



NISQUALLY INDIAN TRIBE

Department of Natural Resources

12501 Yelm Highway SE
Olympia, Washington 98513
360.438.8687 (main)
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www.nisqually-nsn.gov

June 29, 2021

Joshua Cummings
Director, Community Planning & Economic Development
Thurston County
2000 Lakeridge Dr SW, Bldg. 1
Olympia, WA 98502

RE: *Emergency Declaration Status for the Nisqually Indian Tribe Centralia Hydro Dam Fish Trap
Project Application No. 2021100996*

Dear Mr. Cummings:

By this letter, the Nisqually Indian Tribe (the project applicant) formally requests an **Emergency Declaration** from Thurston County for the Centralia Hydro Dam Fish Trap Project No. 2021100996 within Thurston County Shoreline jurisdiction located at Parcel 22601210100. Pursuant to WAC 173-27-040(2)(d) and WAC 197-11-880, the above-listed project meets the criteria for an emergency declaration, and the Nisqually Indian Tribe respectfully seeks Thurston County's concurrence.

Since time immemorial, the *Squalli Absch* (Nisqually) have been a fishing people. Salmon is not only a mainstay of our diet, but a foundation of our culture. The Nisqually Indian Tribe (the "Tribe" or "Applicant") is a federally recognized sovereign government. The Tribe is a successor-in-interest to the bands and tribes who were signatories to the 1854 Treaty of Medicine Creek. The Treaty of Medicine Creek guaranteed the Tribe the right to harvest salmon running and passing through its "usual and accustomed" fishing areas (U&A) at a level sufficient to support a moderate living. The Tribe's U&A includes South Puget Sound and the Nisqually watershed. We are a co-manager of fisheries resources with the State of Washington. The Tribe has dedicated innumerable resources to protecting and restoring endangered or threatened species in the ecosystem, including salmon and the Southern Resident Orca Whale that rely on them.

Native Nisqually River fall and spring Chinook were extirpated over half a century ago as a result of habitat degradation, hydropower development, and other anthropogenic activities. The reduction in salmon populations has directly impacted the Tribe's treaty rights. As salmon numbers decline, time on the water for the Tribe's treaty protected fishery also declines to protect the resource. Salmon recovery and the imminent actions we are taking today are in fact protecting and honoring treaties that were signed in 1854.

In 1999, Puget Sound Chinook salmon was listed as threatened under the Endangered Species Act (ESA). The National Marine Fisheries Service (NMFS) identified the Nisqually Chinook salmon population as needing to be at low risk for the Puget Sound Chinook salmon ESU to be considered viable and is considered the primary population for recovery south of the Snohomish River. At the time, NMFS concluded the Nisqually population to be among those that would have the best chance of recovery because of habitat conditions. This determination kicked off a decade's long effort focused on recolonizing the Nisqually River with Chinook and allowing them to locally adapt to the Nisqually environment.

Salmon biologists and geneticists from the National Oceanic and Atmospheric Administration, Washington Department of Fish and Wildlife, the Northwest Indian Fisheries Commission, and the Nisqually Indian Tribe developed a multi-phased recovery approach to reintroduce a unique Nisqually Chinook population. One of the key components of the plan is to operate a fish trap within the existing fish ladder at the Centralia Diversion Dam at river mile 26.2 of the Nisqually River. While the potential utility of the fish trap is far reaching for all the salmonid species in the Nisqually River, its operation is absolutely essential to the recovery of Nisqually Chinook. The fish trap will be used specifically to:

- Count all Chinook utilizing the high-quality spawning habitat upstream. Enumeration in the wild is nearly impossible due to the glacier origin of the Nisqually River.
- Remove stray hatchery Chinook in order to reduce competition on the spawning ground and eliminate the ability of hatchery strays to spawn with naturally produced Chinook in order to promote local adaptation of natural Chinook.
- Collect a small number of natural origin Chinook to supply brood stock for a small integrated hatchery program that will boost the recovery of the natural stock.
- Conduct monitoring crucial to reporting on the success of the program. This includes genetic parentage research to determine how many offspring Chinook are producing.

The successful implementation of the multi-agency produced Nisqually Stock Management Plan is critical to supporting Puget Sound Chinook recovery and the ecosystem benefits that flow from a naturally self-sustaining population. The plan depends on biologists being able to accurately count adult salmon returning to the spawning grounds and handle adult fish for monitoring and for brood stock. Due to the glacier origin of the Nisqually River, the only way to successfully count and handle Chinook in the river is through a fish trap. The fish ladder at the Centralia Diversion Dam is the best location for a trap because it is a resilient structure and already funnels the fish through the ladder. The trap will be built within much of the existing footprint of the Centralia Diversion Dam, which will minimize any environmental disturbance.

