WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

PROPOSED
Salmon Recovery Funding Board Meeting Agenda

August 31 – September 1, 2011
Department of Natural Resources Southeast Regional Office, 713 Bowers Road, Ellensburg, WA 98926

Time: Opening sessions will begin as shown; all other times are approximate.

Order of Presentation:
In general, each agenda item will include a presentation, followed by board discussion and then public comment. The board makes decisions following the public comment portion of the agenda item.

Public Comment:
If you wish to comment at a meeting, please fill out a comment card and provide it to staff. Please be sure to note on the card if you are speaking about a particular agenda topic. The chair will call you to the front at the appropriate time. You also may submit written comments to the Board by mailing them to the RCO, attn: Rebecca Connolly, Board Liaison at PO Box 40917, Olympia, WA 98504 or at rebecca.connolly@rco.wa.gov.

Special Accommodations:
If you need special accommodations to participate in this meeting, please notify us by August 24, 2011 at 360/902-0220 or TDD 360/902-1996.

WEDNESDAY, AUGUST 31, 2011

OPENING AND WELCOME

12:30 p.m. **Call to Order** *Chair*

- Determination of Quorum
- Introduce new board member: Phil Rockefeller, Member Northwest Power and Conservation Council, former Washington State Senator
- Review and Approval of Agenda *(Decision)*
- Approval of May and June 2011 Meeting Minutes *(Decision)*

MANAGEMENT AND PARTNER REPORTS (Briefings)

12:35 p.m. **1. Management Status Report**

a. Director's Report *Kaleen Cottingham*
b. Financial Report
c. Legislative and Budget Update *Steve McLellan*
   - Supplemental budget proposal (5% and 10% reductions)
   - Preparation for 2012 Legislative Session *Megan Duffy*
   - Status of PCSRF 2011 and 2012
d. Policy Report
e. Work Plan and Performance Update *(Written report only)*

1:10 p.m. **2. Salmon Recovery Management Reports**

a. Governor's Salmon Recovery Office *Megan Duffy*
b. Monitoring *Megan Duffy*
c. Grant Management *Brian Abbott*

1:25 p.m. **General Public Comment:** *Please limit comments to 3 minutes*

1:30 p.m. **3. Reports from Partners**

a. Council of Regions Report — *Steve Martin*
b. Lead Entity Advisory Group Report — *Barbara Rosenkotter*
c. Regional Fisheries Enhancement Groups — *Rebecca Wassell*
d. Key Puget Sound Related Reports — *Puget Sound Partnership*
   - NOAA Assessment of Implementation of the Puget Sound Salmon Recovery Plan
   - Treaty Rights at Risk – A Report from the Treaty Indian Tribes in Western Washington
e. Board Roundtable: Other Agency Updates — *SRFB Agency Representatives*

2:15 p.m. **BREAK**

BOARD DECISIONS

2:30 p.m. **4. Washington Department of Fish and Wildlife Smolt Monitoring Contract Extension** — *Megan Duffy*

2:45 p.m. **5. Leque Island Estuary Restoration (RCO #04-1651), Request for Project Changes: Type, Scope, and Cost** — *Brian Abbott*, *Tara Galuska*

3:30 p.m. **6. Follow-up on Bear River Estuary Project (#10-1652)**

- Update on staff actions — *Megan Duffy*
- Findings from audit of the Lead Entity's public engagement process — *Lloyd Moody*
- Next steps — *Brian Abbott*

BOARD BRIEFINGS

4:15 p.m. **BREAK**

4:30 p.m. **7. Certainty of Landowner Commitments on Restoration Projects** — *Brian Abbott*

5:00 p.m. **8. Overview of the Family Forest Fish Passage Program** — *Brian Abbott*, *Dave Caudill*

5:30 p.m. **9. Preview of Project Tour** — *Alex Conley, Yakima Basin Fish and Wildlife Recovery Board*

5:45 p.m. **Recess Until Thursday, September 1**

THURSDAY, SEPTEMBER 1, 2011

8:30 a.m. **Tour of Board Funded Projects** — *Alex Conley*

- 2-4 sites on Taneum Creek — *Brian Abbott*
- Hundley Easement (time permitting) — *Mike Ramsey*
- Cle Elum Log Jam Project

