



Puyallup Tribe of Indians



July 13, 2010

Kelly Susewind, P.E., P.G.
Department of Ecology
Water Quality Program Manager
P.O. Box 47600
Olympia, Washington 98504-7600

RE: Preliminary Draft Reclaimed Wastewater Rule (Chapter 173-219 WAC)

Thank you for the invitation and opportunity to meet with you to discuss the Preliminary Draft Reclaimed Wastewater Rule (Chapter 173-219 WAC). As you know, the Puyallup Tribe of Indians has provided substantial input to you regarding our concerns about the use of reclaimed wastewater in the Puyallup River basin. Specifically, we are concerned about the unintended consequences that wastewater projects may have on the Tribe's ability to regulate water quality, protect treaty fisheries, and protect the health and welfare of tribal families. For the administrative record, attached are the Tribe's November 4, 2008 letter to Governor Gregoire, November 2008 position statement on the use of reclaimed wastewater, and November 17, 2009 regarding our comments on how the state should address potential impairment of water rights from reclaimed wastewater projects. The items and concerns addressed or highlighted in our past letters continue to be concerns for the Tribe.

To fully understand our concerns, it is of paramount importance to understand that the Puyallup Reservation is situated at the end of a highly urbanized watershed, where surface waters are closed to further appropriation or flow limited. This fact is unique in Indian Country, placing the Tribe at risk for a myriad of threats to its membership, most of which continue to live on or near the reservation, as well as its resources. At issue is the promulgation of a rule to generate and use reclaimed wastewater that will result in a diminishment of flows and levels necessary to inundate millions of dollars of side-channel restoration projects in the lower portion of the Puyallup River, new pollutant loads in reaches upstream where flows have been substantially increased and where there are no point sources, interference with the tribe's reserved water right in allowing a reclaimed wastewater project to violate instream flows that have been in effect in the lower Puyallup River for three decades, and interference with the Tribe's ability to regulate water quality in the lower 7 miles of the Puyallup River within the exterior boundaries of the Puyallup Reservation.

As we discussed in our letters on this matter, the Puyallup Tribe has senior water rights to both the quantity and quality of water needed to support the tribe's fisheries in the Puyallup River, and to meet the purposes of the tribal homeland. The "[minimum] flows established by rule" in WRIA 10 do provide some protection for fish habitat and water quality, but they only set *minimum* flows and do not define the full nature and extent of the tribe's water and fishing rights. Minimum flows, especially those based on historic hydrologic averages (50% exceedance flows), may not prevent water quality degradation and will not lead to the recovery of the system's fishery production potential. Furthermore, it is

unacceptable to us for Ecology to use overriding considerations of public interest to override the Tribe's senior reserved water rights through compromise to instream flows and elect not to assert the state's minimum instream flow right in favor of a reclaimed wastewater project.

Specifically, we have the following comments on the preliminary draft rule:

Section 173-219-090. As we expressed in our letter to Ken Slattery on November 17, 2009, a definition of water rights impairment must be in either rule or statute, as opposed to guidance. Placing the definition of water rights impairment into statute adds certainty for both the applicant and existing water rights holders since issuance of a reclaimed wastewater permit may result in a loss of water to the applicable water system, impact stream flows, and impact existing water rights holders, particularly senior water rights holders like the Puyallup Tribe, who have rights to both the quantity and quality of water needed to support the Puyallup Tribe's treaty fisheries in the Puyallup River, and to meet the purposes of the tribal homeland. We fully support the inclusion of water quality considerations in the definition of impairment, as applying water to additional consumptive uses will reduce assimilative capacities needed to protect the fishery and comply with Section 303 of the Clean Water Act.

Section 173-219-110. We are opposed to the use of reclaimed water as mitigation for new appropriations or changes to existing rights. The use of reclaimed wastewater to mitigate for new rights or changes in existing rights could cause additional harm in a system like the Puyallup, where chemical and thermal loading already threaten endangered fish stocks and public health. Additionally, there is a presumption that replacing river water with reclaimed wastewater is acceptable if it meets reclaimed wastewater standards. Even in the instance where wastewater is reclaimed to the Class A standard, the dissolved fractions of pollutants that are toxic to fish at low levels discharged to surface waters is a major concern. Furthermore, the prospect of introducing endocrine disruptors and personal care product pollutants into reaches where currently are no point source wastewater discharges is contrary to the multitude of efforts to restore water quality, habitat and fish runs in the Puyallup River watershed. Instead, it makes sense to us to require publically owned treatment plants to go to tertiary treatment. This not only improves the water quality of existing plant discharges, but flows returned to surface waters that are *already* part of the existing water budget are preserved.

