

Nooksack River adjudication is “likely,” department of ecology official says



▲ The Washington state Department of Ecology report highlighted declining salmon populations, low water levels due to growing demand and diminishing snowpack, and a long history of water disputes as reasons to support adjudication of the Nooksack River. Photo courtesy Department of Ecology

BY NOLAN BAKER

A half-million-dollar budget for review and court ruling of water rights along the Nooksack River basin is likely to be approved by Washington state legislature and signed by governor Jay Inslee, officials for the department of ecology (DOE) said.

Adjudication, or the legal process of a court reviewing and resolving a dispute, of the Nooksack River is “supported in the governor’s budget,” said Robin McPherson, adjudication assessment manager for DOE.

This process could finally put an end to decades of lawsuits and claims of water rights along Whatcom County’s primary waterway.

“It’s going to be time for the Nooksack community to start thinking about how [adjudica-

tion] happens and not whether it’s going to happen,” McPherson said.

What is an adjudication?

The DOE recently released a report to the legislature highlighting the Nooksack River basin as one of the two waterways in the state most in need of adjudication.

The adjudication process involves DOE issuing lawsuits to all parties with claims to water rights along the Nooksack, bringing them into a court process where each defendant submits a claim for water use. DOE then reviews each claim and determines legal rights to use water along the Nooksack.

The DOE website describes adjudication as “the legal process to resolve conflict and competition on a water source.”

The process is supported by lo-

cal tribes, environmental groups and the commercial fishing industry, but opposed by Whatcom County farmers and their associated organizations.

The DOE’s 2020 report specifically pointed out that declining salmon populations, low water levels due to growing demand and diminishing snowpack, and a long history of disputes from various parties throughout the county have made the Nooksack River rife with conflict and competition.

According to the report, the Nooksack River supplies water for the public utility districts that serve roughly 80 percent of Whatcom County’s residents, provides irrigation for thousands of acres of farmland and stockyards, and is home to a dwindling population of endangered salmon – a population that must be main-

tained for Lummi and Nooksack treaty agreements and for southern resident orca whales.

With all of these different parties – tribes, farms, public utility districts and commercial fisheries – vying for water rights, the patchwork system of centuries worth of water claims is keeping solutions hard to come by as water levels continue to dwindle due to climate change.

A 2013 study conducted by the federal government and published in “Climate Change and Indigenous Peoples in the United States,” researchers Oliver Grah and Jezra Beaulieu state that “with climate change, increased stream temperatures are predicted that could push temperatures to the lethal level for salmonids.”

The DOE stated that parties along the Nooksack basin agree protecting salmon habitat is crucial, but “they have not reached a resolution about how to balance needs for fish with needs for farms and communities.”

Who are the parties involved?

In a joint press release circulated March 25, the Lummi Nation and the Nooksack Tribe announced a campaign to educate

Whatcom County residents on the need for an adjudication.

“Adjudicating water rights allows us to live here sustainably,” said Katherine Romero, general manager of the Nooksack Tribe. “We have listened to farmers, and they have said they need a water bank, or exchange, to move water rights where they are needed. Adjudication is how that happens.”

The tribes, which together form the Salmon Need Water campaign, are supported in their effort for adjudication by DOE, as well as real estate groups, fishery groups and environmental groups.

“The Nooksack River has sustained Lummi people since the beginning of time,” said Lawrence Solomon, chairman of the Lummi Nation in the press release.

“As Salmon People, we have for generations depended on the resources the Nooksack provides,” Solomon said. “The adjudication process will resolve how much water is being used, how much is available, and the legal right to the water.”

(See Nooksack, page 15)

We’ve Got A SHOT

COVID-19 vaccination gives us a chance for health, healing, and recovery.



Find a vaccine provider at: [VaccineLocator.doh.wa.gov](https://www.vaccinelocator.doh.wa.gov)



Make an appointment: Schedule with your healthcare provider or a Vaccine Locator provider.



Or call the COVID-19 hotline at: **1-800-525-0127** or **1-888-856-5816** for assistance.

Get vaccinated!



▲ The Nooksack River is the main source of drinking water for over 80 percent of Whatcom County residents, according to the Washington state Department of Ecology. Photo courtesy Department of Ecology

Briefly from Blaine City Council

BY GRACE MCCARTHY

News from the virtual Blaine City Council meeting on April 12.

State funding coming down the pike for Blaine

With the help of state funding, the city of Blaine is expected to receive money for large projects that could clean up the Blaine Marine Park shoreline and revitalize downtown.

The state's House of Representatives and Senate released their capital budgets on March 25. Lawmakers are working to combine the two capital budgets into one before the 2021 session adjourns April 25.

The House approved funding for two Blaine projects – the Marine Park Beach Naturalization and the Downtown Revitalization project – but the Senate only approved funding for the marine park project.

The city of Blaine applied and was awarded its full request amount from an Aquatic Lands Enhancement Account grant that will give \$500,000 to the city to repair the park's shoreline from the apple tree point to the end of Marine Drive.

"This is a tremendous success," Jones said in an email to Blaine City Council. "It is the culmination of years of work by the Community Development Services Department with the help from the Park and Cemetery Board. It was due to council-supported matching dollars that we were able to submit the grant request."

The House approved \$500,000 of the city's requested \$1 million for the downtown revitalization project, Jones said.