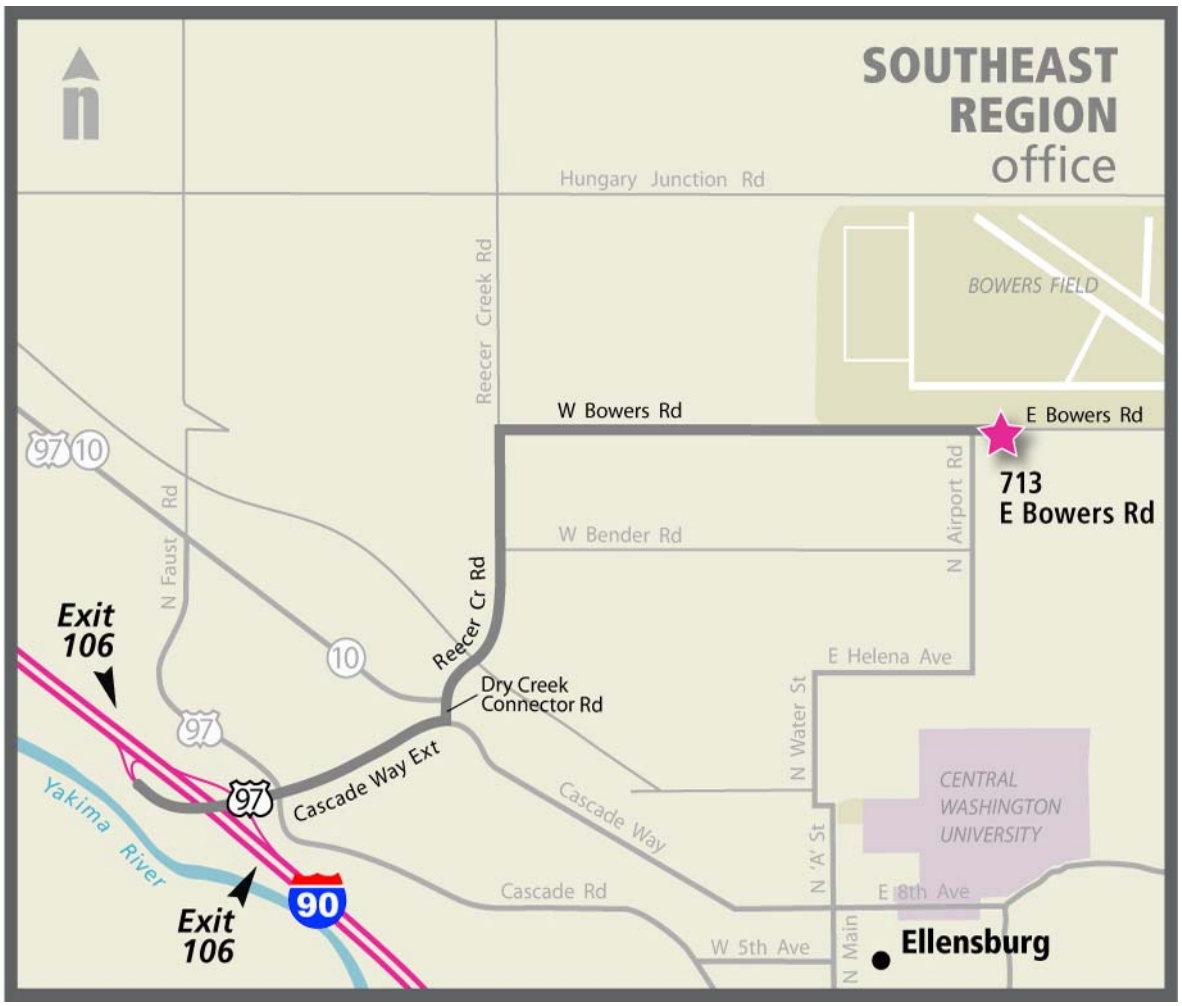
Noon **Adjourn**

Directions to the Department of Natural Resources Southeast Region Office

713 Bowers Rd., Ellensburg, WA 98926-9301

From North Bend:
On I-90 east towards Spokane (75 miles) take exit 106 towards Ellensburg/Wenatchee. Stay straight to go onto US-97. Stay straight to go onto Cascade Way Ext/I-90 Bl. Turn left onto Dry Creek Connector Rd. Stay straight to go onto Reecer Creek Rd. Turn right onto W Bender Rd. Turn left onto N Airport Rd. N Airport Rd. becomes Bowers Rd.

From Spokane:
On I-90 west (173 miles) take exit 106 towards Ellensburg/Wenatchee. Turn right onto US-97. Stay straight to go onto Cascade Way Ext/I-90 Bl. Turn left onto Dry Creek Connector Rd. Stay straight to go onto Reecer Creek Rd. Turn right onto W Bender Rd. Turn left onto N Airport Rd. N Airport Rd. becomes Bowers Rd.



Salmon Recovery Funding Board Summarized Meeting Agenda and Actions, May 25, 2011

Agenda Items without Formal Action

Item	Follow-up Actions
Management Report	No follow-up activities
Salmon Recovery Management Reports	Staff should pull back funds and terminate the contract for the Bear River estuary. RCO will hold funds for the project for future. By August, staff should complete an audit of public engagement process for this project.
Reports from Partners	No follow-up activities
Budget Update	No follow-up activities

Agenda Items with Formal Action

Item	Formal Action	Follow-up Actions
Minutes	APPROVED as presented	No follow-up activities
Recognizing the Service of Phil Miller	APPROVED a resolution recognizing the service of Phil Miller	No follow-up activities
Recognizing the Service of Ken Dzinbal	APPROVED a resolution recognizing the service of Ken Dzinbal	No follow-up activities
Funding Allocation Decisions	APPROVED status quo capacity funding for two years, changes to the capacity allocation, a target grant round of $18 million for 2011, and $750,000 for cost increases.	RCO/GSRO staff and director to implement funding allocation decision, including contracts for lead entities and regions. GSRO to report on Puget Sound Steelhead allocation to lead entities and contract deliverables *(December)*
Monitoring Contract Approval: Intensively Monitored Watersheds	APPROVED $1.47 million and extension for the IMW contract, pending availability of PCSRF funds for FFY 2011.	RCO staff and director to implement funding and extension.