The chemical signature of the lower Puyallup is unique in that it is a tidally influenced, salt wedge estuary. The calcium carbonate content of the water in the lower river is much lower than discharges of wastewater facilities. All things equal, pollutant loads discharged to soft waters can cause more harm to the fishery and increase risks to tribal families. Likewise, certain reaches in waters tributary to the Puyallup have a low buffering capacity to accommodate pollutants, which poses yet another unnecessary threat to adult fish holding in the river prior to spawning or juvenile fish in their outmigration to the estuary and salt water.

The use of reclaimed wastewater to mitigate new water rights or a change in existing rights should rightfully be *solely* addressed in the statutory water rights review process, and not in the reclaimed wastewater rule. The subject of the use of reclaimed wastewater for mitigation of new water rights or changes in existing rights is beyond the scope of the preliminary draft rule and was not addressed in the advisory process to develop this rule. Although generators may have an exclusive right to the use of reclaimed wastewater, using reclaimed wastewater for mitigation or flow augmentation should be subject to the procedural and substantive safeguards afforded affected parties in the water rights process.

173-219-105. During the initial scoping phase of the project, notification to affected tribes should be required. Additionally, the minimum requirements of the impairment evaluation should be included in the rule including, but not limited to, project impacts to the physical, biologic, and chemical integrity to the receiving water.

If you have any questions about the concerns raised in this letter, please call Bill Sullivan (253) 573-7850 or Char Naylor (253) 841-0382. Thank you for consideration of these comments in the development and promulgation of the reclaimed wastewater rule.

Sincerely,

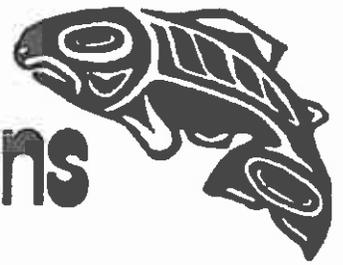
Handwritten signature of Bill Sullivan in black ink.

Bill Sullivan, Director
Natural Resources

cc: Kathleen Emmett, Municipal Unit Supervisor
Don Davidson, Water Resources Policy Specialist
Jocelyn Winz, Water Quality Outreach Specialist
Lynn Coleman, Water Efficiency Engineer



Puyallup Tribe of Indians



November 17, 2009

Kenneth Slattery, Manager
Water Resources Program
P.O. Box 47600
Olympia, Washington 98504-7600

Dear Mr. Slattery:

Thank you for the request for tribal input regarding how the state should address potential impairment of water rights from reclaimed wastewater projects. In your October 19, 2009 letter to us, you requested input on key statutory, rule and guidance recommendations Ecology's staff intend to provide to the legislature by November 30th. We offer the following general comments on this matter as well as specific responses to your recommendations.

In November 2008, the Tribe wrote a letter to Governor Gregoire, requesting veto of legislation regarding the use of reclaimed wastewater due to the unintended consequences that reclaimed wastewater projects may have on the Puyallup Tribe's ability to regulate water quality, protect treaty fisheries, and protect the health and welfare of tribal families. Appended to that letter, we attached our position statement regarding the use of reclaimed wastewater as we believed then, and we continue to believe today, that articulating our position in writing would be the best way to protect the Puyallup Tribe's natural resources and help to ensure consistency in our co-management of the fishery and co-regulation of water quality in the Puyallup River basin. Attached to this letter, are both our November 2008 letter to Governor Gregoire and our position statement on the use of reclaimed wastewater. Additionally, we request that our November 2008 position statement be appended to Ecology's report to the legislature Water Rights Impairment Standards for reclaimed Wastewater: Stakeholder Views and ecology recommendations (November 2009).

As we articulated in our November 2008 position statement, the Puyallup Tribe supports wastewater reclamation as an alternative to taking water from flow-limited streams, **only if reclamation does not cause reduced instream flows in the receiving waters**. The waters for which Ecology may grant processors exclusive rights are already applied to senior instream uses. Allowing users to apply wastewater to additional, consumptive uses will reduce instream flows necessary to support the Puyallup Tribe's anadromous

fisheries, reduces the assimilative capacity for waters to accommodate pollutants, increases the risk of harm to listed fish species under the Endangered Species Act, and reduces the quantity of water available on the Puyallup Reservation for habitat restoration, fisheries enhancement, domestic use, and economic development.

