

Recreational Use of the South Fork of the Nooksack River

At the November 17, 2022 Commission Meeting the Chair polled Commissioners regarding interest in examining the recreation/tubing situation on the South Fork of the Nooksack River. Commissioners indicated interest so the Chair asked Commissioner Boteler to prepare a briefing. Commissioner Boteler asked to work with Daniel Probst in preparing the report. This is a brief, executive summary not a comprehensive review.

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I. Overview.

Tubing, or other related flotation devices, has been popular on the Nooksack from the Acme Bridge to Potter Road for many years. In August, 2022 the Nooksack and Lummi Tribes addressed the Whatcom County Council with a proposal to temporarily ban tubing use on this section due to possible impacts on salmon habitat during a critically low water year. The Council heard testimony from the tribes, and other concerned people, for approximately two hours. In the end, the Council voted 4-3 not to move forward with the ban.

II. Description of Recreational Flotation Device Use on the South Fork of the Nooksack.

Tubing Section¹: Innertubers access the river at the Acme Bridge and take out at Strand Road. The County Public Works Department has developed modest river ingress and egress at these locations. The float takes 3-4 hours. Although use counts don't seem to exist, on hot summer weekend days people comment that floaters number in the hundreds.

III. Salmon Habitat Management.

The Nooksack River functions as a significant salmon habitat. In 2005 Whatcom County posted an ordinance (11.20.025) which banned flotation devices including paddleboards, innertubes, inflatable and foam flotation devices, limb-propelled flotation devices, or rubber rafts from June 1 to October 31 on the south fork of the Nooksack River between Edfro Creek and the Acme Bridge (i.e., the section upstream of where people innertube) in order to protect the highest value salmon habitat. Salmon habitat protection on the portion of the river downstream (the section that innertubers use) has surfaced as a concern—particularly during low water periods.

The Nooksack Tribe notes that “the South Fork Nooksack River is known for high water temperatures, a problem that peaks during summertime heat combined with low stream flows. Portions of the South Fork were listed as temperature impaired under the federal Clean Water Act in the 1990s because of this problem, and additional areas were added to the listing in 2012. With temperatures on the rise and Northwest glaciers shrinking due to climate change, the crisis is going to get worse without intervention....” “Habitat degradation and resulting fish mortality is a threat to the tribe’s treaty rights. If there aren’t salmon to fish, the federal government isn’t upholding its obligations from the 1855 Treaty of Point Elliott.”

¹ Whitewater use of the Nooksack occurs upstream in the North and South Forks.

IV. Conflicts with Local Landowners and Municipalities.

Although most river floaters have been responsible users², over time as tubing use of the river increased conflicts with local landowners and municipalities increased. In response in 2014 “the Whatcom County Commission agreed to spend \$30,000 for increased attention by the Sheriff. [In that year] Deputies wrote 125 citations from July 14 to Labor Day. Of those, 48 were parking tickets; 26 were for collisions and other traffic violations; and 25 were for open containers, underage drinking and other alcohol violations. DUIs were handed off to the Washington State Patrol; deputies contacted three drivers suspected of driving under the influence, according to a Sheriff’s Office report. Parking and alcohol infractions were down compared to last year, when the extra Acme Valley deputies issued 61 alcohol-related citations and 75 parking tickets.”³

Jeff Margolis, a Whatcom County Parks Commissioner at the time, is quoted as commenting “things went better than ever this year [2014], and the reason for it was the county’s acceptance that the South Fork is a seasonal aquatic resource.... The ‘park legally’ signs, coupled with our public information about permitted (parking) areas around Van Zandt, plus strict enforcement led to fewer hassles and fewer calls for tow trucks.”⁴

V. Recent Whatcom County Council Actions Concerning Recreational Use of the Nooksack.

On August 9, 2022 the Whatcom County Council⁵ considered a measure that would have banned inner tubing and other flotation devices on the south fork of the Nooksack River. “Spring chinook are listed as threatened under the federal Endangered Species Act, and both the Lummi Nation and the Nooksack Indian Tribe expressed concern about the health of salmon in the river. At the meeting the tribes testified that in summer 2021, more than 2,500 migrating adult chinook died on the south fork before they could spawn because of a disease outbreak made worse by high temperatures, low river flows and a lack of adequate habitat. More than \$10 million has been invested in salmon recovery and habitat restoration efforts, but native salmon spawning remains critically low.”⁶

Tribal natural resource experts noted that the water temperature and pools are important critical factors in the portion which tubers float. During normal flow years the salmon collect in the pools in spring before moving further upstream to spawn. During low flow periods the water

² There is a Facebook Group entitled “Responsible Tubers on the Nooksack.”

