



JAMESTOWN S'KLALLAM TRIBE

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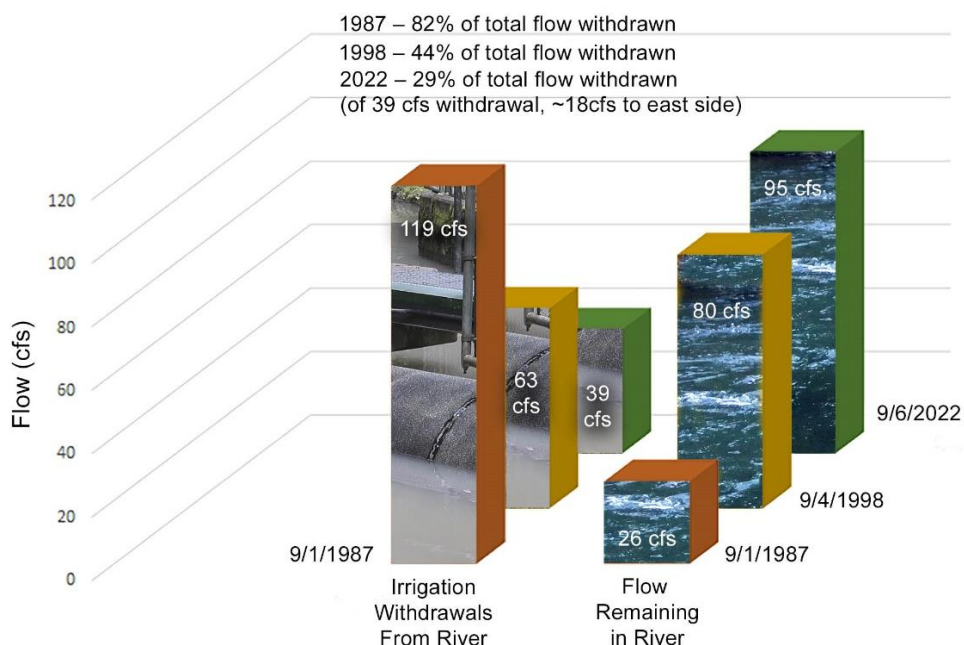
RE: Comments on Dungeness Off-Channel Reservoir (OCR) Project and 30% Design

Dear Carol:

Thank you for inviting Jamestown S'Klallam Tribe (JST) Natural Resources staff to the March 13, 2023 Dungeness OCR Working Group meeting. It was helpful to understand Clallam County's and Anchor QEA's perspectives on the OCR project's status. We encourage more frequent Working Group meetings in the future, especially those aimed at strategizing and working through the concerns that have already been communicated.

As you know, Jamestown has long championed water conservation measures to improve streamflow of the Dungeness River. Jamestown deeply appreciates the Sequim-Dungeness Water User Associations' voluntary conservation efforts; Washington State's water rights leasing; and the successful partnerships implementing these water resource management activities. As a result of these efforts to reduce withdrawals, the balance of water retained instream has dramatically shifted (see figure below).

Comparison of Late-Summer Irrigation Withdrawals
from Dungeness River, 1987, 1998, 2022



Dungeness salmon stocks appear to be responding to the improved flow conditions and other habitat restoration efforts, with Chinook adult escapement showing stability over several years and adult returns approaching the stock's recovery goal. *Note that, given these improvements, an examination of the frequency that Dungeness River achieves the 105 cfs target flow (as described in the Rule) may now be warranted.*

Beginning with the Dungeness-Quilcene plan (1994), water storage also emerged as a concept to explore via aquifer recharge, as well as reservoir(s). During the mid-2000s, Clallam County led the Dungeness Aquifer Storage and Recovery Feasibility Study to explore "artificial recharge" (AR) for augmenting groundwater levels impacted by exempt wells. The effort included an AR pilot project to test diversion of 2-6 cfs for this purpose. That temporary diversion was ultimately approved for 10 cfs, with multiple conditions identified as *fundamental constraints for AR diversions* by the Aquifer Recharge Technical Advisory Group (TAG) habitat subgroup (Short-term permit approval for S2-30390, June, 2007). Note that JST advocated for increased instream flow of 575 cfs from April – July (JST letter to ECY May, 2007 re: permit S2-30390).