Allowing users to apply wastewater to additional, consumptive uses will inevitably interfere with the Puyallup Tribes reserved water right. As we stated in our November 2008 position statement, minimum flows established by rule in WRIA 10 do not define the full nature and extent of the Puyallup Tribe's water and fishing rights. The Puyallup Tribe has senior water rights for both the quantity and quality of water needed to support the Puyallup Tribe's fisheries in the Puyallup River, and to meet the purposes of the tribal homeland. It is unacceptable to us for Ecology to use overriding considerations of public interest to override the Tribe's senior reserved rights through compromise to instream flows and elect not to assert the State's *minimum* instream flow right in favor of a reclaimed wastewater project. Instream flows in WRIA 10 were adopted to protect fisheries and water quality, thus that water is currently being applied to beneficial uses. That water is not available for application to new uses, notwithstanding any public interest finding.

Regarding Ecology's specific statutory, rule, and guidance recommendations to the legislature, we offer the following comments in addition to those noted above.

Statutory amendments

1. Amend the water rights impairment statutory language to address impairment of water rights both upstream and downstream of a wastewater discharge point.

We agree.

2. Amend the statute to establish that water rights that could be considered to be impaired are those existing at the time Ecology completes an assessment of the potential for water right impairment... This is intended to provide utilities with some level of water right review and certainty before the utility spends significant funds on construction of a reclaimed wastewater facility.

It is our view that reclaimed wastewater projects should not be exempt from the state's statutory process to obtain a water right. Reclaimed wastewater is a new, consumptive use of water that a facility has exclusive rights to, therefore an applicant should be required to submit an application for a water right. Under the water rights process, the utilities would therefore be provided certainty early on prior to expending public funds on a reclaimed wastewater facility. "Existing" water rights that would be considered impaired would then be those that exist at the time that Ecology makes the permitting decision.

Rule Amendments

1. Put a definition of water rights impairment in the reclaimed water rule.

A definition of water rights impairment must be in either the rule or statute, as opposed to mere guidance, because it directly relates to Ecology's decision on a right or privilege granted to the applicant and a decision that will directly impact the rights and privileges of existing water rights holders. The Tribe firmly believes the appropriate place for the definition is in statute to provide added certainty to both applicants and existing rights holders since any issuance of a reclaimed water permit will result in loss of water returned to the applicable water system, impact minimum flows, and impact existing water rights holders both upstream and downstream. While at minimum the definition should be in rule, greater certainty of rights for applicants and existing rights holders will be provided by statutory language appropriately formed and deliberated on by elected Legislators.

2. Require an impairment review to be completed for each reclaimed water facility.

As we discussed under 2 above, if reclaimed wastewater projects were subject to the state's statutory water rights process, an impairment review would be done as part of the application process. Regarding the scope of the review, each review should include those procedural and substantive steps we outlined in our November 2008 position statement, including early consultation with fisheries agencies and Tribes evaluating the risk of adverse effects of reclaimed wastewater projects on fisheries and their habitat, including ESA listed species, impacts on water quality, and impacts on the Tribe's reserved water right and treaty rights. In addition, compliance with the Puyallup Tribe's water quality standards will need to be addressed early in the process.

3. Require Ecology to review and make a determination on the potential for impairment.

See #2 under Statutory Amendments and Rule Amendments above.

4. Require Ecology to notify Puyallup Tribes when a potential reclaimed water facility may affect a Puyallup Tribe.

It is our preference that early notification by Ecology, if not the applicant, occurs prior to the conceptual design stage of the project. As the conceptual designing process can be time-consuming and lengthy, technical information from tribes early on regarding water quality and fisheries is critical. We agree the requirement for Ecology to notify tribes should be incorporated into rule.

Guidance

1. Address the specifics of decision-making on situations where a reclaimed facility would impair an instream flow in guidance rather than rule. Ecology has allowed decreases in instream flow water rights through the use of overriding consideration of the public interest clause in RCW 90.54.020...Rather than address this issue just for reclaimed wastewater, Ecology staff have recommended that it be addressed more holistically and are currently preparing an issue paper on the subject.

