



SQUAXIN ISLAND TRIBE

November 29, 2021

SENT BY ELECTRONIC MAIL

Kell Rowen
Community Development Administrator
Mason County Community Services
615 W. Alder Street
Shelton, WA 98584

Dear Ms. Rowen:

These are comments on the Mason County Belfair Urban Growth Area Supplemental Draft Environmental Impact Statement | October 2021 (SDEIS). It was good to see you at the November 15th Planning Advisory Commission meeting to discuss this SDEIS.

The Tribe includes the following concerns in the record.

1. We appreciate that, in response to our initial questions about the DEIS, Berk Consulting asked Pacific Groundwater Group (PGG) to produce a technical memo on Belfair Water System wells entitled, "Belfair EIS Hydrogeologic Analysis" (October 25, 2021). Watersheds identified in PGG's memo, including Coulter, Rocky, Huge, and Burley Creeks, are located within the Squaxin Island Tribe's usual and accustomed fishing area ("U&A"). *United States v. Washington*, 384 F.Supp.312, 377-378 (W.D. Wash. 1974) and 626 F.Supp. 1405, 1441-1442 (W.D. Wash. 1985). Since time immemorial, the Tribe has lived, hunted, fished and gathered in and around these creeks, their tributaries, and their respective basins. Anadromous fish, and particularly salmon, have played a central role in the Tribe's subsistence, economy, culture, spiritual life and day-to-day existence. The Tribe is adjudicated to be a successor-in-interest to signatories of the Treaty of Medicine Creek, 10 Stat. 1132 (hereinafter "Treaty"), by which the Tribe reserved various rights, including the right to exercise off-Reservation fishing rights at its usual and accustomed fishing area ("U&A"). The Tribe has Treaty rights to and is a co-manager of these fisheries, and possesses federally-reserved water rights to streamflows in amounts that support healthy salmon populations. See *Winters v. United States*, 207 U.S. 564 (1908); *United States v. Winans*, 198 U.S. 371 (1905).
2. PGG used the Kitsap numerical groundwater model for this work. PGG's analysis showed that ~20% of water pumped from Wells 1 / 2 and ~20% water pumped from Well 4 would have

flowed to Coulter Creek (Figure 1). This dispels a common misunderstanding about deeper wells that they don't impact local creeks. While they may be less impactful, they still take water from those creeks. Rocky, Huge, and Burley Creeks were also listed as impacted in Figure 1. PGG did not assess Wells 3 and 5.

3. PGG's work, as summarized in Exhibit 3-2 of the SDEIS, shows that the impact to Coulter Creek from Alternatives 1 through 3 ranges from 0.087-0.244 million gallons per day. In other words, 87,000 gallons per day (0.134 cubic feet per second) to 244,000 gallons per day (0.378 cubic feet per second) is the anticipated decrease in Coulter Creek's flow due to future groundwater pumping. This amounts to 0.38 to 1.88% of the Coulter Creek instream flow rule of 13 cfs (Exhibit 3-2).

4. The SDEIS describes a personal communication with PGG (p. 3-6) about how deeper wells have less impact on adjacent creeks than shallow wells. Yet, the PGG technical memo and Exhibit 3-2 of the SDEIS have still quantified an impact on Coulter Creek and other creeks, even from Belfair Water District's deeper wells. Furthermore, the PGG technical memo did not address the impacts of surrounding shallow wells either now nor in the future. How are we then able to quantify their impacts in comparison to Belfair Water District's wells?

5. The SDEIS suggests (Section 3.1.3) a number of mitigation actions that Mason County could, should or might take. That includes a suggested requirement to hook up to a public water system inside the Belfair urban growth area, which the Tribe supports. The positive impact of such mitigation needs to be quantified, however, and Mason County needs to verify that the mitigation will be implemented. The Tribe strongly urges the Mason County and City of Belfair to include concrete, actionable steps towards the mitigation of instream flows and fish habitat.

6. The SDEIS states on p. 3-8:

By following the mitigation measures listed above, no significant unavoidable adverse impacts to stream flow or tribal water rights are expected.

This statement needs to be deleted. It is subjective and lacks factual support. PGG has calculated a measurable impact to Coulter Creek (and others) streamflow. There are no facts to support whether the impact is significant or not. Likewise, Berk lacks a factual basis to determine that the impact is unavoidable. Nor has Berk quantified the benefits of suggested mitigation. And, Mason County needs to guarantee that the suggested mitigation actions will be implemented.

7. Thank you for including Section 3.2.2 Supplemental Impact Analysis in the SDEIS, which includes a response to the Tribe's concerns about Nitrogen loading (Exhibit 3-6). Suggested actions at the top of page 3-14 should become imperative. They relate to our above comments about streamflow impacts, and they are listed as:

- More detailed, site specific, review of geographic areas where surficial impermeable soils are thin and underlying permeable soils are thick.
- Economic feasibility of reclaimed water distribution to areas of the UGA that have large irrigation demands (e.g, future regional parkland) or commercial and industrial areas where toilet flushing demand may be large depending on uses (e.g. north end of UGA)

Consideration of these options should be considered in the context of potential impacts of groundwater withdrawals described in Section 3.1.

8. The Tribe expects the County and Belfair Water District 1 to engage the Tribe in the water system planning process and future water development projects of Belfair Water District 1. The Tribe expects the County to engage the Tribe in the wastewater planning process for the Belfair Water Reclamation Facility.

Sincerely,



Erica Marbet
Water Resources Biologist
Squaxin Island Tribe