The Final Environmental Impact Statement (FEIS) of the WUA Water Conservation Plan (2003) presents multiple re-regulation reservoirs within the irrigation delivery system for water conservation (Table 3.3.1 and Figure 3.3.1 of FEIS). The Comprehensive Irrigation District Management Plan (2006) incorporated a proposal to site a reservoir along Atterberry Road, to offset up to 8 cfs from mid-August to mid-September, with an estimated cost of \$3.4 million. As we know, the Atterberry project was not built, and Clallam County is now pursuing purchase of 396 acres from DNR for the purposes of an off-channel reservoir. The proposed facility on the DNR property has reached 30% design.

We would like to reiterate that the Tribe was not involved in selecting the 30% design's preferred alternative. We understand from Clallam County that their selection was driven by considerations primarily related to specific one-time construction costs. We appreciate Commissioner Ozias' expressed desire to understand the concerns of those present at the meeting, and his subsequent request for feedback regarding readiness to proceed beyond the current 30% design. **In response to the Commissioner's request, and for the record, JST is not in support of the current 30% design, nor continuing to 60%, unless the following can be addressed:**

- **Assurance that the Dungeness River and side channel shall not be stabilized.**
Currently, the 30% design includes "channel upgrades" and "side channel stabilization," both associated with the Highland Irrigation District intake facility. During design review meetings with JST staff (Jan 17, 2023; Jan 25, 2023 and Feb 3, 2023), Anchor's design team said that channel modification design details were still to be specified. During the March 13 working group meeting Q/A, the design team said that channel modifications 'were a mistake' and that they, instead, intended to 'maybe put in a logjam'. This important element needs clarity and mutual understanding that the Dungeness River and side channel habitat will not be modified. This understanding should carry forward in time so that the river is not manipulated or modified to maintain withdrawal capacity. It is important to note that, while the River is presently showing a proclivity toward the left bank, channel meander migration is a functional river process that JST and partners have promoted and wish to maintain. Moreover, habitat degradation will result from what the design team labels "upgrades."
- **Clear and shared understanding of the hydrologic balance**
The water-balance assessment which is foundational to the current OCR design shows that much of the reservoir filling will occur in the May-June time-period. Climate change modeling reveals that

the historic hydrograph is not an accurate tool for predicting future flow regimes. It is very likely that the available water (above minimum instream flows, and below Maximum Allocation) (Chapter 173-518 WAC) indicated in Washington Water Trust's reservoir fill analysis for May-June will not materialize. JST is conducting further analyses to incorporate climate change impacts to water availability above instream flows and within Maximum Allocation limits. Clallam County has indicated a strong interest in this information and the Tribe welcomes this interest, and highlights that it is essential before any continued design work.

- **Assurance that filling the reservoir is subject to instream flows (Chapter 173-518 WAC)**
JST seeks assurance that the County, City of Sequim, Sequim-Dungeness Water Users Association, or any other group will not ask for, nor will Washington Department of Ecology allow, any filling of the reservoir that contravenes the Dungeness Water Rule as adopted (January 2, 2013). Correspondingly, all parties should agree that an *overriding consideration of public interest* shall not be invoked for the filling of the reservoir.
- **Assurance that ALL water withdrawals are subject to Maximum Allocation Limits (WAC 173-518-090)**
JST seeks assurance that ALL water diversions from the Dungeness River from November 16 – July 14, including the mitigation aquifer recharge efforts, are *cumulatively* subject to the Maximum Allocation limits per the Dungeness Water Rule (WAC 173-518-090 Future maximum allocation from the Dungeness River mainstem: *To protect the frequency and duration of these higher flows, this chapter limits the total amount of water available for withdrawal from the Dungeness River mainstem by setting maximum allocations from November 16 - July 14 [and no allocations are allowed July 15-November 15]. Cumulative allocations must not exceed the numbers listed in Table VI, and must not impair instream flows.*). Presently, Washington State annually authorizes uses under this allocation administered by the Dungeness Water Exchange, for mitigation purposes. Per the Tribe's understanding, the mitigation under the Exchange would need to be extinguished if the Maximum Allocation withdrawals are dedicated to filling the reservoir. Further discussion is warranted on how the aquifer recharge mitigation would be maintained if 30% design pursued.