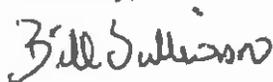
The importance of how Ecology makes decisions with regard to the diminishment of instream flows using the OCPI provision can not be underestimated. Furthermore, where a decision by an agency impacts a right or privilege, the details of that decisionmaking process and the criteria utilized, must be in rule, rather than guidance. In this instance, the impairment decision impacts both the applicants rights and privileges and also directly impacts those rights of senior water right holders. Accordingly, Ecology's decision-making criteria must be subject to rule and not guidance.

2. A number of other issues as part of the potential for water rights impairment will also be addressed in guidance. The document will be a living document with updates as the reclaimed water program develops and matures.

It is not clear what issues referred to above regarding impairment will be addressed in guidance. It seems this is a premature statement to make given the infancy of the reclaimed wastewater program. And, as stated above, if any of the other issues directly relate to water rights, those items must be contained in rule rather than guidance.

Thank you for your review and consideration of our comments with regard to this matter.

Sincerely,



Bill Sullivan, Director
Natural Resources

cc: Tribal Council

**PUYALLUP TRIBE OF INDIANS
POSITION STATEMENT ON THE USE OF RECLAIMED WASTEWATER
NOVEMBER 2008**

Introduction

The Puyallup Tribe supports wastewater reclamation as an alternative to taking water from flow-limited stream systems, but only if reclamation does not cause reduced instream flows in the receiving waters. The State should provide incentives that restore base flows, rather than reward polluters by giving them the option to consume more water. Dischargers should reclaim wastewater in existing treatment plants, applying Best Available Technology, and discharge that reclaimed water back to the stream under the National Pollutant Discharge Elimination System.

Full Protection for the Tribe's Interests

Although protection of instream flows is listed as one of the State's purposes in encouraging wastewater reclamation, the State appears ready to implement its Water Reclamation and Reuse program in ways which may impair the "chemical, physical, and biological integrity" of Puyallup River System waters. As presently drafted, the State's program allows the Department of Ecology to grant municipal, industrial, and agricultural processors "exclusive rights" to water which is currently being applied to senior instream uses.

The Clean Water Act requires states to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Washington's "Water Reclamation and Reuse" program will interfere with that goal to the extent that the State permits municipal, industrial and agricultural water users to consume water that would otherwise be returned to receiving waters. Allowing these users to consume *more* water, rather than discharging wastewater that meets water quality standards, will impair the receiving waters' chemical, physical, and biological integrity by reducing instream flows. Because State and Federal law already requires dischargers to meet water quality standards at the edge of mixing zones, removing more water from flow-limited stream systems will further compromise a system's physical and biological integrity, not restore it. Dischargers are already required to "reclaim" wastewater before they return it to public waters. They should not be rewarded for doing so by being allowed to further reduce streamflows.

Allowing upstream users to apply wastewater to additional uses, rather than treating and discharging water back into the Puyallup River consistent with the National Pollutant Discharge Elimination System will:

- Reduce the instream flows needed to support the migration, spawning and rearing of the Tribe's anadromous fisheries, thus reducing treaty harvests secured by the Treaty of Medicine Creek and violating Clean Water Act Section 303.

- Reduce the assimilative capacity of waters on and upstream from the Puyallup Reservation and thus reduce the water quality needed to support fisheries and comply with Section 303.
- Increase risk of harm to fish stocks listed as “threatened” under the Endangered Species Act.
- Reduce the quantity of water available on the Puyallup Reservation for habitat restoration, fisheries enhancement, domestic use, and economic development.

The Washington Water Code’s Reclaimed Water Use chapter only requires that reclaimed water facilities “not impair any existing water right downstream from any freshwater discharge point,” but nothing in Chapter 90.46 *prohibits* the Department of Ecology from reviewing the water quality and other “public interest” effects of a reclaimed water use permit. Because wastewater applied to new consumptive uses would otherwise be returned to stream systems, permits for such uses should be denied unless the State has determined that consumption of additional water will not lower water quality or impair fish habitat throughout the stream system.