SALMON RECOVERY FUNDING BOARD SUMMARY MINUTES

Date: May 25, 2011 Place: Room 172, Natural Resources Building, Olympia, WA

It is intended that this summary be used with the notebook provided in advance of the meeting. A recording is retained by RCO as the formal record of meeting.

Salmon Recovery Funding Board Members Present:

Bud Hover, Chair	Okanogan County	**Melissa Gildersleeve**	Department of Ecology
David Troutt	DuPont	**Sara LaBorde**	Department of Fish and Wildlife
Harry Barber	Washougal	**Carol Smith**	Conservation Commission
Josh Brown	Kitsap County	**Mike Barber**	Department of Transportation
		Craig Partridge	Department of Natural Resources

Opening and Welcome

Chair Bud Hover called the meeting to order at 9:04 a.m. and a quorum was determined. The chair introduced new member Josh Brown of Kitsap County.

Josh Brown moved to adopt the agenda.
Seconded by: David Troutt
Motion: APPROVED

David Troutt moved to adopt the March minutes.
Seconded by: Harry Barber
Motion: APPROVED

Management and Partner Reports

Management Status Report

Director's Report: RCO Director Kaleen Cottingham noted that, through the work of the Salmon Recovery Funding Board (board), the agency was recognized by the Nisqually Land Trust. She asked if there were any questions about the fiscal report, and noted that the bulk of uncommitted funds are related to hatchery projects.

Legislative and Budget Update: Steve McLellan noted the current budget situation, and that it still appeared that it would be approved today. He discussed the following legislative issues:

- The boards and commissions bill passed; this board was removed from the list of those being eliminated.

- The natural resources consolidation bill was revived. It's unclear whether it will pass, but most of the cuts were included the budget that is expected to pass. The RCO's existing work with the PSP meets the intent of the law.
- The Discover Pass bill was passed and signed by the Governor.
- The bill to consolidate the hydraulics and forest practices permits and restructure fees did not pass, and therefore the budgets include significant cuts to both programs.
- On habitat and critical areas issues on agricultural lands, the conservation commission will be seeking federal funding to implement the Ruckelshaus Center's facilitated legislation.

The board had no questions on the policy report or performance management reports.

Salmon Recovery Management Reports

Governor's Salmon Recovery Office: Phil Miller, Executive Coordinator, highlighted personnel changes in the section, noting that they intend to fill the vacant science position, pending budget results, as well as his position after he retires in June. He and Jennifer Johnson then addressed work being done for future State of Salmon reports. Jennifer noted that they are working on tracking and reporting data in general, and that they need a reporting system that interfaces with existing systems and is more representative of what is happening at the regional level. They are looking at a number of technical and process solutions to provide better consistency in data and messaging. Phil noted that they have a vision of where they would like to be, but that it will take more than one cycle to get there.

Member H. Barber reminded them to look at wild versus hatchery fish. Member Troutt suggested that if there's a region that is ahead of the rest, they should present the information; GSRO should not wait for the report to be "perfect".

Chair Hover thanked Phil for his work, noting his key role in the Upper Columbia. The chair also thanked David Troutt for his participation at a recent WIR conference that addressed issues related to the Endangered Species Act.

Monitoring: Ken Dzinbal noted that the Washington Forum on Monitoring sunsets on June 30, and that they are wrapping up the last items, as described in the staff memo. The board will get advice on board-funded monitoring programs from the GSRO in the future. Chair Hover thanked him for his work, noting that monitoring is critical to presenting the case for salmon recovery.

Grant Management: Grant managers Tara Galuska and Mike Ramsey highlighted five projects of interest: Minkler Lake Acquisition (02-1620A); Squaxin Island Pier and Bulkhead Removal (10-1781); North Fork Little Hoquiam Dam Removal (07-1747R); Strawberry Plant Restoration Construction (08-1971); and South Fork Skokomish Large Woody Debris (06-2302R and 07-1657R). Board members expressed pleasure with the outcomes of the projects.

Salmon Section Manager Brian Abbott recapped the project conference, noting the strong attendance and final costs. TVW recorded portions of the conference, and they are now streamed to the web. All of the session presentations also are available online. The conference evaluation is underway, and staff will provide the results to the board. Chair Hover and David Troutt noted that it was a good conference and complimented staff efforts.

Bear River Estuary: Brian Abbott and Kat Moore provided a short briefing on the Bear River Estuary project, including the project background, location, and the Environmental Impact Statement for the larger plan and project. Director Cottingham noted that all of the public comment was available online, and distributed a printed copy to board members for reference. Abbott reviewed the major themes of the comments opposing and promoting the project. Moore provided a map and described the portions of the project that would be performed under the board grant, noting that it does not fund the Riekkola Unit.

