



Meeting Minutes
Nisqually River Council Meeting
April 16, 2021
Online Meeting

Attendees:

NRC Members:

Chris Barnes – City of DuPont
Anne Baxter – Dept. of Ecology
Amy Cruver – Pierce County Council

Dani Madrone – City of Olympia
Glynnis Nakai – BFNJNWR
David Troutt, chair – Nisqually Indian Tribe

CAC:

Howard Glastetter
Paula Holroyde

Ed Kenney
Martin McCallum

Guests:

Jesse Barham – City of Olympia
Jeremy Badoldman – Nisqually THPO
Chris Ellings – Nisqually Indian Tribe
Tim Hagan
Cathy Hamilton-Wissmer – JBLM
Daniel Hull – NRNC
Sela Kalama – Nisqually THPO

Terry Kaminski – City of Yelm
Brian Katz – Oregon State University
Sarah Montero – JBLM
Mike Noone – Dept. of Ecology
Ben Rau – Dept. of Ecology
Julie Rector – City of Lacey
Ashley Von Essen – Nisqually Indian Tribe

Staff:

Jeanette Dorner – NLT
Justin Hall – NRF
Emily McCartan – NRF
Maya Nabipoor – NRF

Sheila Wilson – NRF
Julia Fregonara – NRF
Lloyd Fetterly – NLT

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

David called the meeting to order at 9:04. Last month's minutes were approved. This is Emily's last NRC meeting, well wishes exchanged.

2. Committee Reports and Updates

Advisory Committee Reports:

CAC Report – Howard Glastetter

This month's CAC meeting was short. Present members were open to Howard writing a letter to Thurston county encouraging studying RAP through the county. Mount Rainier has 140% of normal snowpack this year, which will allow Alder Lake to be full through summer and it will be interesting to watch spring runoff. Updates from Skookumchuck, Deschutes, and Peninsula watersheds. Late CAC member Fred Michelsen was remembered and the latest Yil Me Hu was discussed. Might be nice to do a profile in the next Yil Me Hu.

Chair Report – David Troutt

North of Falcon has concluded. As resources become more limited, co-manager discussions get more challenging. The Nisqually team had good outcomes. Chum are forecasted to return lower than escapement goals, for the 4th time in 5 years there will be no fishery until escapement is met. Years without this fishery are difficult for the Tribe. Meeting was successful in getting all commercial fisheries directed at south sound Chum closed in Puget Sound.

Update on I-5 project: presentations, tours and visits, including the chair of the State Senate transportation committee were done on the river. The State Senate put in \$7.5 million in its budget proposal for the project. The House included a full South Sound project of \$205 million. David is confident that the Nisqually portion will go through. Next steps will be environmental work. Puget Sound Partnership interview with David Troutt about I-5, salmon recovery, and improving environmental baselines is available here:

<https://makingwaves.psp.wa.gov/index.php/2021/04/08/interview-with-david-troutt/>

Discussion of the dump site in Eatonville along the Mashel. There is seepage coming through the abandoned landfill into the Mashel. We are working with Ecology to find funds to remove it. It is 2 acres, and will cost \$5-7 million to remove it all. David will keep the Council informed about progress.

A question was asked to see if there has been any follow up with Eatonville about Steelhead problems. We are starting a follow up sampling for PBDEs in the Mashel. The goal is to do high-resolution sampling to map where the PBDEs are entering the river and entering the food web. We have been talking with the Town and will start looking at different treatments. We are finding them because we looked for them, PBDEs are everywhere.

Staff Report – Emily McCartan

Justin attended the bill signing for the Billy Frank Jr. statue to be installed in the DC statuary hall in the US Capitol Building, replacing the Marcus Whitman statue. There are interesting ideas floating around on how to create the 2 statues, one for DC and one for Olympia. There is lots of money to raise, to cover costs of creating the statues, transporting one cross-country, and transporting the Whitman statue back home. The event is available on TVW.