Ecology’s current approach to impairment, “Based on preliminary analysis, Ecology determines if reclaimed water use will reduce streamflow when flow is at or below levels established by rule,” does not provide the necessary protection. The Tribe has senior water rights to both the water quantity *and quality* needed to support the Tribe’s treaty fisheries in the Puyallup River, and to meet the purposes of the Tribal Homeland. The “[minimum] flows established by rule” in WRIA 10 do provide some protection for fish habitat and water quality, but they only set *minimum* flows and do not define the full nature and extent of the Tribe’s water and fishing rights. Minimum flows, especially those based on historic hydrologic averages (50% exceedance flows), may not prevent water quality degradation and will not realize the system’s fisheries production potential.

The State has also suggested that reclaimed wastewater may be used to augment instream flows. This could cause additional harm in a system like the Puyallup, where chemical and thermal loading already threaten endangered fish stocks and public health. For this reason, wastewater reclamation and reuse should only be considered when flows are at least equivalent –in quantity, quality, and point of discharge– to the discharges achievable under the existing NPDES permit using Best Available Technology. If the discharger has the ability to “polish” water using advanced treatment technologies, those technologies should be used to clean up the discharge at the end of the pipe, not provide a public-resources windfall to the polluter.

The Tribe has a second concern with equating the Tribe’s rights to the minimum flows the State has set by rule in the Puyallup System. Ecology’s *Water Right Impairment Analysis Guidance for Reclaimed Water Facilities* contains this statement:

It is also within the Ecology Director’s authority to determine that a project constitutes an overriding consideration of the public interest (OCPI) and elect to not assert the State’s instream flow right in favor of the proposed project.

It will not be acceptable for Ecology to use OCPI to compromise instream flows. Doing so would be a direct interference with the Tribe's treaty fishing and water rights. Because the State's Water Resource Inventory Area (WRIA) 10 instream flows were adopted to protect fisheries and water quality, the water is currently being applied to beneficial uses. It is not *available* for application to new uses, notwithstanding any "public interest" finding. The Tribe is *already using* the water that the WRIA 10 rule protects and is entitled to rely on the rule as a definition of our *minimum* rights. Before issuing a Reclaimed Water Use Permit, Ecology must find, with the Tribe's concurrence, that water is available, that a change of use will not increase the amount of water consumed, and either that there is no impairment or that the Tribe has agreed to mitigation.

Compliance with the Clean Water Act

The lower Puyallup River is impaired for instream flow and water-quality-limited for mercury and pathogens. Temperature, dissolved oxygen, copper, and lead are "pollutants of concern" (Ecology's 2004 303(d) list). The effects of thermal and chemical loading are exacerbated by low instream flows. The Tribe's existing Antidegradation Policy, adopted pursuant to the Clean Water Act, provides in pertinent part:

- (1) Existing beneficial uses shall be maintained and protected and no further degradation which would interfere with or become injurious to existing beneficial uses shall be allowed.

- (3) Whenever waters are of a higher quality than the criteria assigned for said waters, the existing water quality shall be protected and waste and pollution of said waters which will reduce the existing quality shall not be allowed to enter such waters, except in those instances where:
 - (a) It is clear, after satisfactory public participation and intergovernmental coordination, that overriding considerations of the public interest will be served;

 - (c) When the lowering of water quality in high quality waters is authorized, the lower quality shall still be of high enough quality to fully support all existing beneficial uses.

New consumptive water uses upstream from the Puyallup Reservation may, during critical periods, "reduce the existing quality" and "become injurious to existing beneficial uses." Treatment technologies exist to remove pollutants, including toxic chemicals from upstream municipal, industrial, and agricultural discharges *without reducing instream flows*. The expense involved in implementing those technologies –in paying to clean up wastewater, is a "cost of doing business" that should be borne by the discharger.

EPA's antidegradation rule, 40 CFR 131.12 (a) (2), limits those circumstances in which a state may lower water quality in the "public interest" (*emphasis supplied*):

- "[A]llowing lower water quality is necessary to accommodate important economic or social development *in the area in which the waters are located.*" "Overriding interests" upstream from the Puyallup Reservation, a downstream "state," will not justify a lowering of water quality on the Reservation.
- Both the State and the Tribe are required to "assure water quality adequate to protect existing uses fully." The State's OCPI process assumes that existing uses will be overridden in order to accommodate other "interests."

