mitigate unavoidable impacts. Ecology reviews these permits closely. Buffers are required even with preferred uses.
- How are ESA-designated critical shorelines addressed? – Implemented through critical areas ordinances with SMP permits. Discussion noted that the WAC was created prior to most ESA listings of Puget Sound species. Suggests the need for an update to the SMA to prohibit take of listed species in line with federal regulations, as they are currently allowed with mitigation under the SMA.
- Improving riparian function is a major goal for Tribes/Centennial Accords. Site potential tree height as standard across state. Could it be applied within existing SMA framework or would it need a law change? – Initial staff opinion is that the law would probably need some changes to adjust the balance of protection, preferred use, and public access. Members noted that there are inconsistencies between goals of program and implementation on the ground. There is currently no hierarchy for adjudicating conflict between preferred use and environmental protection. No reporting requirement for "no net loss" is not adequate to achieve the environmental protections we want.
- Is there are requirement to consult with tribes? Public outreach and comment is not the same as government-to-government. – Ecology policy is to send letters to each tribe in SMP area inviting a government-to-government consultation during SMP updates. The Nisqually Tribe noted they did not receive such a letter during Pierce County's SMP update. David and staff will reach out to Ecology for a collaborative staff conversation to understand the process and develop recommendations to the governor for improving this process.
- Shoreline armoring reduction is needed for shoreline function and salmon recovery, but puts a lot of pressure on local government officials. – Current guidelines have much higher standards for placing new armoring. Single family home armoring is exempt at the state level (doesn't a permit under SMA, unless local SMP puts in specific requirements for a conditional use permit or similar). Thurston County's draft SMP does require a conditional use permit for additional hard stabilization with very limited exceptions for new development. Pierce County's updated SMP also substantially increased technical

requirements for demonstrating need for new or replacement hard armoring. Still on a jurisdiction-by-jurisdiction basis.

#### **4. Thurston County Shoreline Master Program Update**

*Andrew Deffobis, Thurston County Planning*

The county SMP is meant to be tailored to the needs of the individual community, consistent with SMA and all implementing rules. Thurston County goals for this update are to provide flexibility for landowners and protect shorelines and critical areas, protect the public from hazards, meet state law requirements, and have an open public process. The county has completed inventory and characterization, proposed SEDs, and held work sessions with stakeholders and several public open houses. The Planning Commission is currently reviewing the document and proposing changes or options desired for public hearing draft. The SMP applies to 116 miles of marine shoreline, 131 miles of lake shoreline (38 lakes) and 221 stream miles, as well as associated wetlands, floodplains, and critical areas within shoreline jurisdictions and buffers.

Thurston County proposed SEDs:

- Shoreline residential – 7%
- Urban conservancy (within UGAs) – 2%
- Rural conservancy (outside UGAs) – 64%
- Natural (currently undeveloped, goal to maintain as such) – 27%
- Aquatic (below the ordinary high water mark)

The SMP does not apply to existing structures within shoreline jurisdictions. However, changes – for example, expanding a home built within a shoreline buffer – would be subject to these requirements. Appendices include SED and channel migration zone maps, mitigation options to achieve no net loss, restoration plan, and critical area regulations (such as ESA listed areas).

What's new in this update?

- New inventory and characterization, leading to new SED for areas that have changed since 1990. The result is proposed changes to buffers and designations, with options for a range of buffer sizes still under consideration.
- Increased flexibility and options for public – i.e., ability to update structures within existing footprint or expand it landward within a shoreline jurisdiction, additional options for storing watercraft within buffer, etc. Still reviewing permit requirement options and who will review them (hearings examiner or staff) prior to submission to Ecology.
- Updates to comply with state law – any new requirements from Ecology or Legislature.

Areas of focus from public comment and Planning Commission review:

- Shoreline buffers (both wider and narrower)
- Alternative wording for nonconforming legally existing structures and uses
- Locations and standards for aquaculture
- Differences for rules for state vs. other shoreline types
- Shoreline residential areas and private property rights (recreation and construction)
- Several options created in draft for various areas based on public comment.

Next steps:

County staff are finalizing public hearing draft. A virtual open house will be held prior to Planning Commission hearing and work sessions to develop recommendations to BOCC. The BOCC will then review, hold public hearing and work sessions, and finalize document for adoption and ECY review and approval. Sign up with Thurston Community Planning webmail (<https://www.thurstoncountywa.gov/planning>) to receive notice for virtual open house. Landowners in shoreline jurisdictions receive mail outreach as well.

<https://www.thurstoncountywa.gov/planning/Pages/shorelines.aspx> has comment form, sign up for emails, or contact Andrew at [deffoba@co.thurston.wa.us](mailto:deffoba@co.thurston.wa.us).

Discussion:

- SMP designations can hinder or support salmon recovery efforts. Basing environmental characterization on a current snapshot, often in degraded state, doesn't reflect the desired future conditions necessary to recover salmon. Maybe we need another designation rather than "natural" to designate as "critical for future restoration" – as designated in recovery plans. These goals should be captured in current snapshot with better integration of salmon recovery plans into the characterization. – A bill proposed in the Legislature this year would require net ecological gain, which would change this standard.
- Nisqually Tribe Natural Resources requested a meeting with Thurston County to walk through salmon recovery goals. Encourage NIT to review the draft SMP restoration plan and goals and policies and development standards sections to see where to better align. David noted that the Tribe appreciates their strong relationship with the County. This meeting should occur after the Planning Commission makes recommendations and prior to BOCC review, allowing the Tribe to engage with the elected leadership as a sovereign government.
- Andrew should be able to provide data on change in designations from previous update – email him to request.
- What is the status of the cumulative impact analysis? – Draft will be updated based on ECY comments and ongoing Planning Commission input. Change analysis will show if there have been failures in previous implementations where impacts occurred outside of what was planned. Need opportunities to implement recovery actions on the landscape, which means landscapes need regulatory protections. Protections in SMPs preserve time to implement restoration opportunities.
- Will BOCC/public see full slate of staff recommendations prior to the Planning Commission's formal recommendations to the BOCC? – If staff differs from Planning Commission recommendations, they will receive both. Archive versions of past drafts will be available, but won't necessarily be walked through.
- Public input has called for reducing shoreline buffers. Does the document address climate change and sea level rise in buffer considerations? – Law requires using current floodplains. Not clear if the current draft specifically addresses sea level rise. This would be a good public comment to have on the record.
- Recommend Ecology and local governments look into NOAA's recent findings on jeopardies for listed marine species. Mitigation recommendations have been made for Army Corps programs. Studies include historic hardening of shorelines that were not mitigated for, which will impact SMPs.



- Is there consideration for restoration work requiring fill below ordinary high water mark?
  - Yes, restoration projects (requiring a beneficial use of fill) are generally allowed under state law, so the SMP does not apply to these projects – an exception, not an exemption (173-26-231(3)(c)).

**5. For the good of the order:**

Howard noted that the northbound I-5 bridge is fragile. Cement pumping trunks are required to exit and cross on Old Pacific Highway instead of using the bridge, because it doesn't have adequate weight standards.

Status of aquaculture pesticide permits (in Willipa Bay, not Puget Sound) is not known.

The meeting was adjourned at 12:14pm.

**Next meeting: Friday, December 18, 2020  
Online via Zoom**