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February 18, 2021

To: Senator Christine Rolfes  
Representative Timm Ormsby

Dear Senator Rolfes and Representative Ormsby,

We write in strong support of the Governor's budget request for adjudication of water rights in the Nooksack River basin.

As background, for more than twenty years both the Nooksack Tribe and Lummi Nation have worked with local entities in multiple attempts to resolve ongoing water rights conflicts throughout the basin and provide all water users with the certainty needed to move forward together in the shared management of our limited water resources. Unfortunately, none of those local efforts have been successful and, with increased population growth and impacts of climate change, our people and the salmon can no longer wait. We need to adjudicate water rights.

We understand you may have heard from a variety of perspectives regarding the Nooksack River adjudication, and we write to provide additional information.

### **Current Status of Agriculture in Whatcom County**

Every five years, the USDA performs a census of agriculture with a summary by county. The most recent census dates to 2017<sup>1</sup>. WSU has completed more detailed analysis of the data to look at changes from 1997 and 2002, to 2017, looking for bigger trends.<sup>2</sup> The following information is excerpted from both the USDA Census and the WSU analysis of the census.

In agriculture, as in other sectors of the economy, decisions are often made based on prices, consumer preferences, and market forces. Crops shift over time and from year to year. USDA data for Whatcom shows that, between 2012 and 2017, the market value of livestock, poultry, and their products were down 8%, but that the market value of fruits, trees, nuts, and berries were up 70%.

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<sup>1</sup> United States Department of Agriculture, National Agricultural Statistics Service. 2017 Census of Agriculture Whatcom County Profile.

<sup>2</sup> Whatcom County Agriculture Statistics 2017. WSU Extension.

Farmland in Whatcom remains over 100,000 acres, the stated goal for Whatcom County in their Agricultural Strategic Plan<sup>3</sup>. Farms in Whatcom County have gotten smaller, and the overall number has increased: from 1978 to 2017, the average size dropped by 28 acres, and the number of farms increased from 1,445 to 1,712.

Along with an increase in farms, between 2002 and 2017 the number of farmers doubled, and younger people became farmers. In 2002, there were 45 farmers from age 25-34. and by 2017 there were 204. During that same period, the total number of farmers in Whatcom increased from 1,485 to 2,982, an increase of 100.8%. Farmers also became more diverse: from 2002 to 2017, there were 4% fewer farmers reporting as white (from 95% to 91%), and 3% more (from 2% to 5%) reporting as Asian.

The USDA Census reports that farm profitability increased from 2012 to 2017; farm-related income was up by 46% with the per farm average up by 66%, government payments decreased by 69%, and the net cash farm income increased 11%. Here are the notable shifts in production:

- Milk and other products dropped from 68% of Whatcom sales to 50%.
- There are fewer dairy farms in 2017 than 2002, but the value per cow increased 52.3%, and the value of dairy products increased by 21.8%.
- Fruits, trees, nuts and berries moved from 8% of Whatcom's ag economy to over 32%.
- Total berry production increased by 43% from 2002 to 2017, largely due to an increase in blueberries.
- Direct-to-consumer sales increased.

### Yakima Adjudication

*"Because of the way water law evolved in Washington, it's imperative that adjudications are used to establish the lawful demand on a water source. Having an inventory of water rights is critical to allow regulation, facilitate issuance of new rights, and encourage investment in projects to address water-short basins. Without it, we're all just playing in the dark."*

— Sid Ottem, former Yakima Superior Court Commissioner for Acquavella

On December 17, 2020, those who attended the WRIA 1 Watershed Management Board had the opportunity to hear directly from Ecology Director Laura Watson and from the Former Adjudication Court Commissioner for Yakima County, Sid Ottem, quoted above.

Commissioner Ottem shared a number of important lessons from that adjudication that we wish to share with you:

- **Water banking.** There is now a water bank in the Yakima with an active group of buyers and sellers.
- **Process streamlining.** The Legislature has amended the law so that there is more flexibility for Ecology, and they will be able to move more quickly.
- **Resolving water rights.** He shared that, in his experience – which extends beyond the Yakima adjudication - the only way to resolve water rights uncertainty is through an adjudication.
- **Certainty.** For real, long-lasting certainty, an adjudication 'is the only game in town'.
- **Local settlements.** In the Yakima case, settlements were negotiated outside the court and were brought in to be made legal.
- **Trust.** He said that at first people went in to fight, and that over time trust developed.

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<sup>3</sup> Whatcom County Agricultural Strategic Plan, Approved by Whatcom County Council on 8/8/18, Res. 2018-027.

- Avoid litigation. He urged all of us not to use our money to fight, but to resolve water rights and find solutions.

We are committed to working towards adjudication, and we support Governor Inslee's request for \$1-million over the next biennium to fund Ecology's work towards an adjudication in the Nooksack River basin and at Lake Roosevelt. We still have time to protect and restore water resources in the Nooksack and the salmon that depend on them, but it is urgent that we act without delay and initiate pre-adjudication this biennium.

Sincerely,



Chairman Ross Cline, Sr.  
Nooksack Tribe



Chairman Lawrence Solomon  
Lummi Indian Business Council

cc: Governor Inslee  
Rep. Laurie Jinkins  
Senator Andy Billig  
Senator David Frockt  
Senator June Robinson  
Senator Lovelett  
Rep. Sharon Shewmake  
Rep. Alicia Rule  
Rep. Debra Lekanoff  
Rep. Alex Ramel  
Rep. Steve Bergquist  
Rep. Mia Gregerson  
Rep. Nicole Macri  
County Executive Satpal Sidhu  
Bellingham Mayor Seth Fleetwood