The Nisqually Indian Tribe urgently requests that the permitting process of the Centralia Hydro Dam Fish Trap Project be declared an emergency in order to meet the 2021 fish window. The Nisqually Indian Tribe believes this project fits the definition of emergency as provided under WAC 173-27-040(2)(d), as the project requires emergency construction to respond to the imminent threat to the environment and

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requires immediate action within a timeframe too short to meet standard Shoreline Substantial Development permitting courses. In addition, the proposed project must be undertaken within a time too short to allow full compliance with standard State Environmental Policy Act processing in order to avoid an imminent threat of serious environmental degradation as provided in WAC 197-11-880.¹ Imminent threat to the environment and imminent threat of serious environmental degradation in this case refers to the fish stocks of the Nisqually River and the declining populations, including Chinook salmon, requiring a quantifying aquaculture facility to enumerate and sample upstream migration of spawning salmonids.

The Nisqually Chinook population is in peril and the fish trap project is key to its recovery and restoration, which in turn supports Southern Resident Orca Whale, and most importantly, honors the Nisqually Indian Tribe's treaty rights, economy, culture, families, and way of life. An emergency must be declared.

If you have any further questions about the Nisqually Indian Tribe's request for an emergency declaration, please contact Chris Gourley (Applicant agent and point of contact) at 360-790-3118. We look forward to working with you on this project and your expeditious response to our urgent request.

Sincerely,



David Troutt, Natural Resources Director
troutt.david@nisqually-nsn.gov

¹ WAC 197-11-880 provides that: "Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures."

From: [Sharon Lumbantobing](#)
To: [Gourley, Christina L \(DFW\)](#)
Cc: [Joshua Cummings](#); [Brett Bures](#)
Subject: FW: Centralia Diversion Dam Fish Trap Application: Nisqually Indian Tribe's Statement
Date: Friday, June 25, 2021 11:56:00 AM

Hi Chris,

We received the email below from Maia Bellon. We still need to receive a formal request for the emergency declaration from you, as the Point of Contact for the applicant.

Best,
Sharon

Sharon Lumbantobing | Senior Planner
Thurston County Community Planning & Economic Development
2000 Lakeridge Dr SW, Bldg 1, Olympia, Washington 98502 [Map](#)
Main (360) 628-2756 | Fax (360) 754-2939 | TDD (800) 833-6388
sharon.lumbantobing@co.thurston.wa.us | www.thurstoncountybdc.com

This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Joshua Cummings <joshua.cummings@co.thurston.wa.us>
Sent: Friday, June 25, 2021 11:19 AM
To: Sharon Lumbantobing <sharon.lumbantobing@co.thurston.wa.us>
Cc: Brett Bures <brett.bures@co.thurston.wa.us>
Subject: Fwd: Centralia Diversion Dam Fish Trap Application: Nisqually Indian Tribe's Statement

For your records on this project.

Best,
Josh

Sent from my iPhone

Begin forwarded message:

From: Maia Bellon <mbellon@cascadialaw.com>
Date: June 16, 2021 at 10:09:23 AM PDT
To: christina.gourley@dfw.wa.gov
Cc: David Troutt <troutt.david@nisqually-nsn.gov>, Willie Frank <frank.willie@nisqually-nsn.gov>, joshua.cummings@co.thurston.wa.us, "perry.lund@ecy.wa.gov" <plun461@ecy.wa.gov>, ron.warren@dfw.wa.gov, "Oreiro, Tyson (ECY)" <tore461@ecy.wa.gov>, "Wolfman, Sonia A (ATG)" <sonia.wolfman@atg.wa.gov>, Travis Burns <burnst@co.thurston.wa.us>
Subject: Centralia Diversion Dam Fish Trap Application: Nisqually Indian Tribe's Statement

Hello Chris:

It was a pleasure meeting you yesterday. Thank you for all of your efforts to date working on this key project related to salmon and Orca recovery and the Nisqually Indian Tribe's treaty rights.

This email serves as a formal transmittal from the Nisqually Indian Tribe to the Washington Department Fish and Wildlife related to the Centralia Diversion Dam Fish Trap Project Application. This statement conveys the urgency and imminent nature of this critically important recovery and habitat project.

Feel free to let me know if you need anything else from the Nisqually Indian Tribe in this regard.

In Gratitude,

--Maia Bellon, Counsel to the Nisqually Indian Tribe

Statement of the Nisqually Indian Tribe on the Centralia Diversion Dam Fish Trap Project

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The Nisqually Indian Tribe urgently requests that the permitting process of the Centralia Diversion Dam Fish Trap Project be expedited in order to meet the 2021 fish window. The Nisqually Chinook population is in peril and the fish trap project is key to its recovery and restoration, which in turn supports Southern Resident Orca Whale, and most importantly, honors the Nisqually Indian Tribe's treaty rights, economy, culture, families, and way of life.

Maia D. Bellon

Cascadia Law Group

mbellon@cascadialaw.com | (360) 556-8809

606 Columbia St. NW, Suite 212 Olympia, Washington 98501 cascadialaw.com

This e-mail message may contain confidential and privileged information and is sent for the sole use of the intended recipient. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.