In response to a question from Chair Hover, Abbott confirmed that the board provided $55,000 for the design of two fish ladders in 2000. The ladders are in need of repair, and would be removed under the new grant. Member Troutt asked when the Comprehensive Conservation Plan (CCP) would be finalized. Moore noted that the plan is final but that they have not yet selected an option. Member LaBorde asked if the current design leaves the Riekkola Unit completely protected. Moore responded that the design removes the unit, but the current grant funding does not include construction on that unit.

Member Barber asked if it reestablishes estuary function in the entire area, and what the benefits are to fish in terms of productivity. Moore responded that about 500 of the 760 acres would be restored with the current grant. Charlie Stenvall, Refuge Manager with the USFWS, was invited to the table to respond, and stated that this is project promotes foraging, not spawning habitat.

Chair Hover noted that he has concerns on many levels. The board relies on the local process, including citizen and technical reviews. This project got through with high marks, but he is concerned that the USFWS gave tacit approval without having completed their process. Doing so may have corrupted the process by appearing to have pre-selected one of three options.

Chair Hover asked Charlie Stenvall to answer board questions. Member Brown asked for an overview of the Environment Impact Statement (EIS) alternatives. Stenvall described the three options: no action; remove all three dikes; and remove only two of the dikes (leaving the Riekkola dike in place). There are two separate processes: the board's process and the USFWS's CPP process. The latter began in 2008, and it is about a year behind schedule. They are looking at a variety of funding sources, but they are not moving forward until the decision is made.

Member H. Barber asked him to point out the hunting areas on the map. Stenvall pointed out the regulated areas for duck and goose hunting. The areas are required under the Migratory Bird Conservation Act and Duck Stamp Act, but the acts do not specify management activity. The area will be open to hunting after the dike is removed. Member Troutt noted that the Nisqually Refuge also used Duck Stamp money, and restored the estuary.

General Public Comment

Jon Kaino, Pacific County Commissioner stated that they had submitted a letter asking for defunding. He does not want to argue the merit of the project, only the process, which he believes did not meet statutory intent of the public involvement and comment periods. The county takes responsibility for the problem, and is working to fix it. Further, the project proposal was erroneous, stating that the USFWS had completed the CCP update and that the landowner had agreed to remove the dikes. On the date the application was submitted, the process was just beginning. There is compelling evidence

that the integrity of the local process is in question. Mr. Kaino provided copies of his comments to the board, along with a copy of the application.

Key McMurry, Key Environmental Solutions, indicated that she would submit comments in writing. She noted her background in salmon recovery and board-funded projects. She believes that there is a vocal minority opposing the project. She stated that the Bear River estuary project, which is option two in the CCP, is the best option. She believes that the opposition is not based in science and encouraged the board to consider recent studies. McMurry concluded by saying that the process had integrity.

John Arrabito, Washington Waterfowl Association, read the project proposal's response to a question about community contact, noting that recreational groups who use the area for waterfowl hunting were not contacted. He stated that since the area is primarily funded from duck stamp funds, and they should have been notified. He stated that his group did not speak out against the project before now because they were not notified. He also noted that there is no gravel for spawning, only a mudflat, and that he has not heard before now that the project was not intended to provide spawning habitat. Ducks and endangered geese will not be able to survive in saltwater.

Steve Gray, citizen, distributed a handout for the record. He reiterated the comment that there is no gravel behind the dikes or in the streams for spawning habitat. He attended one meeting in 2008, and stated that all public members who were there opposed the project. He fully supports salmon recovery, but does not think this is a good salmon project.

Kerby Couch, citizen, stated that he fishes and hunts, and is opposed to the project. He believes that the only people supporting the project are those who are going to benefit financially. He reiterated the comments that (1) the meeting in 2008 yielded only opposition and (2) there was no outreach to recreational users. He acknowledged that there is peer-reviewed scientific data, but that the application excluded any data that contradicted the assumptions. He referred to other studies, and said that the creeks do not support salmon. He provided written comments for the record.

Ed Bowen, citizen, stated that his comments are not limited to Bear River, and that he wanted to comment on public outreach along the coast. He believes there needs to be more outreach to the public at all stages. He suggested that there needs to be more involvement of citizen science and that the board should direct the regional organization to include more outreach in the recovery plan.

John McAninch, citizen, believes that as a state agency, the board needs to implement projects that benefit citizens overall. Many citizens were not notified, and he asked the board to review how it could fix that. He noted that there is no projected benefit in terms of numbers of salmon for this project or others, stating that there are counts after restorations, but not before. He noted the Nisqually refuge as an example. This is a violation of the original intent of the refuge and its primary funding source. He believes the statements by the sponsors are misrepresentations. He also questioned the award of a contract prior to the close of public comment and permitting.

Dick Jenson, citizen, referenced the Nisqually project, and noted that there were thousands of geese before the restoration. He stated that there was no benefit to salmon by creating an estuary. He reported that people can no longer use the refuge.

Ron Craig, project sponsor, stated that he was not doing this for monetary benefit and did not lie in his application. On this project, they invited the county to sit in on the design, so they knew what the plan was. The sponsor submitted all of the required county applications, even though it is federal land, in case they had a question. Craig's group asked the county if they wanted to do joint public meetings and the county said no. They contacted the landowners about where the tide would come in, and worked with them to let them know what would happen. Chair Hover asked why the public pushback was just happening now. Craig responded that some of the speakers knew about it in 2008 and he could only guess that the hunters just recently realized which areas would be flooded. He conceded that the outreach to the groups was done by the refuge, not the sponsor.

