



PUYALLUP TRIBE OF INDIANS

FISHERIES DEPARTMENT

February 17, 2026

Chris Beale, Senior Planner
City of Puyallup, Development Services Department
333 S Meridian Puyallup, WA 98371

Re: Vector/ Freeman Road Logistics Preliminary Mitigated Determination of Non-Significance (P-21-0136)

As signatories to the Treaty of Medicine Creek, the Puyallup Tribe retains federally protected fishing rights in our usual and accustomed fishing grounds, as well as other reserved rights, and manages natural and cultural resources throughout Water Resource Inventory Area 10. This highly urbanized watershed encompasses the Port of Tacoma, the Puyallup River, tributaries to the Puyallup River, and adjacent marine and estuarine habitats vital to the survival of salmon and other treaty-protected species. The Puyallup Tribe has Treatment as a State (TAS) and has the authority to issue Section 401 Certifications for waters within its jurisdiction and acts as a neighboring jurisdiction requiring notice and opportunity to object as provided in Clean Water Act Section 401(a)(2). The Puyallup Tribe of Indians is a sovereign Indian Tribe whose government is recognized by the United States and the State of Washington. The Tribe has existed in and around the Edgewood, Fife, Tacoma, Puyallup, the Commencement Bay area of Puget Sound and the Puyallup River since time immemorial. As part of its efforts to protect water quality and, thereby, fish species, which include listed species under the Endangered Species Act, the Tribe's authority under Clean Water Act section 401 allows the Tribe to protect its waters from discharges and activities that would have significant impacts to the water quality within the 1873 Survey Area of the Tribe's Reservation (which includes the Puyallup River and its Tributaries). Furthermore, the Tribe is often involved in participating in the Clean Water Act 401 Certification process to protect fisheries and other natural resources within the Usual and Accustomed Fishing areas of the Tribe as adjudicated in *United States v. Washington*, 384 F.Supp.

312, 370, Finding of Fact 99, 626 F.Supp. 1405, 1441, Finding of Fact 336; see also Puyallup Tribe v. Dept. of Game of Wash., 391 U.S. 392 (1968) (Puyallup I), Department of Game of Wash. v. Puyallup Tribe, 414 U.S. 44 (1973) (Puyallup II), Puyallup Tribe v. Dept. of Game of State of Wash., 433 U.S. 165 (1977) (Puyallup III).

The Puyallup Tribe is a signatory to the 1854 Treaty of Medicine Creek, 10 Stat. 1132, which provides for and defines the Tribe's interest in the native anadromous fishery within the Reservation and at usual and accustomed fishing areas. The Tribe is also a signatory to the August 27, 1988 Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners, ratified by the Puyallup Tribe of Indians Settlement Act of 1989, Pub. L. No. 101-41, Jun. 21, 1989, 103 Stat. 83. The various stream networks which collectively converge into the waters of Commencement Bay, upon which salmon depend for critical spawning, rearing, and refuge habitat, are of immeasurable cultural, spiritual and economic significance to the Tribe. The Tribe invests substantial resources in its fishery and water quality programs. Tribal biologists and scientists regularly work in coordination with state and federal resource agencies to preserve and enhance the region's fish and water resources. As the Tribe manages fisheries dependent on the Puyallup River, holds senior water rights in the Puyallup River basin, regulates water quality on the Puyallup Indian Reservation pursuant to Clean Water Act delegation, has extensive hatchery operations, and works tirelessly to preserve and restore essential fish habitat and populations, it has considerable interest in the protection of water quality, prevention of harm to or take of salmon and trout species, and protection of other wildlife. Salmon and trout species, some of which are listed under the Endangered Species Act, rely on the clean cool water and critical habit to forage, migrate, and spawn, all of which are essential to the salmon life cycle and their continued existence. The Tribe conducts extensive efforts to preserve and enhance the fishery and fish habitat both within the exterior boundaries of the Reservation and at its treaty protected usual and accustomed fishing areas. See *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), substantially aff'd, 520 F.2d 676 (9th Cir. 1975), cert. denied, 423 U.S. 1086 (1976), substantially aff'd sub nom. *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658 (1979); *United States v. Washington*, 506 F. Supp.187 (W.D. Wash 1980) (Hatchery Fish and Phase II), vacated 759 F.2d 1353 (9th Cir. 1980), cert. denied, 474

U.S. 994 (1985), *United States v. Washington*, 853 F.3d 946, 964 (9th Cir. 2017), denying petition for reh'g and reh'g en banc, *United States v. Washington*, 864 F.3d 1017 (9th Cir. 2017) (Phase II – Culverts Case), aff'd by an equally divided court, *Washington v. U.S.*, 584 U.S. 837 (2018).