Procedure

Ecology's "Impairment Review – Instream flows" flow chart raises a number of concerns:

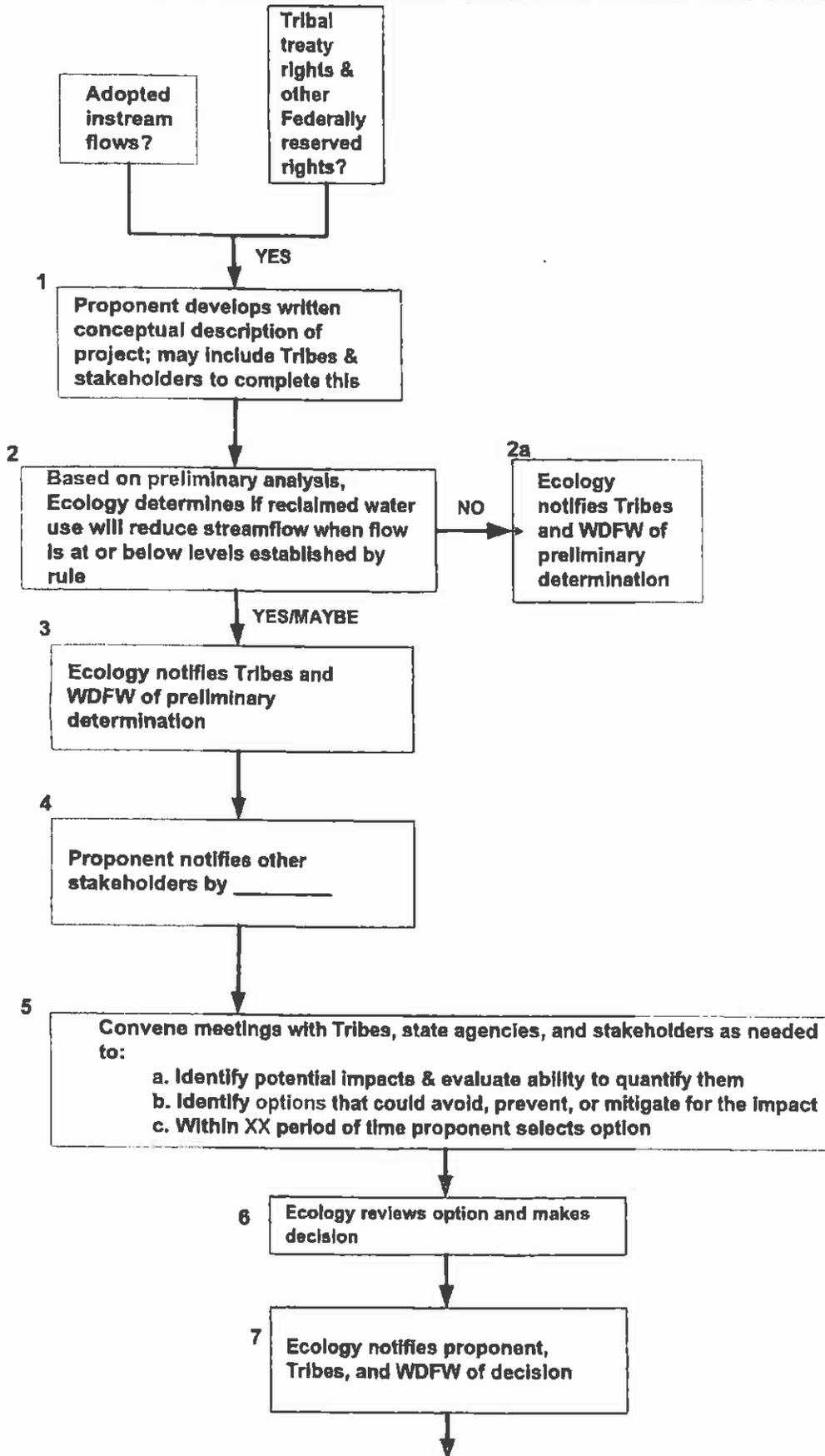
- The initial screening, before Step 1, should include "Risk of Water Quality Impairment" and "Risk to Fisheries and Habitat," should be initiated by Ecology, and should be carried out through government-to-government collaboration between the Tribe, the state and federal fisheries agencies, EPA, and Ecology.
- Step 2, "Based on preliminary analysis, Ecology determines if reclaimed water use will reduce streamflow when flow is at or below levels established by rule," does not provide adequate protection for fisheries habitat. "Levels set by rule" are based on hydrology and do not represent the flow regimes needed to fully protect and restore anadromous fisheries.
- A new step should be inserted in the chart: Tribal, State and Federal fisheries agencies carry out a full inquiry into risk of adverse effects on fisheries and their habitat, including listed species.
- Step 5 assumes, wrongly, that scientific investigations can best be accomplished in "stakeholder" meetings. The process of identifying risks, impacts, and mitigation alternatives should be a collaborative and transparent agency process in which issues are scoped, investigatory methods and data quality standards are agreed upon, benchmarks are negotiated, studies are executed, and the results are fully disclosed and evaluated. Ecology should engage the other agencies-with-expertise, not attempt to mediate between its own constituencies and tribal governments.
- Step 6 should provide for concurrence by the Tribe. If the decision directly affects the Tribe's treaty fisheries or water quality, the State should require consensus by the government that manages the fisheries and water quality. Ecology, which represents the State, should not set itself up as the final arbiter.
- Step 8 should state that "bucket for bucket" mitigation will only be considered

