

Flood: 'We have to capitalize on what's happening because the flood really made our point'

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In the flood's aftermath, Whatcom Family Farmers, an organization that supports the region's agriculture, has tried to rally interest in building a dam — managing the Nooksack River Basin's water by storing it in the winter, when plentiful rain falls, and releasing it during the dry summer.

In the summer, the river falls below fish-protection standards set by the state Department of Ecology. The department plans to adjudicate water rights to determine how much water must be left in the river for salmon during the region's short irrigation season.

Potentially, every agricultural water right could be subject to curtailment. This is foremost on the minds of Whatcom County farmers, who argue the basin doesn't have a water supply problem, it has a water management problem.

"We have to capitalize on what's happening because the flood really made our point," said Whatcom Family Farmers President Rich Appel, a dairy farmer.

Shoring up levees, improving fish habitat and removing some river gravel would help, too, according to Whatcom Family Farmers. No gravel has been removed from the Nooksack River since 1997.

The group's executive director, Fred Likkell, said now is the time for the farmers to present their case.

"There are a lot of people right now craving information," he said. "We clearly need to look at a multi-prong approach."

Storage is key

The key, though, is water storage. A reservoir would prevent winter flooding, protect fish habitat and preserve farming.

"Water storage addresses everybody's problem," Appel said.

But building a dam or removing gravel are politically difficult because of their potential threat to endangered salmon. The basin has three salmon species that are federally protected under the Endangered Species Act.

"What happens to fish — that is the big issue," Likkell said.

Nooksack Indian Tribe Chairman Ross Cline Sr. agrees, but adds, "My point of view won't be popular with farmers and people who live in the floodplain."

He said he opposes storing water in a reservoir. Rather than gravel, he blames manmade dikes that "force the water to stay in one tiny channel," he said. "I think mother nature did a better job by not putting up dikes."

The tribe can't live without salmon, and whatever is done to the river should be done for salmon, he said. "Salmon first, people second."

Growing danger

Dairyman Jeff DeJong slogged through ice and slush to the edge of the Nooksack River and



Don Jenkins/Capital Press

Whatcom County, Wash., dairyman Rich Appel is among many in the region who want to prevent more flooding of the Nooksack River.



Dillon Honcoop/Save Family Farming

Whatcom County, Wash., farmland floods Nov. 15. The flooding closed a grain supplier and rail service, causing a feed shortage at dairies that persisted a week later.



Elaine Thompson/Associated Press

People stand atop a flood wall holding back the Skagit River in downtown Mount Vernon, Wash. An atmospheric river—a huge plume of moisture extending over the Pacific and into Washington and Oregon—caused heavy rainfall, bringing major flooding to the area.

pointed to a mound of sand and gravel rising from the channel.

The North Cascade Range and Mount Baker supply the sediment, which washes down steep tributaries and settles as the river's main stem flattens and winds through farmland.

"It's an easy thing to see," DeJong said. "We've got gravel bars growing larger and larger."

Record rains in November were too much for the river. In two days, Bellingham received a month's worth of rain. The flood damaged about 1,900 buildings in Whatcom County, according to the state's

application for federal disaster funds.

With some people still displaced, state and county officials recently held a meeting at a local high school. A distraught woman said she had 7 feet of water in her house. Officials expressed condolences and talked about the prospects for emergency relief.

Applause was loudest, however, for the woman who shouted, "Why don't we dredge the river?"

It's a question farmers have been asking for a long time, DeJong said. "There's always somebody to say 'No,' or say 'Yes, possibly,' if you do this study or that



Fred Likkell



Rich Appel



Ross Cline Sr.

there were drowned during the floods. "We're sending too much water to Canada," Korthuis said.

study. And by the time the study is done, the rules have changed."

The Nooksack Basin yields more sediment per square mile than any other major river in the Puget Sound region. For decades, gravel companies used the gravel deposits for construction projects, but a series of regulatory actions made getting a gravel permit too hard.

Rising riverbed

The riverbed rose 1 to 2 feet in some places between 2005 and 2015, according to the U.S. Geological Survey, which concluded the riverbed will continue to rise.