Mike Johnson, lead entity coordinator, stated that Ducks Unlimited is on the citizen committee, and that they were asked to meet with their peer groups. They have a month and a half to review before evaluation.

Board Discussion

Member H. Barber asked about the difference between this project and the one they saw at Willapa Bay, which also involved dike removal. Director Cottingham noted that it also was difficult to get approval for that project, and Brian Abbott noted that a key difference is tidal levels. A member of the audience noted that they didn't know about that project in time to voice their opposition, but that seeing the effect motivated them to pay attention to this project.

Member Troutt noted that the board needs to assess the local outreach and whether it works. He does not question the fish benefits of the project, noting that it scored well. He noted that the project is conditioned not to proceed until the CCP is completed and permits issued. In his opinion, the board needs to be clear that funds are not available for the project until the CCP is completed and permits are in place. Member Troutt noted that this is a rare and unique situation, but that the board needs to figure out what happened to cause the process failure.

Chair Hover noted concern that this project got in front of the CCP process, and that situation – funding in place for a specific option – places the integrity of the CCP process in question. He wants to protect the integrity of the board process. He doesn't think that the sponsor intended to be dishonest, but could see how there would be a perception that one option was a foregone conclusion. Further, there could have been misinformation as the process was moved forward.

Member H. Barber noted that over 60 percent of estuary function has been lost in Willapa Bay, and that it is a concern. He thinks the procedural concerns are real. He thinks there is a real issue that the board and staff need to address – ducks versus fish.

Member Smith suggested that they need to separate the project footprint from the USFWS project footprint because the impacts will be different. She suspects that the sensitivities regarding the Riekkola unit might be different from the whole unit.

Member LaBorde concurred that there is a technical side and a public process side; like the other members, she agrees with the technical side, but that they need to know what happened on the public process side.

Member Troutt suggested pulling back the funds, terminating the contract, holding the funds in abeyance, having a staff audit of the process, and then deciding how to proceed at the next meeting.

Member Brown concurred. Member H. Barber asked if there was any liability associated with this action. Director Cottingham noted that the contract allows such a termination.

Member Troutt moved to pull back funds, terminate the contract, hold the funds for the future for this project, have staff audit the public engagement process, and make a decision on the whether to reissue a contract after there are assurances about the public process that protect the integrity of the SRFB process. Brown seconded.

Motion APPROVED

Partner Reports

Council of Regions Report: Jeff Breckel, Lower Columbia Fish Recovery Board referenced the funding report and suggested that they all should be using the report to think about long-term funding issues. They are trying to think about how to set priorities and implement the plans across the state and regions.

Lead Entity Advisory Group Report: Barbara Rosenkotter presented the LEAG report, thanking staff for the project conference. She noted the PRISM and Habitat Work Schedule interface is in use, and they are looking forward to building on it in the future. She referenced the board's discussion about Bear River, and said that these issues should be resolved at the local level. She suggested that the board not "tinker" with it too much.

Regional Fisheries Enhancement Groups (RFEGs): Lance Winecka, Executive Director of the South Puget Sound RFEG, presented on behalf of the 14 RFEGs, noted that they are continually learning how to improve public outreach. He noted the work of the RFEGs and their monitoring results, as described in the materials provided in the notebooks (item 3C).

State Agency Partners
Sara Laborde, Department of Fish and Wildlife, noted that the habitat program budget was hit hard. For our August meeting, she will brief the board on their efforts to work with local partners to develop the size and scope of permit streamlining. She also noted that they will soon have a beta version of a hatchery and harvest component in Habitat Work Schedule.

Carol Smith, Conservation Commission, thinks that the challenges ahead from the budget will be similar to what they've experienced in this biennium. They may merge some districts. She noted that they have a new voluntary stewardship program. Counties can opt in to deal with critical areas ordinances on agricultural land. They will seek federal funding for the program.

Mike Barber, Department of Transportation, noted that they have eight fish-related projects moving ahead this summer. DOT anticipates a large reduction in transportation projects in the future, and this will affect opportunities for fish passage and mitigation projects. However, they are getting an increase in the dedicated funding for fish passage program and chronic environmental deficiencies.

Craig Partridge, Department of Natural Resources, reiterated that the budget will be a hit. Based on legislation from a previous session, they are evaluating methods of incentivizing working forest landowners to stay with forestry, in particular ecosystem service markets. They also want to do some work on watershed service markets, based on feedback from stakeholders.

Melissa Gildersleeve, Ecology, said they would be taking a big cut in the water resources program. Watershed planning work also is cut back to key watersheds.

Budget Update

Steve McLellan noted that the Senate still has to pass the operating budget, but that RCO will have about a 5 percent cut. The overall capital budget is down, but salmon-related bond programs were funded at the level requested in the Governor's budget. PSAR and ESRP have restrictions on state agency acquisitions.