³ Source: From Bellingham Herald. September 8, 2014

⁴ Source: Bellingham Herald. September 8, 2014 “South Fork residents, tubers get along after increased Whatcom sheriff’s patrols

⁵ The Council Meeting on this topic can be reviewed at:

http://whatcom.granicus.com/player/clip/791?view_id=1&meta_id=105279&redirect=true&h=eec368ebfd2d8a9dad4f761650e39217

⁶ Source: The Bellingham Herald. “Whatcom County Council votes on proposed Nooksack tubing ban.” August 10, 2022

temperature increases and salmon may not move as far upstream to spawn. One person testified during the August Council Meeting that reds are in the area floated--no one else mentioned it.

In general, those in favor of the ban testified that the ban would protect salmon habitat, respect treaty rights, reduce garbage, and reduce trespassing issues. Those against the ban testified that it wouldn't address the root cause of people wading and swimming in the river, remove a popular recreation activity, and negatively impact the local economy. The meeting concluded with the Council voting down the ban on a 4-3 vote.

From listening to the Council testimony, it appears there has not been a study specifically addressing the effects of recreational river use on salmon. Recreational impacts are inferred as one of many cumulative impacts including low flows, higher water temperatures, shoreline development, and effects on water quality from logging and farming.

VI. Existing Plans Concerning the Nooksack.

Many plans concerning the Nooksack have been developed. Most involve flood control and salmon habitat restoration/management. In 2006 the USDA Forest Service completed a comprehensive plan on the Middle Fork and South Fork of the Nooksack River.⁷ The plan identifies significant natural values of the watershed and notes there is inadequate budget to manage recreation.

The most pertinent plan to recreation is entitled the "Upper Nooksack River Recreation Plan 2015"⁸ which was a comprehensive planning effort involving many agencies/groups⁹ and included public input. County Parks was a member of the planning team. The River Recreation Plan notes the need to protect critical salmon habitat and the controversy caused by tubing on the river. It does not come to a conclusion concerning tubing on the South Fork. The plan calls for coordination, design and formalization of safe river access. In regard to County Parks the plan states "the new South Fork Park will serve as a key recreational access area for walk-in river access and trails. This park is being planned and developed by Whatcom County Parks and has a great deal of potential for expanding recreational opportunities in the South Fork Nooksack River basin." (p.71)

⁷ https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5194609.pdf

⁸ <https://www.americanrivers.org/wp-content/uploads/2016/07/UpperNooksackRiverRecreationPlan1386.pdf>.

⁹ Upper Nooksack River Recreation Plan Advisory Committee: Wendy McDermott, American Rivers Thomas O'Keefe, American Whitewater Mike McGlenn, Back Country Horsemen of Washington-Whatcom Chapter Rich Bowers, Hydropower Reform Coalition Rachel Vasak, Nooksack Salmon Enhancement Association Ned Currence, Nooksack Tribe Lindsie Fratus, Nooksack Tribe Elizabeth Boerke, North Cascades National Park Complex Jon Knechtel, Pacific Northwest Trail Association Phil Kincare, United States Forest Service Rodney Lamb, Whatcom County Parks & Recreation Mike McFarlane, Whatcom County Parks & Recreation Bud Hardwick, Whatcom Events, Ski to Sea Race, Mount Baker Club Eric Carabba, Whatcom Land Trust Paul Engel, Wild and Scenic River Tours Owner.

VII. Current Planning Efforts on the Nooksack.

A. Adjudication.

In 2021 the State Department of Ecology started preparing for a water rights adjudication in the Nooksack watershed. On October 20, 2022 a public meeting was held to describe the watershed project. Information about the meeting and process are quoted below.¹⁰

“The South Fork Nooksack River Watershed Project brings together landowners, tribes, agencies and community members for open dialogue about how to conserve agriculture, forestry, fisheries, and recreation in the South Fork Nooksack watershed, while protecting and restoring our water resources in the face of climate change.”