"The underlying issue is the bottom of the river is moving up," Lynden Mayor Scott Korthuis said.

It's an international affair. When the Nooksack overflows in the U.S., the water spills northward into British Columbia. Tens of thousands of cows in the Fraser Valley

Korthuis said he and other mayors of the small towns flooded in November meet regularly about the problem. "I think this event has galvanized all," he said. "Doing nothing is not an option anymore."

Whatcom County Public Works Director Jon Hutchins said that over the years sediment management has been talked about in "fits or starts."

It hasn't happened, however, and it's unclear who could make it happen.

"There's no river czar or oligarchy. This is a shared responsibility," Hutchins said. "Things are changing in people's awareness, perception and, honestly, their anxiety."

The state's sensitivity to gravel removal was highlighted in 2019, when lawmakers put three "demonstration projects" in an orca recovery bill. The projects were to be done in three rivers, including the Nook-

sack River, to protect farmland. Removing gravel was dependent on also improving fish habitat. Gov. Jay Inslee vetoed the projects.

The Army Corps of Engineers in 1973 studied a water storage project on the South Fork of the Nooksack River to prevent floods. The district engineer ultimately recommended against the project.

The Corps is not currently studying water storage in the basin, Seattle District spokesman Andrew Munoz said. For a project that big, Congress would probably have to authorize a study, he said.

Problems will worsen

Climate change projections suggest the Nooksack Basin's twin problems — too much water in the winter and too little in the summer — will get worse. Summers will be hotter, while more winter precipitation will fall as rain instead of snow.

Inslee emphasized climate change after touring the flooded area last November.

"We are in a permanent state of attack in our state by the forces of climate change," he said. "This is one flood of unfortunately many that we will be experiencing."

Climate change activists are focused on reducing greenhouse gases to zero by 2050 to keep global average temperatures from rising after mid-century.

Near-term solutions?

DeJong, however, said he's looking for government to do something in the near term. He said he knows that removing sediment won't end floods, but it might make them less frequent and less severe.

"I believe in environmental protection, but we've gone so far as to say that as humans we can't affect anything. We can't continue to exist that way," he said.

He said he also knows that dams are as politically sensitive as sediment management. But it's time to be blunt, he said. "I've been saying 'dam' for a long time."

Grazing: Grazing preferences also have financial ramifications

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Grazing preferences also have financial ramifications, as having access to federal allotments substantially increases a ranch's real estate value.

The Hanleys and Corrigan took their case to federal court, claiming their due process rights were denied because the BLM has separate regulatory processes for canceling grazing priorities and grazing permits.

Under the BLM's theory, landowners could lose grazing preferences if they lease property to ranchers who lose their grazing permits, thereby getting punished for another party's actions.

However, the 9th Circuit upheld an earlier ruling last year that sided with the BLM's position.

"After a permit expires, a former permittee



Mateusz Perkowski/Capital Press File

From left to right, Mike Hanley and his wife, Linda, with daughter Martha Corrigan and her husband John, at the family's ranch near Jordan Valley, Ore.

does not retain any preference to stand first in line for a future permit," the 9th Circuit said.

The Hanleys and Corrigan petitioned the U.S. Supreme Court to review the case but that request was denied on Jan. 24.

Irrigation: 'The plaintiffs have no right to water seepage'

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Similarly, the easement's terms would prevent the irrigation district from abandoning the canal and filling it in, he said.

The irrigation district argued that it would have the right to stop using the easement for any reason, such as a lack of water.

"The plaintiffs have no right to water seepage," Reinecke said.

It's common for irrigation districts to con-

vey water through underground pipelines, but they can also go above ground to cross rivers and other obstacles, he said.

"Irrigation districts have been going above and below for 100 years," Reinecke said.

An abuse of the easement would occur only if the irrigation district intended to entirely change its purpose, such as permitting a power line to cross the property, he said.

Replacing one method of water delivery with another doesn't place an unreasonable burden on the landowners, Reinecke said. "The irrigation district is only doing what it's legally entitled to do."

Excavating silt from canals already happens during routine maintenance, as does the elimination of unwanted vegetation, he said. "Removal of trees and bushes occurs all the time. Every summer."