The Puyallup Tribe of Indians (“Puyallup Tribe” or “Tribe”) submits the following comments regarding the Tacoma Central Wastewater Treatment Plant Water Right Application Determination of Non-Significance.

- The Washington Geologic Information Portal designates the property as having high liquefaction potential. Was this something that was taken into consideration? I saw a reference to a geotechnical report in the Preliminary Stormwater Site Plan but I don't see it listed as an item in the MDNS nor do I see it as an available document on the City's permit webpage for this project. Has a geotechnical report been prepared for this development?
- I wasn't able to find an estimate of stormwater discharge volume? Is this something that was quantified? Has a no rise analysis been conducted to ensure there will not be an increase in BFE?
- Impacts to air quality derived from truck traffic once the site is operational were not considered. Only a brief mention was made of construction related traffic impacts to air quality. The Landau Noise Assessment Technical Memorandum estimated that 10-20 trucks will enter and exit the facility during peak hours, with up to 5 trucks idling at a time (limited to 15 min/hour) in the loading bays during daytime hours and 3 trucks during nighttime hours, plus an additional truck idling in the parking area to the north of the nearest residential receiver. According to the University of California Institute of Transportation Studies, “An idling heavy-duty diesel truck emits about 10 times more nitrogen oxides (NOx) than a passenger car, and truck idling emits more than 11 million tons of carbon dioxide and more than 180,000 tons of NOx per year, in addition to particulate matter and other air pollutants”. Consideration of the impacts to air quality from diesel truck traffic is crucial because diesel emissions contain harmful pollutants like nitrogen oxides and particulate matter, which are known to cause respiratory problems, environmental degradation, and climate change. It is critical that these

impacts are addressed in detail, as doing so helps protect public health, improves community living conditions, and supports sustainable transportation policies. It is essential to evaluate and mitigate these effects to ensure cleaner air and a healthier environment for all. To adequately evaluate and mitigate the air quality impacts from diesel emissions on this project, the following steps should be taken:

- 1) Conduct monitoring and modeling to establish current air quality conditions in the project area, focusing on pollutants associated with diesel emissions such as particulate matter (PM 2.5, PM 10), nitrogen oxides (NOx), and carbon monoxide (CO).
- 2) Identify and quantify all sources of diesel emissions related to the project, including construction equipment, vehicles, and any stationary sources.
- 3) Evaluate potential health risks to nearby populations from diesel particulate matter and other pollutants using exposure and toxicity data.
- 4) Use newer, cleaner diesel engines or retrofit existing equipment with diesel particulate filters or oxidation catalysts. Implement idling restrictions to minimize unnecessary emissions. Schedule construction activities to reduce exposure during sensitive times. Use alternative fuels or electric equipment where feasible. Implement dust control measures like water spraying to reduce particulate emissions.
- 5) Establish ongoing air quality monitoring during project activities to ensure compliance with standards and effectiveness of mitigation.
- 6) Inform and involve local communities about the project's air quality management plans and address concerns.

Following these steps will allow project to effectively evaluate and reduce impacts of diesel emissions on air quality.

- As the degree of stormwater infiltration appears to be limited, impacts from the development on groundwater recharge and hydroperiod of the surrounding wetlands should be evaluated. As should the potential impacts this will have on the two identified local wells (Schenk Water System and Schaaf-Eggiman-664)

whose high susceptibility critical aquifer protection areas stand to be affected. In addition to these two wells, the wellhead protection areas for the Hayes Water System and the Cherrywood Mobile Home Manor also extent onto the development site.