On the federal budget, he noted that the level of the Pacific Coastal Salmon Recovery Fund (PCSRF) award would be lower than anticipated. For fiscal year 2012, there is no clear indication of what the level will be. There are still many contingencies.

Board Decisions

The board took action on four topics, as follows.

Recognition of Service for GSRO Executive Coordinator Phil Miller

The board and audience members recognized the service of Phil Miller, who will retire from state service in June.

Josh Brown moved to adopt Resolution 2011-02 to recognize the service of Phil Miller.
Seconded by: David Troutt
Motion: APPROVED

Recognition of Service for Monitoring Forum Executive Coordinator Ken Dzinbal

The board recognized the service of Ken Dzinbal, who will leave the RCO after the Forum sunsets in June 2011.

David Troutt moved to adopt Resolution 2011-03 to recognize the service of Ken Dzinbal.
Seconded by: Josh Brown
Motion: APPROVED

Funding Allocation Decisions

Megan Duffy presented the board's funding framework and historical funding.

Phil Miller then provided information about the draft scopes of work for the lead entity and regional contracts in 2011-13. He proposed base funding levels for the contracts and changes to the distribution of funds; regions would receive about $5.5 million for the biennium, while lead entities would receive about $3.3 million. Finally, he proposed two additional items for the scopes of work, and suggested that they be paid for with returned funds. Board members asked about the need, responsibility, and timeline for the Puget Sound steelhead plan. Rebecca Ponzio, from the Puget Sound Partnership, stated that they do not yet know the details of how the plan will be developed; they will work with NOAA, lead entities, and the Puget Sound Recovery Council to determine details of work by Puget Sound lead entities and more specific timing of work products to support

development of the steelhead recovery plan. After NOAA finishes their population identification, the funds would go to the lead entities for local processes to connect the watershed information to the plan; the actual deliverables will vary.

Megan Duffy then provided a series of funding scenarios for board consideration. She noted that the funds available from the Pacific Coastal Salmon Recovery Fund (PCSRF) are likely to be lower for fiscal year 2011 than anticipated in the memo, and that the charts in the presentation reflected that change. This would mean $2.575 million for monitoring and (potentially) $16 million for projects and capacity. Otherwise, presentations and funding tables were consistent with the memos 5A, 5B, and 5C.

Comments from Regions and Lead Entities

Jeff Breckel and Alex Conley presented the perspective of the regional organizations as described in a position paper that they distributed. Breckel stated that the regions encouraged the board to approve a contract, scope of work, and funding for capacity to cover two years. They believe that one-year contracts do not give incentives to look for savings and efficiencies because there is no guarantee that the funds would help offset potential reductions in the second year. Conley noted that the risk of larger cuts in year two is manageable with future returned funds, revisiting the allocation to monitoring, savings, or other funding sources.

Barbara Rosenkotter supported the position paper presented by the regional organizations and presented the perspective of the lead entities, noting that none of the work gets done without the local efforts. Some lead entities are barely hanging on with the currently available funding; many are at a critical juncture where cuts would mean the loss of lead entities. This is especially true in Puget Sound, where the PSAR capacity has been cut. Without capacity, there are no projects. She acknowledged that big hits in year two would require creative solutions, but says it is preferable to have an additional year of full funding.

Public Comment

Ed Bowen, citizen and member of the Lake Ozette Steering Committee, stated that the board funds are their lifeblood. About $1800 of the last allocation went to public outreach, and they are working to improve it. He would like GSRO to ask what the local groups need and help leverage multiple funding partners. He suggested that the board think about setting aside funding just for sockeye recovery and that returned funds go to a short list of projects for sockeye recovery, subject to board approval.

Jeff Breckel, Lower Columbia Fish Recovery Board, spoke about the Lower Columbia monitoring funds in the PCSRF budget. He suggested that it would have been useful to involve the region regarding tradeoffs, because it is the most critical monitoring priority in the region. He said that they should look at the overall monitoring funds related to PCSRF; he thinks that fish in/fish out is more important than intensively monitored watersheds.

Board Discussion

Member H. Barber asked about the expectations for the Lower Columbia monitoring. Member LaBorde responded that they were clear with NOAA that it could be continued only at $27.5 million or more. It's very important to NOAA and it is critical monitoring. Megan noted that the state assumed that if NOAA wanted funding for the monitoring, it would be in addition to the $25.75 million in funding.

Member Smith noted that it was important to preserve capacity, and suggested that the board maintain the status quo.

Member H. Barber noted that projects also involve people, because they are often done by RFEGs. Member Troutt noted that the lead entities are not fully funded under the current system. He believes that capacity is more important than projects because the lead entities would find other project funds.

David Troutt moved to maintain status quo capacity for two years. Josh Brown seconded. Motion passed 3-1. Barber opposed.

Based on that decision, Duffy presented a new approach (Approach C), which includes the status quo capacity funding for two years, changes to the capacity allocation as requested, a target grant round of $18 million for 2011, and a minimum of $750,000 for cost increases in projects.

David Troutt moved to approve the 2011 Fund Allocation, Approach C as presented on May 25, 2011.