in an alternatives analysis that includes, as the preferred alternative, using all available wastewater-polishing technologies to better-comply with the Clean Water Act at the existing discharge point.

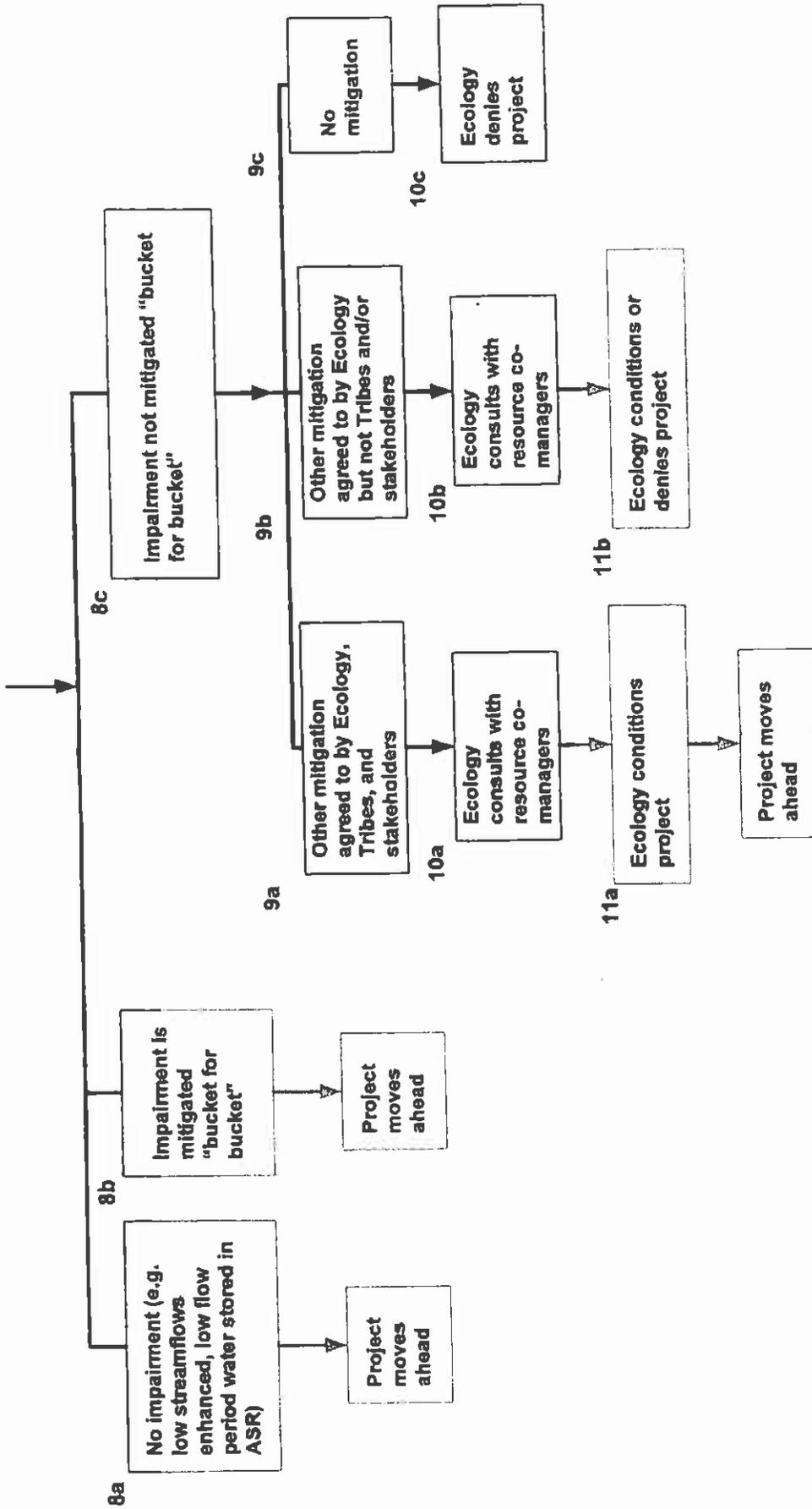
- In addition, the flow chart must address water quality impairment and spell out the NPDES and government-to-government processes required by the Clean Water Act:
 - Diversion of wastewater to reclamation and reuse facilities will require modification, revocation and reissuance, or termination of an NPDES discharge permit under Clean Water Act Section 402 and 40 CFR Part 122, Subpart D.
 - NPDES compliance will in turn require compliance with Clean Water Act Subsection 401 (a) (2) and 40 CFR 122.4, including hearings, assessments, and decisions which are not addressed in the existing flow chart.