Relatedly, there needs to be clarification regarding the stated 31 cfs withdrawal, with 6 cfs proposed as return-flow (albeit more than two miles downstream). Adherence to the Maximum Allocation limits would require that the 31 cfs diversion not occur outside of the May 1 – July 14 timeframe, yet this is not explicitly stated in the current design descriptions. Will these assurances and clarifications be included in water right agreements?

- **Clear understanding of risks/mitigation to ESA-listed salmonids from specific OCR design elements**
The completed SEPA documents have not yet been shared with JST. The preliminary environmental impacts described in the Preliminary Basis of Design Report (March 2022) do not explicitly discuss fish impacts, yet we know that the sediment loads associated with the proposed operations can create lethal conditions for fish fry. Identified mitigation measures to prevent detrimental impacts to fish need to be clearly stated, and mitigation for unintended but unavoidable impacts must be incorporated into the overall project and design. The Comprehensive Irrigation District Management Plan (2006) identified a fish improvement measure for the Highland Intake to reduce existing velocity jet impacts. However, that needed fish improvement measure (HCM4) was not incorporated into the current 30% design (see HCM4 – recommended measure to modify headgate).

Dungeness salmon are a S’Klallam treaty resource and integral to tribal identity. JST’s commitment to cooperatively managing Dungeness water resources has been consistent, including decades of participation in collaborative water resources planning¹ and equally long-term support and involvement in water conservation, flow restoration, and floodplain restoration projects. We continue to be eager to have a project design that accomplishes water conservation goals for fish, farmers, and the community at large. However, the scale that the County has selected for the OCR requires modifications that were initially unanticipated (*see Local Leaders Water Management Workgroup recommendation for up to 10 cfs availability for storage and aquifer recharge*). **Therefore, at this time, JST is not ready to proceed with the project at this scale until there is better understanding of water availability considering future flow regimes; proposed mitigation for salmon impacts; and certainty that Dungeness Water Rule (Chapter 173-518 WAC) language and instream flows, as defined now, will be adhered to regardless of future out-of-river water demands.**

Sincerely,

Hansi Hals
Natural Resources Director

Cc: Clallam County Commissioner Mark Ozias
OCR Workgroup

¹ E.g., DQ Water Resources Management Plan (1994), Dungeness Flood Hazard Management Plan (2010), Dungeness Watershed Plan (2005), Dungeness Water Resources Management Rule (2013), Dungeness Water Resources Planning Recommendations Summary (2022), etc.

References:

Chitwood, Scott. Jamestown S'Klallam Tribe Natural Resources Director. Letter to WA ECY, re: permit S2-30390 application. May 16, 2007.

Comprehensive Irrigation District Management Plan. 2006. HDR Engineering, Inc., Olympia, WA. Prepared for the Dungeness River Agricultural Water Users Association.

Dungeness Off-Channel Reservoir Project, Preliminary Basis of Design Report. March 2022. Anchor QEA, Seattle WA. Prepared for Clallam County.

Dungeness-Quilcene Water Resources Management Plan. 1994. Regional Planning Group, Jamestown S'Klallam Tribe Coordinating Entity.

Dungeness Water Rule, Washington Administrative Code (WAC) Chapter 173-518

Final EIS for Dungeness River WUA Comprehensive Water Conservation Management Plan. November 2003. Foster Wheeler, Inc. Prepared for WA Department of Ecology.

Local Leaders Water Management Work Group (LLWG). March 2012. Summary Report and Recommendations on Water Management in the Dungeness Watershed.

Loranger, Thomas. ECY Water Resources Section Manager. June 1, 2007, Letter to Clallam Co, re: permit S2-30390 authorization.