The Nisqually Watershed Stewardship Plan is now up on our website. There is still work to be done on our website. Emily has created a short presentation summary for communicating the plan to people who are not versed in the language already, which will be rolled out online and on social media. Howard mentioned the RAP issue with Thurston County, a letter has been sent to them and Pierce County. Thurston County has not taken action to add to their work plan, and Lakeside has not yet submitted a permit application. Larry Leveen from the Yelm Prairie Line Trail project asked that the Council be notified that funding is at risk for the Washington Wildlife and Recreation Program which would provide funding for the project. The Yelm to Pierce County phase of the trail would be fully funded in the House budget but not the Senate. Information will be forwarded for those wishing to contact their legislators.

Nisqually Land Trust – Jeanette Dorner

Exciting news is the next phase of acquisition of the Busywild project. This has been a huge effort with many partners including the NIT, Community Forest, and Ecology, so it is exciting to see this come to fruition. As of Monday, everything was closed and recorded on the joint purchase of 3.5 sections of forest (1,200 acres). This is a significant increase to forest property in local ownership in the watershed, which now includes more of the headwaters of the Mashel. The purchase was made from Hancock. Joe Kane worked on this project as a contractor. Thank you to Mike Noone at Ecology making this possible. The WA Department of Ecology would like to nominate the project to EPA for an award!

The Nisqually Land Trust has added two new board members. Hanford McCloud, Nisqually Tribal Council Member and Peggen Frank, Executive Director of Salmon Defense.

Restoration events continue Wednesdays and Saturdays. Work has shifted from planting to removing invasives. There will be an upcoming Earth Day event with JBLM. The Annual Auction will be at the end of May, with the live event June 5th.

Nisqually River Education Project – Sheila Wilson

The new Exploring the Nisqually Watershed online lessons have reached almost 1,200 students so far. Julia and Maya (of NREP) and our partners at South Sound GREEN have created a benthic macroinvertebrate lesson, which has been very successful. We will be included in Earth Day/Week/Month activities through our partners at LOTT, in a packet of take-home activities and a raffle!

We are nearing completion of the 5th grade Water Quality Monitoring Field Stem project for next Fall, which will consist of 2 weeks of in-depth water quality studies and a field trip. We are starting to create 4th grade field stem experience at the Nisqually community garden and cultural center, with stations focusing on tribal history and salmon life cycle. Upcoming in May will be some Saturday activities with tribal youth for the No Child Left Inside Grant.

NREP hosted this year's second professional development event with teachers, centered around the power of plants. Almost 20 teachers attended. The annual Summer Institute for Teachers will take place June 28-30.

Nisqually River Foundation – Justin Hall

We have added to our board: Junior Slape, Karen Andrascik, Karen Fraser, and Maia Bellon. We've developed a relationship with individual sponsors. Stefan Lee from Greene Realty is committing to offset homes sold by sponsoring tree plantings. Bruce Titus Subaru of Tacoma is interested in a sponsorship for stewardship projects on salmon habitat that will support orcas through healthier Chinook salmon.

Nisqually Community Forest – Justin Hall

Community Forest – with the new acquisitions, 14% of the way to the 30,000 goal. The Tribe has two infrastructure requests: one for I-5, one to purchase remaining commercial timberland in upper Nisqually.

Salmon Recovery Program – Chris Ellings and Ashley Von Essen

Chris and Willy Frank took a federal lobbyist on a trip to look at the I-5 bridge over the Nisqually, and how the flow has moved to become a current threat to I-5 infrastructure. This is a first stop for hatchery chinook, and they need that habitat interaction between water and forest. This may be a more immediate threat than the Frank's Landing oxbow.

The new Yil Me Hu is out. Three of the SRFB projects have been cleared by the reviewers. Mashel design project has more information requested but anticipate that it will also go forward with that.

