



NISQUALLY INDIAN TRIBE

Department of Natural Resources

12501 Yelm Highway SE

Olympia, Washington 98513

360.438.8687 (main)

360.438.8742 (fax)

www.nisqually-nsn.gov

May 25, 2021

Electronic Submission

Mike Noone, Streamflow Unit Supervisor
Water Resources Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504

Dear Mike,

We have received your recent reminder that Ecology email message is expecting to receive from the Nisqually Planning Unit a 2021 annual report for WRIA 11 – Nisqually Watershed. The 2021 report is attached. As with our cover letter for the 2020 annual report, we are requesting that Ecology address two important issues.

First, the Washington Department of Ecology (Ecology) has required that we submit this annual report, a report that your agency has determined as essential in adopting our Streamflow Restoration Addendum, yet Ecology has provided no funding to support the Nisqually watershed lead agency in the production of this annual report. This is an unfunded mandate. If Ecology is expecting local watershed planning lead agencies, and in particular the Nisqually lead agency, to organize watershed plan implementation and provide annual reports, it should provide some amount of baseline funding to ensure continuation of the watershed planning process. This would provide that watershed plan implementation, and thus the activities that Ecology expects to be reported annually, have some minimum funding support.

Second, Ecology's report mandate contains an assumption that some number of implementation actions are being initiated, yet again Ecology provides no certain funding for these implementation actions nor any ongoing funding to ensure that such actions will occur in the future. Rather, Ecology provides implementation funding only through a competitive grant application process with no assurance of funding. We recommend that Ecology provide the Nisqually Watershed annually with some amount of implementation funding, thus assuring all parties that the streamflow deficits identified in the Nisqually Watershed Management Plan Addendum are being addressed with some level of certainty.

Sincerely,

George Walter
Nisqually Indian Tribe

WRIA 11 (Nisqually Watershed) Annual Report June 1, 2020 through May 31, 2021 Streamflow Restoration Act

Washington State Department of Ecology (Ecology) adopted the Nisqually Watershed Management Plan Addendum on February 1, 2019. As part of the adoption order, the Nisqually Planning Unit is required to submit an annual report that outlines the status of implementation actions.

I. Plan implementation actions to date

Since the adoption of the Plan Addendum, the Nisqually Planning Unit has continued to meet to coordinate submission of streamflow restoration grants, work with a technical consultant to develop detail around conceptual offset and habitat restoration projects, address funding needs (including the development of a long-term funding strategy), and track the number of new permit exempt wells in the watershed. These activities have been funded through carryover from Ecology's planning grant, in-kind allocation of staff from Planning Unit member entities and administrative funding allocated by the Nisqually Indian Tribe.

The Planning Unit is also continuing to work on a draft Interlocal Agreement to provide longer term funding for operation of the Planning Unit and implementation of actions and projects in the Watershed Management Plan and the Addendum to the plan prepared in response to the Streamflow Restoration Act.

2018 Streamflow Restoration Grants:

In the 2018 Streamflow Restoration Grant cycle there were four implementation project grant applications submitted from the Nisqually Watershed. Of these, two were funded. The status of these grants, that were actually awarded in 2019, is as follows:

- **Busy Wild Creek Protection (WRSRP-2019-NiLaTr-00080)**
The grant was amended to change the end date to December 31, 2021. In April 2021, the Land Trust acquired 960 acres of forest containing the headwaters of the north fork of Busy Wild Creek, including 2.9 miles of Busy Wild Creek. This property will be managed as a part of the Nisqually Community Forest.
- **Riparian and Floodplain Habitat Protection (WRSRP-2019-NiLaTr-00010)**
The grant was amended to change the end date to December 31, 2021. The Land Trust has completed nine of the ten conservation acquisition transactions originally funded as a part of this project, totaling 360 acres permanently protected. The other acquisition funded as a part of this project is in-progress and anticipated to be completed by the end

of 2021 and the Land Trust is pursuing an amendment to expand the scope of the project to add two additional acquisitions along Ohop Creek to the project.

2020 Streamflow Restoration Grant Applications:

Eight streamflow restoration grant applications have been submitted to Ecology from within WRIA 11 for the 2020 funding cycle. The grant applications are listed below (proposals marked * were approved and recommended in the Planning Unit's letter of support):

Nisqually Land Trust

- **WRSRP-2020-NiLaTr-00019 - Prairie Tributaries Water Rights Phase 2***
The Department of Ecology grant contract for this project is pending final agency approval. There has been no project activity to date.
- **WRSRP-2020-NiLaTr-00028 - Lower Ohop Protection***
The Department of Ecology grant contract for this project is pending final agency approval. There has been no project activity to date.

Nisqually Community Forest

- **WRSRP-2020-NiCoFo-00131 - Nisqually Watershed Mashel River and Tributaries Protection***
This project did not get funded. However, if funds become available, this project will still be viable as the acquisitions targeted in grant applications can still be pursued.
- **WRSRP-2020-NiCoFo-00130 - Nisqually Watershed Powell Creek Protection***
This project did not get funded. However, if funds become available, this project will still be viable as the acquisitions targeted in grant applications can still be pursued.