- **Fund regional organizations and lead entities up to $8,863,110 for state biennium 2011-13.**
- **The funding for regional organizations and lead entities will be distributed consistent with the 09-11 biennial distribution, except that $200,000 from the Puget Sound Partnership regional grant shall be moved to the Puget Sound lead entities, and $20,000 from the Foster Creek Lead Entity shall be moved to the North Pacific Coast Lead Entity.**
- **Set a target 2011 grant round amount of $18 million.**
- **Set aside a minimum of $750,000 for cost increases in projects.**

Seconded by: **Josh Brown**
Motion: **APPROVED**

David Troutt moved to adopt Proposal 1 and 2 (allocate up to $250,000 for awards to Puget Sound lead entities for reviewing and developing elements of a Puget Sound Steelhead recovery plan and to allocate $20,000 through the Washington Coast regional grant to support local facilitation and outreach for implementation of the Lake Ozette Sockeye Recovery Plan).

Seconded by: **Josh Brown**
Motion: **Approved**

Board members expressed concern that the funding request for the Puget Sound Steelhead recovery plan did not include specific deliverables. Phil Miller agreed to provide an update on the funding allocation and deliverables in the December GSRO report.

Funding for Intensively Monitored Watersheds

Ken Dzinbal presented background information on the Intensively Monitored Watersheds program, noting that it is integral to recovery program. It has been supported with about $1.4 million annually from PCSRF for many years. The grant contract expires in June, so the request is for the board to again delegate authority to the director to extend the contract, and fund it when PCSRF funds become available.

Member Troutt asked Dzinbal to respond to Jeff Breckel's comment about preference for fish in/fish out over IMW in the Lower Columbia. Dzinbal invited Bill Ehinger, Department of Ecology, to the table

to respond. Ehinger responded that the former indicates the number of fish, while the latter tries to explain the "why" behind the numbers and whether the projects are effective. Dzinbal noted that some of the IMW effort includes some fish in/fish out work. Ehinger reviewed the reasons for setting up the IMWs, and stated that how one compares the two types of monitoring depends on which question the board wants to answer.

Member Troutt also would like to know what it would take to create a fall Chinook IMW, and expressed frustration that they have not been able to get that information for him. Dzinbal responded that they did additional work on the question, and found that experts had believed that answering questions about Chinook would take a different approach than an IMW. Developing the ideas of those experts into a proposal was delayed by funding availability, but it is still worth pursuing.

Member Troutt suggested that monitoring funds be given to the regions to award to their local priorities. Member Partridge noted that NOAA would not look favorably on that approach. Director Cottingham reminded the board that they used that approach in the past, but changed it so that they could do monitoring holistically. She also noted that the new GSRO position would be working with the regions on monitoring. Director Cottingham also reminded the board that their framework for monitoring was set up a few years ago and was reviewed by the Forum in 2010. This recommendation is consistent with that framework.

David Troutt moved to authorize the Director to approve up to $1,467,000 for one year of IMW monitoring, through June 2012, pending receipt of 2011 PCSRF funds.

Seconded by: **Harry Barber**

Motion: **APPROVED**

Public Comment

Steve Martin, Snake River Region, provided information about steelhead and Chinook IMW in the Snake River Region, which is funded through PCSRF. There is exciting information and results coming from these IMWs, and suggested that it be a topic at an upcoming meeting.

Alex Conley, Mid-Columbia Region, suggested that the board should have a discussion about monitoring priorities in a post-Forum world. The regions have recovery plans, and the monitoring program should be consistent with them.

Final Comments

Director Cottingham reminded the board that the next meeting would be August 31 and September 1 at the DNR office in Ellensburg.

Meeting adjourned at 3:30 p.m.

Approved by:

_____ _____

Bud Hover, Chair Date

Salmon Recovery Funding Board Summarized Meeting Agenda and Actions, June 15, 2011

Agenda Items with Formal Action

Item	Formal Action	Follow-up Actions
Pro Tem Appointments to SRFB Subcommittee	APPROVED	

Salmon Recovery Funding Board Summary Minutes

Date: June 15, 2011 **Place: Room 285, Natural Resources Building, Olympia, WA**
Board members participated via conference call

It is intended that this summary be used with the materials provided in advance of the meeting. There is no audio recording of this meeting.

This is special meeting of the Salmon Recovery Funding Board. Notice was made on June 9, 2011 via email to interested parties, board members, and the Washington State Register.

Salmon Recovery Funding Board Members Participating by Phone:

Bud Hover, Chair	Okanogan County	**Carol Smith**	Conservation Commission
David Troutt	DuPont		
Harry Barber	Washougal		
Josh Brown	Kitsap County		

Opening and Welcome

Chair Bud Hover called the meeting to order at 1:30 p.m. and a quorum was determined.

Board Decisions

The Salmon Recovery Funding Board (board) took action on one topic, as follows.

Pro Tem Appointments to Board Subcommittee

Recreation and Conservation Office (RCO) director Kaleen Cottingham explained the role of the subcommittee and the circumstances requiring the pro tem appointments, as described in the staff memo. In response to a question from board member Smith, she explained that the pro tem member needed to be a voting board member so that the subcommittee had at least two voting board members. She concluded that staff recommends that the board allow the chair to appoint a pro tem member if a standing subcommittee member must recuse himself or herself.