Concerns were expressed that Nutria are making their way into the south sound and lower Nisqually. There have been no verified sightings yet, while European Green Crab are a serious threat. The refuge has had a robust volunteer monitoring program, which is something to look into continuing.

Brian Katz, Oregon State University:

Shellfish closures are an important issue because they are an equity issue, and may be limiting people's access to sustainable food. This is especially significant for tribal members, who have treaty rights to harvest as they have done since time immemorial.

He developed a [geovisualization tool](#) showing shellfish closures and patterns of interest. Survey data was collected based on a random sample from 2020 PSP Vital Signs. Overall, low tribal representation. Question asked how often in the past year did you harvest for shellfish in Puget Sound. Results were reported as white/non-white, with non-white including all responses. 23 responses in Nisqually, 74% white, 26% nonwhite. Overall, 87% white, 13% non.

The map shows harvest closures as monthly occurrences from 2017 to 2020. Analysis includes recreational closures.

Survey response data layer shows heat map of where people live who report frequently harvesting, and non-white responses. The geovisualization tool can overlay recreational layers with 2020 closures. Tacoma to Everett zone of Puget Sound is closed most frequently due to pollution. Olympia area is closed less for biotoxins. This indicates that different regions are impacted by different factors. A challenge for analysis was that demographic and population data is reported by county, not by watershed.

Key takeaways for Nisqually:

- There were fewer closures to the south of Tacoma Narrows.
- Greater harvest frequency to the south of the Narrows.
- Nonwhite population is flanked on both sides of the Nisqually, mostly in Olympia and Tacoma.

The Strait of Georgia, Nooksack, Elwha showed the greatest overlap of recreational closure and highest nonwhite harvesters, especially compared to Hood Canal, which has low closures and largely white harvesters and population.

The more closures there are, especially biotoxin closures, the less harvest. Nonwhite population is correlated directly with pollution, conditional, and emergency closures. Biotoxin closures are indirectly related to race. Analysis shows there was no strong relationship between harvest frequency and race – harvest is an important activity to both white and non-white people.

Further considerations:

- People reported harvesting bivalve shellfish, but didn't collect different species, which can be different in terms of closures.
- Where did people harvest – how far are they traveling?
- How does concentration of biotoxins vary in space and time?

Actions to take: Addressing inequities is a win-win opportunity for planning: increased environmental restoration, decreased environmental racism, and increased access to harvest.

Understanding where the public access points are for shellfish opportunities might be useful. If you could understand the productivity of those beaches, that would also be useful – relationship between highly productive beaches, closures, proximity to communities. More data could increase the robustness of analysis.

Did your analysis look at the race of respondents, or the overall race of the area? - Just respondents. Low tribal participation in response – shows up on the map as a gap where we know there are more nonwhite residents. David mentioned that unless surveys are driven internally by the Tribe, likely to see low participation. Key to the analysis, but hard to get.

Were closures due to point or nonpoint sources? - The Dept of Health reports wastewater treatment plant closures, as well as sampling closures. This could be a good area for more work. This study just used the category of closure, but more details on the emergency closures as point source or non point would be a good next step, and could be added to the map as an additional layer of detail.

It would be useful for us to answer these questions. We would be willing to help with data collection and questions.

Local communities have important context. Would like to have a map that the public can contribute to with qualitative reporting about their harvest and closure experiences.

Non-Point Coastal Zone Act Reauthorization Amendments Lawsuit
Ben Rau, Department of Ecology

History:

Filed by Northwest Environmental Advocates (NWEA) in 2016. Challenged Environmental Protection Agency (EPA) and National Oceanic and Atmospheric Administration (NOAA) conditional approval of WA's Coastal Nonpoint Pollution Control Program. This is the Coastal Zone Act Reauthorization Amendments (CZARA) Program – the federal non-point for coastal act. CZARA was passed in the mid 1990s, with 1-2 years for states to submit plans to EPA and NOAA for their approval. No plans were approved for the first several years, instead feds gave conditional approvals (more info, additional requirements) based on State plans. WA has been in conditional approval status for several decades, in a back-and-forth providing information to EPA and NOAA as requested. Feds moved forward at the end of 2020 with a proposal to approve WA's program. Public comment period may be ongoing – Ben will provide a link.