Long Term Planning Goals guiding the adjudication effort include:

- **Our Families:** Keep the rural way of life and protect it for our children.
- **Our Farms:** Maintain and protect productive agricultural lands and promote long-term agricultural economic viability.
- **Our Forests:** Maintain and protect the forestland base and promote a sustainable forest industry with a skilled and steady local workforce.
- **Our Fish:** Improve the South Fork ecosystem to increase and support the salmon population.
- **Our Recreation:** Ensure through public regulation, education, and community engagement that recreational activities in the Valley contribute positively to the health and safety of our Watershed and protect property rights and community values.

B. Public Works Project.

Currently, in a cooperative effort between the Nooksack Tribe and Whatcom County Public Works and Floods Division, a flood control and habitat restoration plan is being developed with public input. The current preferred alternative includes engineering of the South Fork north and south of Acme. Plans¹¹ include:

Removing and/or lowering of riprap revetments along the river banks to improve habitat and floodplain reconnection

Expanding the openings of existing bridges to increase hydraulic conveyance

Constructing engineered logjams to improve habitat

Incorporating logs into existing riprap armored banks to improve habitat

Constructing a flood protection berm in Acme to reduce flood risk for the community

¹⁰ Source: <https://www.sfnooksack.com/>

¹¹ Source: <https://www.whatcomcounty.us/3106/South-Fork-Fish-Camp-Integrated-Project>.

Constructing floodplain side channels to improve habitat and restore natural channel.

The Public Works Website does not mention any consideration of recreation. Elements of the preferred alternative may greatly affect safe navigation of the existing recreation corridor downstream of Acme. Construction may take place during recreational use.

The Broader Context:

Situations like this have existed on many floatable rivers for many decades across the country. Some situations don't resolve and continue as a contentious struggle. Recreation management of river use has been improved through a number of means. Some of those means are identified below:

A. Designating the River as Wild, Scenic, or Recreational. Brings federal government study and possible administration with land acquisition. "Washington has approximately 70,439 miles of river, of which 197 miles are designated as wild and scenic—less than 3/10ths of 1% of the state's river miles"¹² The Nooksack has been nominated for study as wild and scenic. Current wild and scenic rivers in Washington State include Illabot Creek, Klickitat River, Pratt River, Skagit River, Snoqualmie (Middle Fork) River, and White Salmon River.

B. Designating the River as a State Scenic or Recreational River. Brings state government study and possible administration with land acquisition. To achieve recreation management, often cooperative agreements exist between state, county, and municipal parks along the waterway. State Rivers currently in the system include the Skykomish, the Beckler, the Tye, the Little Spokane River, Green River Gorge conservation area, and the Yakima River conservation area.

C. Creating a Local Cross Jurisdictional Authority to Coordinate Management of the Corridor. Many jurisdictions across the country have formalized management authorities or committees across jurisdictions in order to achieve integrated river management. Most of these efforts involve water conservation and use. To coordinate river recreation and conservation, Bend, for example, formed a park and river recreation district to manage a whitewater section of the river which flows through the city.¹³

¹² Source: <https://www.rivers.gov/washington.php>

¹³ Source: <https://www.bendparksandrec.org/facility/bend-whitewater-park/>.

Some Observations:

1. The Commission may want to hear from state experts and the Nooksack and Lummi Tribes concerning salmon habitat needs before taking any action.
2. There doesn't appear to be a specific recreation management plan for the section of the Nooksack which innertubers use.
3. During the August 2022 County Council Meeting at least two of the council members called for interpretive/educational efforts highlighting salmon habitat protection on this section of the South Fork.
4. If County Parks were become involved with this, it would need increased funding/resources. An unfunded mandate would compromise park's ability to manage the areas it currently administers.
5. Establishment of South Whatcom County Park was opposed by some people in opposition of further government involvement in the area.
6. Equity—river tubing provides an opportunity which assures that people aren't priced out of river recreation.

Some Options for the County Parks Commission to Consider.

1. No action.
2. The Commission work with County Parks leadership in reviewing the codes authorizing the agency, and perspectives of elected leaders, in order to come to a determination on the role of County Parks and Recreation in advocating for recreation.
3. The Commission, or the Director, communicate with the County Public Works Department noting the need to consider recreation in their planning work on the Nooksack.
4. The Commission advise the Director to request funding to support a science based, in-depth, objective study examining the effects of tubing on salmon habitat in this portion of the Nooksack River.
5. The Commission advise the Director to request funding to support development of a management plan for tubing use of the Nooksack.