Under the statute and regulations, the NPDES action cannot occur if it will result in a violation of the Tribe's Water Quality Standards. The Tribe is a "downstream state" and changes in upstream NPDES permits will trigger Section 401 and its implementing regulations.

Impairment Review – Instream flows

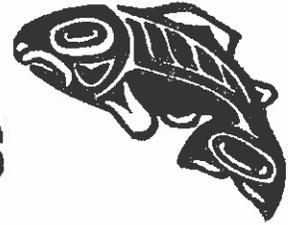


Impairment Review - Instream flows (cont.)





Puyallup Tribe of Indians



November 4, 2008

Governor Christine Gregoire
Office of the Governor
P.O. Box 40002
Olympia, Washington 98504-0002

RECEIVED

NOV 05 2008

Water Resources Program
Department of Ecology

Re: Puyallup Tribe of Indian's Position Statement on the Use of Reclaimed Wastewater

Dear Governor Gregoire:

In May 2007, the Puyallup Tribe of Indians' respectfully requested your veto of Engrossed Second Substitute Senate Bill 6117 regarding the use of reclaimed wastewater, due to the unintended consequences that reclaimed wastewater projects may have on the Tribe's ability to regulate water quality, protect treaty fisheries, and protect the health and welfare of tribal families. This letter is a follow-up to our May 2007 letter to you regarding the Tribe's position on the use of reclaimed wastewater. In the spirit of cooperation and governmental coordination, we have participated in the Department of Ecology's Reclaimed Water and Water Rights Advisory Committee for some time. To that end, we have come to the conclusion that providing a statement on our views of reclaimed wastewater would better serve to protect the Tribe's natural resources and help to ensure consistency in our co-management of the fishery and co-regulation of water quality in the Puyallup River basin.

The Tribe supports wastewater reclamation as an alternative to taking water from flow-limited streams, *but* only if reclamation does not cause reduced instream flows in the receiving water. Because we are situated at the mouth of one of the most urbanized watersheds in Washington State with most of the basin's municipal and industrial users upstream, the prospect of transferring the consequences of the use of reclaimed wastewater to us is unacceptable. Allowing wastewater users to apply wastewater to additional uses and consume *more* water, rather than treating and discharging back into the Puyallup River consistent with the National Pollutant Discharge Elimination System will reduce instream flows necessary to support all freshwater life stages of the Tribe's anadromous fisheries, impact water quality and pose additional risk to the health of the tribal membership by reducing assimilative capacities of pollutants, including toxics in the Reservation reach of the Puyallup River, increase risk of harm to ESA-listed fish stocks, and reduce the quantity of water available on the Puyallup Reservation for habitat restoration and economic development.

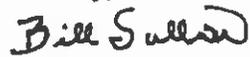
Governor Christine Gregoire

November 4, 2008

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Attached for your review is the Tribe's detailed position on the use of reclaimed wastewater in the Puyallup River watershed. We welcome the opportunity to meet with you and/or your staff to discuss this matter further. Thank you for your time and consideration of this matter. I can be reached at (253) 573-7850.

Sincerely,



Bill Sullivan, Director

Natural Resources

Cc: Lynn Coleman, Washington Department of Ecology