The city of Blaine's public works and community development services departments created the downtown revitalization project after the city was continuously running into problems fixing city infrastructure on an as-needed basis.

Demolition nears for old city hall

The city of Blaine is finishing moving out of old city hall at 344 H Street and preparing to demolish the building this summer.

Blaine Police Department (BPD), the last city department

to be using the building, expected to move its evidence room out of old city hall by the end of the week ending April 16, chief Donnell Tanksley said during the meeting.

"The rest of the city departments have moved all of their items out with the exception of just a handful of things that we have questions about," Jones said.

Public works director Bernie Ziemianek said he hoped to have the demolition specifications finished by mid-May and would start the demolition in June or July. An asbestos removal company is working to remove the material from flooring and walls, he said.

Councilmember Garth Baldwin asked council to make a plan if artifacts are found as the building is demolished.

"The citizens will say something if all of the sudden they tear that facade off and there's some old, funky stuff out there and then we let a wrecking ball hit it, I don't want to disappoint people," Baldwin said.

Ziemianek said it would be possible to restore the wood on the building's second floor and the city is preserving a few pieces of white molding where people inscribed their names during the first half of the 20th century.

In early 2020, city council directed the city manager and fi-

nance director to seek \$2.5 million in bond funding to preserve some of the old city hall land for BPD's new evidence room. Council decided to delay looking for the money once the pandemic started, but Jones said it would need to be brought up again now that the building is coming down.

The city currently has ownership of the property but Jones asked council to reconsider this at a later meeting.

"I don't want the city to be an owner of a vacant lot in the middle of a downtown we're trying to redevelop," Jones said. "If we have a purpose for it, that's fantastic. If we don't, I would ask you to reconsider that."

Council approves new backhoe for public works

Blaine City Council approved public works' request to purchase and replace the city's backhoe for \$140,411.

The city's current backhoe has been used for 31 years, when it was first brought to the city in 1989, according to city documents. A memo prepared for council said repairs from the backhoe's use over the years has increased maintenance cost and parts replacement.

"Replacing the older backhoe with a more modern piece of machinery will aid us in directly supporting water projects and other departmental needs into the future," the memo states.

Nooksack ...

From page 1

With DOE's "first in time, first in right" policy, the Lummi Nation and Nooksack Tribe can date their water claim to 1855, the year the Treaty of Point Elliott was signed that guaranteed the tribes hunting and fishing rights. Washington didn't enter statehood until 1889 and the first water code wasn't adopted until 1917, so the tribes in the county own the most senior water rights.

For county farmers, an adjudication could potentially mean putting family farms out of business, losing millions of dollars in agriculture value and opening up the floodgates for real estate development, according to opponents.

Gavin Willis, the outreach and development director for Whatcom Family Farmers, an advocacy group for local farmers, said that lawyers have warned of massive price tags for legal defense if adjudication were to commence.

"We've been told by attorneys that water rights holders should expect to spend between \$10 and \$100,000 to defend their water right in court," Willis said.

Not only will the cost for adjudication defense be too high for many farmers to bear, Willis said many farmers are fearful that junior water rights to the river will put their entire livelihood at risk if water levels get too low and their irrigation is shut off.

"Worst-case scenario ... at some

point in the future, if the adjudication were to go forward, stream flows drop below the quantified tribal rights, that means everyone's water gets shut off," Willis said. "That would pretty much be the end of farming if that was something that would happen on a regular basis."

Whatcom County is home to more than 100,000 acres of agricultural land that generated an excess of \$300 million in 2014, ranking it the most productive agricultural county in Western Washington, according to a Washington State University study.

But the mounting anxiety over legal fees, the possibility of water shutoffs and the costs already associated with commercial farming have made many farmers question their future in the county.

"Farming has always been a business that comes with a lot of uncertainty," Willis said. "Adding another layer of uncertainty to that makes Whatcom County a less attractive place to farm."

McPherson, the DOE's adjudication assessment manager, argued that adjudication was the only reasonable way to assure water rights for as many as possible.

"We know that it's not unanimously supported by farmers and agricultural groups," she said. "We value farms as part of our environment and economy, but the way to ensure they have legal water for the future is to figure out what has legal water now."



SPRING OPEN HOUSE 2021
SATURDAY, APRIL, 24 • 9AM-6PM

Celebrate the spring season in style with gorgeous plants and some fun activities just for you garden enthusiasts!

GREENHOUSE TOUR 11AM-12PM

- Tour the greenhouse at the height of the spring season and see acres of beautiful growing plants while learning a little bit about what it takes to get those plants ready for you to bring home!
- Our tour guide will require you to keep a distance of at least 6' so that they are able to communicate clearly with you and keep everyone safe.

TACOS!

A taco truck will be on site starting at 11am!
 Grab a bite to eat before or after you shop!

PLANTER PARTY 12-5PM

Bring your own or purchase a planter and we will help you design and plant your perfect planter!
 Soil provided IF you choose to plant on site with purchased plants!

ONE DAY SALES!

8210 PORTAL WAY-BLAINE

Just off I-5, Exit 270 Take Portal Way

More info at www.VWHomeAndGarden.com

Don't forget Mom!

Mother's Day is May 9

Find Gift and Dining ideas here in The Northern Light.

The Northern Light
 360-332-1777
sales@thenorthernlight.com