

May 11, 2020

Quinault Indian Nation Comment Letter

Draft Environmental Impact Statement for Proposed Chehalis River Basin Flood Retention Dam under State Environmental Policy Act

EXECUTIVE SUMMARY

The State Environmental Policy Act (SEPA) broadly serves two purposes: first, to ensure that government decision makers are fully informed of the environmental consequences of their actions and, second, to encourage public participation in the consideration of environmental impacts.

Importantly, SEPA is more than a purely “procedural” statute that encourages informed and politically accountable decision-making. SEPA empowers state agencies to deny a project. Based on its review of the DEIS, the Nation requests the Washington Dept. of Ecology deny the proposed expandable flood control dam and levee for the following reasons:

Understates significance of unavoidable impacts

The DEIS correctly acknowledges the project would irreparably harm physical and ecological processes essential to sustain habitats for fish, wildlife and plants. The DEIS’s failure to use best available science, however, means it significantly understated a much larger “cascade” of impacts set in motion by construction and operation of the dam. For example:

- The DEIS drastically underestimates the amount of sediment (840,500 cubic yards) delivered by landslides over the life of the project. A significant portion of that would be the type of fine sediment known to smother and kill salmon eggs.
- The DEIS also underestimates how much the dam would reduce groundwater recharge, which is critical to sustain river flows, especially in summer when low water and high temperatures can create river conditions lethal to fish.

A key overall driver of understated impacts is the DEIS’s underestimate of the effects of climate change on river flows by late-century: effects that would trigger the dam into operation more frequently than the approximately once-every-four years predicted. It is likely to operate once every 1.4 years.

Lacks required mitigation measures to address significant impacts

Mitigation measures must be identified and analyzed in sufficient detail for the public and state agencies to make informed judgments about the quality and quantity of mitigation and whether it will be relevant and sufficient to address project impacts within the relevant timeframe.

The DEIS states there is “uncertainty” if the proposed mitigation is technically feasible or economically practicable, however, it provides no actual mitigation measure discussion and analysis. Where mitigation is briefly mentioned, it meets none of the requirements of state policy, regulation, or case law. If an EIS cannot adequately identify and describe that a proposed project can be adequately mitigated, decision makers, under SEPA, should deny permits for the project. The Nation believes the biological damage to salmon populations, and particularly spring Chinook, cannot be fully mitigated.

Includes building an expandable dam without evaluating impacts and costs of an expanded dam

The Applicant, Chehalis River Basin Flood Zone Control District, acknowledges that a bigger dam with a permanent reservoir is not justified to meet the stated purpose of the project. Nevertheless, the proposed project adds approximately \$100 million to build an expandable dam. The DEIS fails to disclose facts that suggest if an expandable dam is built, then a larger expanded dam will eventually be built to address higher peak flows predicted under climate change. We can only assume this is to avoid analysis now of the increased future environmental impacts and costs of an expanded dam.

Does not adequately analyze the least environmentally-harmful method (Local Actions Alternative) to accomplish the project objective

SEPA requires that an EIS contain a detailed discussion of alternatives to the proposed action to “Identify, evaluate, and require or implement. . . reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.” Reasonable alternatives are those “that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost.”

The DEIS’s failure to define or meaningfully evaluate the Local Actions Alternative deprives state and local decision makers and the public the opportunity to evaluate the benefits and impacts of a less environmentally-harmful alternative to the dam.

A viable Local Actions Alternative offers a means of reducing local flood damages originating from streams and rivers other than the Upper Chehalis, providing more comprehensive relief in the Centralia-Chehalis area and throughout the Chehalis Basin, with far few environmental impacts than a dam. A much more detailed Local Actions Alternative is best suited to address the range of flood problems and geographic flooding scenarios not considered in the DEIS and more in keeping with legislative direction to reduce flood damage throughout the entire Chehalis Basin.

Fails to acknowledge, quantify, or analyze that environmental damage will have a disproportionate effect on the Nation’s legally protected treaty rights and interests

The DEIS defers cultural impacts consideration to the separate but parallel federal environmental review process through the National Environmental Policy Act (NEPA). It defers all consideration of impacts to treaty fishing, hunting and gathering rights to a future government-to-government consultation outside of the SEPA process. These failures violate state law and do not provide sufficient information for the Washington Dept. of Ecology to make a fully-informed decision on the project.

Our technical review of the DEIS demonstrates the consequences to the Nation’s treaty fishing rights have been grossly underestimated. The DEIS acknowledges that there will likely be additional closures to fishing because of the additional depletions of fish stocks caused by construction and operation of the dam. The DEIS, however, does not quantify or qualify what further depletion of fish stocks already in decline might mean for a community whose very subsistence relies on those fish.

Conclusion

Because of these overwhelming shortcomings, the only reasonable and legally justifiable next step for the State is to deny the proposed project under the substantive authority of SEPA. The Nation does not believe it prudent to spend additional scarce state resources on developing or promoting the dam/levee project. The better approach is one that benefits the entire Chehalis Basin, in keeping with the Chehalis Basin Strategy, by committing to pursue development a robust Local Action Alternative along with other projects to reduce flood damage. Find the full comment letter [here](#).