



Natural Resources Department  
Environmental Division  
6406 Marine DR NW  
Tulalip, WA 98271

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Jae Hill  
King County UTRC  
35030 SE Douglas St #219  
Snoqualmie, WA 98065  
[jhill@kingcounty.gov](mailto:jhill@kingcounty.gov)

Richard Rodriguez  
Washington State Department of Health  
Northwest Drinking Water Operations  
20425 72<sup>nd</sup> Avenue South Building 2 Suite 310  
Kent, WA 98032-2388  
[Richard.Rodriguez@DOH.WA.GOV](mailto:Richard.Rodriguez@DOH.WA.GOV)

City Clerk  
PO Box 896  
North Bend, WA 98045  
[soppedal@northbendwa.gov](mailto:soppedal@northbendwa.gov)

Sent via e-mail

To Whom It May Concern,

The Tulalip Tribes submit these comments on the October version of the City of North Bend's 2020 update to its Water System Plan. The Tribes are aware the City has requested approval of a shorter duration of 5 years for the recently submitted plan per WAC 246-290-100(9) due to regulatory concerns over a lack of mitigation water for the City's water right which is junior to the instream flows established by WAC 173-507-020. Tulalip is concerned about the City issuing certificates of water availability conditional upon the approval of the WSP rather than the attainment of a robust second mitigation source. We are also concerned by the expansion of the retail service area through an existing provider's water service area and lack of accounting for permit exempt wells drilled in the retail service area as a result of the narrowly defined timely and reasonable service.

The Tulalip Tribes reserved the right to take fish in their usual and accustomed fishing places pursuant to the Treaty of Point Elliot of January 22, 1855 (12 Stat. 927). The Tulalip Tribes are the only tribe on record with federally reserved Treaty Rights in the area. These usual and accustomed treaty fishing areas include the freshwater areas of the Snohomish-Snoqualmie-Skykomish river basins and certain marine waters of the Puget Sound through which fish propagated in such

The Tulalip Tribes are federally recognized successors in the interest to the Snohomish, Snoqualmie, Skykomish, and other allied tribes and bands signatory to the Treaty of Point Elliott.



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basins pass. *U.S. v. Washington*, 459 F. Supp. 1020, 1038 (W.D. Wash. 1978); *U.S. v. Washington*, 626 F. Supp. 1405, 1527 (W.D. Wash. 1985), *Aff'd*, 841 F.2d 317 (9<sup>th</sup> Cir. 1988). The Tulalip Tribes are co-managers of fisheries and fish habitat with the federal government and Washington State.

#### Mitigation Sources

The City is in the unique and difficult position of being in the upper Snoqualmie watershed and having water rights junior to the instream flow. The Report of Examination (ROE) required the City to secure two mitigation sources upon issuance of the water right certificate G1-26617C. The City currently has a contract with the City of Seattle for one mitigation source, Hobo Springs. The structure of the contract is such that North Bend is third in line for water from Hobo Springs, therefore the City has secured an interruptible mitigation water supply for its interruptible municipal water right. The City experienced the interruption of mitigation water supply in 2015 and is likely to experience these interruptions in future.

The ROE specifies two additional mitigation sources; Sallal wells and the North Fork Tolt River pipeline. These two sources were negotiated between the City, Ecology and the Tulalip Tribes and formalized in the mitigation portion of the ROE. The intent of specifically calling out the sites in the ROE was to ensure the City would provide mitigation water sourced from a different basin of equal quality and quantity as the water being removed from the South and Middle Forks of the Snoqualmie River. The Sallal wells were supposed to be added to the City's mitigation portfolio in the first year of operating the Centennial Well. Difficulties in negotiating with Sallal prevented the City from adding the wells to the portfolio. The ROE is prescriptive in the sense that the North Fork Tolt River pipeline is the next source that should be developed for mitigation water. Although the City, Ecology and Tribes are in discussion, there is currently no mechanism for the City to add a mitigation source other than the Sallal wells or the North Fork Tolt pipeline to its mitigation portfolio.

Ecology is working with North Bend to develop additional mitigation options, however the City has not been given the standards by which any additional mitigation sources not prescribed in the ROE would be assessed. Therefore the Cascade Golf Course well, which is currently being considered within the WSP as helping the City meet mitigation requirements for the next 5-10 year period, is not a given mitigation source. It is not a safe assumption the Cascade Golf Course or any other un-studied mitigation concepts – including the Tolt pipeline – would come online in a short amount of time, given the contentious nature of water resources planning in the upper Snoqualmie basin. Further, the Cascade Golf



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Course well would not sufficiently make up for the Hobo Springs mitigation source, were it to go offline.

#### Expansion of Retail Service Area

It is desirable that planning documents address future scenarios and position the City to provide essential services to current and future development. It is concerning the City is expanding its retail service and proffering conditional certificates of water availability within an adjacent water purveyor's service area without being explicit about what elements must be in place before water is made available. It is unclear the City will have either the infrastructure or the mitigation water to provide water to the parcels within the newly expanded retail area. It is not clear that the ERUs designated to the new parcels will be reallocated from elsewhere within the system based on availability of mitigation water.

#### Timely and Reasonable Service

The City has designated a distance of over 200 feet from a water main as a cutoff for parcels within its service area. The Watershed Restoration and Enhancement Planning process to address and mitigate for permit exempt wells in WRIA 7 has not taken this cutoff into account. King County calculated the number of exempt wells based on past development practices. The 200 feet cutoff will likely serve to undercount and therefore under mitigate permit exempt wells placed in the City's retail service area. The cumulative impacts of the permit exempt wells may be eventually borne by the City in the form of additional mitigation days.

#### Water Conservation and Water Use Efficiency

The Tribes are aware of the recent Water Conservation Ordinance issued by North Bend and now incorporated into the Plan. We made many recommendations to increase the accountability of the plan by suggesting definitions and metrics, most of which went unadopted by the City. While we support the effort to conserve water, it is quite difficult to understand how the City will manage to reduce water use per capita / ERU, when there is neither quantification of the goals nor explanation of how the goals will be achieved. Can the City work to bring awareness around and to reduce the seasonal increase in demand that occurs every July? Reducing water demand in the winter versus summer and fall produce two different results with respect to need for mitigation water.

The City of North Bend is relying on customer conservation single-family residence per capita daily consumption (SFR-PCDC) to reduce water demand. However water demand is already at 59 gpd. It is unclear how the City will achieve a 0.75% annual reduction in water use per ERU when SFR-PCDC water consumption appears to be quite low.



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Reduction of distribution system leakage should be aggressively pursued. It is not clear that the methods described would achieve the level of reduction reported in 2026 in Table 5-6. The Tribes would appreciate an explanation of how methods proposed would reduce DSL, rather than to accept an assumption that DSL will be reduced by 1.5% annually until a goal of 10% DSL is achieved.

#### SEPA DNS

The Tribes suggest the City re-review the SEPA or issue an addendum to cover changes to the WSP. As it stands, the City has made significant changes to the WSP, which should be considered as a complete package before it requests approval.

Sincerely,

Kurt Nelson  
Environmental Department Manager  
Tulalip Tribes  
[knelson@tulaliptribs-nsn.gov](mailto:knelson@tulaliptribs-nsn.gov)  
360-716-4617

Cc: Ryan Miller, Tulalip Tribes  
Anne Savery, Tulalip Tribes