NWEA's argument was the conditional approval wasn't appropriate under the statute, should be an approval or disapproval.

Second part of the lawsuit challenged EPA approval of the Clean Water Act (CWA) Section 319 program (CZARA is coastal, 319 is whole state). WA program was approved in 1980s and updated several times. Last approval is what NWEA challenged. Challenged EPA and NOAA's failure to consult under the Endangered Species Act (ESA) on decisions regarding these programs. EPA awards 319 grants to WA annually, and NWEA said each required ESA consultation which had not happened. Based on failures, EPA should have withheld grant funds based on inadequate programs/plans (not approved/not making satisfactory progress) under both CWA and CZARA.

The CZARA claim was dismissed by a judge in 2017: conditional approval status was not prohibited under the law, so that was not a claim for which relief could be granted.

ESA and Nonpoint (CWA section 319) claims moved forward. Discovery process led to concerns about vulnerability from the ESA claim, which led to settlement negotiations. The law has a clear requirement to consult on ESA. WA puts a draft list together for funding received the following June, but not all states do, so EPA doesn't do ESA consultations because they don't always know what the specific grant projects will be. Settlement agreement reached in 2020 and put out for public comment, and finalized in 2021 with no changes.

Basic outline of the settlement:

- Deadlines to complete Clean Water Guidance for Agriculture
 - 5 Chapters due by 12/31/2022: Tillage and residue management; Livestock-Heavy use areas and waste storage; Livestock-Pasture and rangeland management BMPs; Sediment Control: Soil Stabilization and Sediment Capture-Structural/Sediment basins; and Riparian buffers.
 - 7 Chapters due by 12/31/2025: Suites of practices; Nutrient management; Pesticide management; Water Management: Irrigation Systems and Management; Water Management: Field Drainage and Drain Tile Management; Cropping Methods: Crop System; Sediment Control: Soil Stabilization and Sediment Capture-Vegetative

- Commitment to use guidance-integrated it into several areas of our program
- Timelines to submit updates to our nonpoint plan
 - Next update due 12/31/2022 (was scheduled for 2020)
 - Updated again by 12/31/2025
- ESA consultation on our 2022 plan update (which will include the first five chapters of the BMP guidance)
- Reporting requirements

The agreement lines up with work Ecology is already doing, but added deadlines. Not a lot of substantive change, just deadlines for completing guidance and the nonpoint plan. Reporting requirements are new. This agreement secures 319 funding – a similar settlement in Oregon led to substantial cuts to 319 grant, and WA avoided this. The majority of this grant goes out to local groups (any local gov, nonprofit, tribes). Centennial Accord state funding is restricted to a smaller pool of local government agencies.

In last year's Centennial Accord agreement, the Governor committed to site-potential tree height in riparian areas. Will that be met under this guidance? – Yes, ECY is incorporating that. It is built into the settlement agreement that the Centennial Accord negotiation was going on and referenced that it would be followed through on. ECY had been drafting a buffer chapter, paused at request of NWIFC last year pending the accord discussion.

For the Good of the Order

Daniel Hull - Luhr Beach work between Nisqually Reach Nature Center (NRNC) and Washington Department of Fish and Wildlife (WDFW) is moving along, construction will likely happen in August. WDFW is working hard with NRNC to maintain access to the site and keep aquarium pumps working, and it's very appreciated. The Tribe acknowledges appreciation that WDFW has been open to changes to stormwater treatment for 6PPD-quinone, very positive agreements.

Jesse Barham - Stream Team collaborated with NRNC on an outdoor activity treasure map, which is [featured in The Olympian today](#).

*Next meeting: Friday, May 21, 2021
Online*