- Section 6.1.1 of Anchor QEA's Critical Areas Report states that "the project proposes the total fill (1,218 square feet) of on-site Wetland B, which offers poor water quality, hydrologic, and habitat functions". However, earlier in their report they describe wetland B as exhibiting moderate, moderate, and high water quality and hydrologic functions for site potential, landscape potential, and value respectively (total score of 7 for both), with only habitat functions being rated as low. In fact, all of the wetlands assessed as part of the Critical Areas Report exhibit high or moderate water quality and hydrologic functions for site potential, landscape potential, and value (with the exception of wetland 93 for water quality site potential and wetland 146/148 for hydrologic site potential). How would this affect Mitigation bank credit ratios? Also, why are the mitigation ratio's so low? The WA Department of Ecology Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance recommends a compensation ratio of 8:1 for enhancement of a category III wetland, yet the mitigation ratio for on-site enhancement of wetland 146/148 is only 1:1.
- The use of mitigation credits from the Port of Tacoma Upper Clear Creek Mitigation Bank is not ideal. The report states that this area is part of the same subbasin as the development area, however, the Pierce County Watershed dataset (developed by Herrera Environmental Consultants) shows these two sites as belonging to different watershed polygons (Clear/Clarks Creek vs Mid Puyallup River). Ideally, most of the mitigation should be more localized to the affected area. The use of buffer enhancements to supplement the purchase of mitigation bank credits is also not ideal, as the WA Department of Ecology considers wetland enhancement to be the least preferred and effective method of compensation. We would prefer the project proponents employ some form of wetland restoration, creation, or preservation instead. If the project proponent insists in relying on wetland enhancement, they should be required to utilize this method in conjunction with some form of wetland re-establishment or creation so

as to achieve no net loss in wetland area and functions, as recommended by the WA Department of Ecology's Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance.

- Indirect impacts to wetland 89 should be considered, as the development will almost certainly impact this wetlands hydroperiod.
- The definition of indirect impacts provided in the Anchor QEA Critical Areas Report is incomplete. The WA Department of Ecology Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance defines indirect impacts as "adverse effects on wetlands that occur outside the footprint of direct impacts. Indirect impacts result in a reduction of wetland function, and compensatory mitigation is needed to offset these losses. Indirect impacts can occur in the following ways: Outside a wetland • Activities outside of a wetland may affect how it functions. For example, a residential or commercial development adjacent to a wetland may result in reduced hydrologic, water quality, or habitat functions. Within a wetland • Direct impacts within a wetland may also cause indirect impacts to functions in other parts of the wetland. For example, placement of a new road through a wetland may cause indirect impacts because the road crossing can affect wildlife movement and the flow of water between the two remaining wetland areas". The focus on just the indirect impacts associated with the placement of dredge or fill material, as advocated for in the Critical Areas Report, neglects to consider the full range of indirect impacts that will result from the proposed development. This section of the report should be re-evaluated.
- Given the placement of the SR 167 Completion Project in such close proximity to the proposed development, a cumulative impact assessment should be conducted. Potential indirect impacts were discussed to a limited extent in the Anchor QEA Critical Areas Report, however, the general sentiment seemed to be to dismiss the need for such consideration due to the fact that the SR 167 Completion Project is slated to result in substantial impacts and subsequent mitigation to the area adjacent to the project site. Even if this is the case, I don't think this should absolve the project proponents of their responsibility to consider and mitigate for indirect and cumulative impacts associated with their development.

- As the new plan for the development is to discharge stormwater runoff into the Puyallup River, consideration must be given to how this will impact the River's TMDL's. The section of River that stormwater runoff will be discharged into has TMDL's for fecal coliform, temperature, and mercury. Temperature is of particular concern as stormwater runoff is known to increase stream temperatures by absorbing heat from impervious surfaces, which will considerably increase as a result of the proposed development (80% of the 1,119,637 sq ft site is estimated to consist of impervious surfaces). Given that the Puyallup Tribe has neighboring jurisdiction authority under the Clean Water Act, the project proponents will need to ensure that their stormwater discharge meets tribal water quality standards. This will necessitate the inclusion of an antidegradation analysis.
- A Washington Department of Ecology MTCA Toxics Cleanup Site (Facility/Site ID: 44993787) is located just north of the Freeman-Levee Rd intersection. This site contains confirmed Priority Pollutant Metals and Unspecified Non-Halogenated Organics Petroleum Products above cleanup levels in the soil and suspected in the groundwater. How will this affect the Freeman road improvements? Given the proximity of the development to this Cleanup Site, has the soil and groundwater at the project site been tested for these substances?
- The MDNS provides only generalized requirements for environmental mitigation as mandated by city municipal codes and state regulations, rather than addressing specific issues accompanied by individualized mitigation measures. The MDNS states that a final mitigation plan has not yet been developed, which makes it difficult to determine the adequacy of said mitigation measures. We feel an EIS is warranted to address the elements identified above that were omitted, develop targeted environmental mitigation strategies that we can evaluate for their efficacy, and to better organize and condense the considerable supplementary materials so as to present only the most current and relevant information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Russel Ladley", with a long, sweeping underline.

Russel Ladley, Director

Fisheries Department

Puyallup Tribe of Indians

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