Nisqually River Foundation

- **WRSRP-2020-NiRiFo-00125 - Muck Creek Watershed Restoration Strategy and Project Prioritization***
Nisqually River Foundation is currently working on contracting with the Department of Ecology in order to start the project.
- **WRSRP-2020-NiRiFo-00007 - Project Development & Implementation of WRIA 11 Streamflow Restoration Plan***
This project did not get funded.

Thurston County

- **WRSRP-2020-TCoPED-00046 – Lackamas/Toboton/Powell and Thompson/Yelm MAR Feasibility Study***
Thurston County is currently working on contracting with the Department of Ecology in order to start the project. No work has been completed to date. This is a Tier 1 project identified in the Addendum.
- **WRSRP-2020-ThCoWR-00133 – Hidden Forest Managed Aquifer Recharge**
Thurston County is currently working on contracting with the Department of Ecology in order to start the project. No work has been completed to date.

II. Changes in approach since the last report

There have been no changes in approach since the adoption of the Addendum to the Nisqually Watershed Management Plan on February 1, 2019.

III. Significant implementation challenges that will require a change in approach

The primary challenge the Nisqually Planning Unit currently faces is the lack of implementation funding to achieve the outcomes specified in the WRIA 11 Management Plan Addendum. The primary funding available is a competitive grant process that requires watersheds to compete amongst one another to garner implementation funding, and there is no guarantee that any actions in the WRIA 11 Plan Addendum will be funded. Furthermore, because the WRIA 11 Planning Unit was required to produce a plan addendum under a significantly tighter timeframe than other WRIAs, and was not provided the technical support to further develop or design projects, the Planning Unit requires technical support to develop projects prior to their grant readiness.

The Nisqually Planning Unit member governments continue to put significant time and resources into developing projects and preparing grant applications. The Planning Unit does not currently plan to change the overall approach to streamflow restoration implementation, but availability of funding may require a future change.

A second challenge is merging data across three counties as the WRIA 11 Planning Unit adaptively manages offsets into the future.

IV. Specific information regarding the Tier 1 actions that Ecology relied on in adopting the plan:

In their technical review of the WRIA 11 Watershed Management Plan Addendum, Ecology defined and categorized “Tier 1” projects based on perceived certainty of implementation of water offsets. It should be noted that the “Tier 1 designation” was developed by Ecology and does not reflect the priorities or certainties of the Nisqually Planning Unit. As a condition of adoption, this report provides the status of “Tier 1” projects:

1. Yelm Offset Action 1 – Connect New Development in Yelm UGA to City Water Service (Deep Well): The City of Yelm has submitted a draft mitigation plan prepared pursuant to the Streamflow Restoration Act to the Department of Ecology in support of its water rights application. It is anticipated that Ecology will be preparing a report of examination this summer. If approved, and upheld after any appeals of an approval, the City will be in the position of updating it's Water System Plan in order to obtain approval for additional connections which could be utilized to implement Yelm Offset Action 1.

2. Water Right Acquisition:

A preliminary Phase I water rights analysis for the Prairie Tributaries Sub-basin was conducted by the Washington Water Trust (WWT) during development of the Plan Addendum. Based upon the results from the Phase I analysis and the relationships within the watershed, the Nisqually Land Trust has submitted a 2020 streamflow restoration grant application to work with the Conservation District and others to identify a water right for purchase in the Prairie Tributaries Sub-basin. (WRSRP-2020-NiLaTr-00019 - Prairie Tributaries Water Rights Phase 2).

3. Yelm Offset Action 2 - Connect Existing Development on Permit-exempt Wells in Yelm UGA to City Water Service and Decommission Permit-exempt Wells:

See #1 above.

4. Managed Aquifer Recharge (MAR) Projects:

Identification of MAR sites and a feasibility assessment of the offset and net ecological benefit each of the sites can contribute are included as portions of three separate streamflow restoration grant applications submitted in 2020:

- WRSRP-2020-NiRiFo-00125 - Muck Creek Watershed Restoration Strategy and Project Prioritization
- WRSRP-2020-NiRiFo-00007 - Project Development & Implementation of WRIA 11 Streamflow Restoration Plan
- WRSRP-2020-TCoPED-00046 - Lackamas/Toboton/Powell and Thompson/Yelm MAR Feasibility Study

5. Ohop Phase IV Floodplain Restoration & Protection:

In 2019, the Nisqually Land Trust acquired 90 acres Lower Ohop Valley Phase IV area for permanent protection and restoration. This brings the total conservation ownership (Nisqually Indian Tribe and Land Trust) in the Phase IV area to just over 160 acres. These acquisitions were funded through Salmon Recovery Funding Board grants with match from the Streamflow Restoration grant.

V. Permit-Exempt Well Reporting

Counties typically report their permit-exempt wells on an annual basis. This report element will summarize the well count by county for the calendar year prior to the year the report is submitted. Over time, this information can be used to compare to the projections of permit-exempt wells in the Plan Addendum. Offsets will be adaptively managed accordingly.

Permit-exempt Wells by Calendar Year in WRIA 11

County	2018	2019	2020
Thurston County Portion of WRIA 11	19	18	30
Pierce County Portion of WRIA 11	11	25	50
Lewis County Portion of WRIA 11	1	1	1
TOTAL	30	44	81