There was no public comment. The board members concurred with the recommendation.

Josh Brown moved that in the event a member of the board subcommittee is unable to participate in a subcommittee meeting due to an inability to attend because of illness or leave, or because of a potential conflict of interest due to the subject matter of the meeting, the Chair of the board is authorized to appoint a pro tem member for that meeting from among the other voting members of the board.

Seconded by: **David Troutt**

Motion: **APPROVED**

No other business was conducted.

Meeting adjourned at 1:36 p.m.

Approved by:

_____ _____

Bud Hover, Chair Date

From:	Cottingham, Kaleen (RCO)
To:	Connolly, Rebecca (RCO); Langen, Rachael (RCO); McLellan, Steve (RCO); Duffy, Megan (RCO)
Cc:	Duboiski, Marc (RCO); Abbott, Brian (RCO)
Subject:	FW: FW: Skagit Projects
Date:	Thursday, August 11, 2011 4:44:32 PM
Attachments:	DOC004.PDF

From: Mike Rundlett [mailto:mwrundlett@westag.org]
Sent: Thursday, August 11, 2011 2:56 PM
To: Shirley Solomon
Cc: Duboiski, Marc (RCO); Director (DFW); O'Keefe, Gerry (PSP); OFM Administration; marymargaret.haugen@leg.wa.gov; barbara.bailey@leg.wa.gov; Norma Smith; Lytton, Kris; Curtis Johnson; Mike Shelby
Subject: Fwd: FW: Skagit Projects

Shirley,

I assisted in the preparation of the Curtis Johnson/WWAA letter to the SRFB and take the responsibility for the incorrect use of the term 'lead entity'.

Please accept my apology for the name confusion and any difficulty that it has caused the SWC.

As you have explained, the term 'lead entity has a specific meaning and the Skagit Watershed Council is the 'lead entity' for salmon recovery in Skagit County. Also, you are correct in concluding that the letter, when inappropriately using the term 'lead entity, meant to refer to the SRSC, who managed the two projects mentioned. We know that the SWC was not involved in directing or managing these projects. The letter should have more appropriately used the term 'project sponsor' or 'project lead' or 'project manager'.

Please be assured that the letter was not directed toward the activities of the SWC. To the contrary, the WWAA, and the Skagit agricultural community more generally, greatly appreciates the manner in which your organization communicates and works with all of us.

Regards,
Mike

---------- Forwarded message ----------
From: **Shirley Solomon** <solomon@skagitwatershed.org>
Date: Wed, Aug 10, 2011 at 4:29 PM
Subject: FW: Skagit Projects
To: mshelby@westag.org

Good afternoon Mike: Marc forwarded your letter to me and I have a couple of questions for you regarding your statements about "the lead entity." The Skagit Watershed Council is the statutorily designated Lead Entity for WRIAs 3 and 4 – Skagit and Samish.

The complaints you level against "the lead entity" would thus be leveled at the Watershed Council. Those complaints don't ring real to me at all. Perhaps you meant "project sponsor?" You are talking about the Skagit River System Cooperative, are you not? And surely not the Watershed Council.

I feel you've given the Council an unearned black eye. I would appreciate you correcting this error with the many recipients of your letter

I would appreciate you getting back to me,

Shirley

Western Washington Agricultural Association

RECEIVED
AUG - 8 2011
RECREATION AND CONSERVATION OFFICE

August 2, 2010

Salmon Recovery Funding Board
Washington Recreation and Conservation Office
P.O. Box 40917
Olympia, Washington 98504-0917

Dear Board Members,

As the president of the Western Washington Agricultural Association, I am writing to you on behalf of several Skagit Valley landowners and farmers. They have contacted me to express their concerns with two large habitat restoration projects recently constructed in the lower Skagit River delta area. These projects were developed using Salmon Recovery Funding Board (SRFB) funding. The projects were intended to restore estuarine habitat and function to assist in the recovery of ESA listed Chinook salmon populations in the Skagit watershed.

The two projects are Fornsby/Smokehouse on the Swinomish Channel and Wiley Slough on Fir Island. Both projects involved the design and relocation of dikes, tide gates and drainage infrastructure that protect working agricultural lands. The local agricultural community was supportive of these projects and has worked in good faith through local participation of the drainage and diking districts. The Skagit farmers are rightfully disappointed that their input has been disregarded by the lead entity. Unfortunately, some of the projects' results are now demonstrating design and construction problems they think are due in part to this lack of consideration for community input.

The Fornsby/Smokehouse project has been difficult to follow as the project is located on Swinomish Tribal lands and the lead entity has not been very forthcoming to the farmers and others about the full scope and status of the project. I am provided anecdotal information that crop losses have occurred adjacent to the project, and many acres of previously farmed lands are no longer productive due to the salt intrusion into the soils caused by the project. This is interesting because the habitat restoration was originally characterized as a demonstration project, in part, to help evaluate and inform the community of the interface and impacts to agricultural lands from projects of this type. The lead entity has not come forth with the evaluation report that it said would be prepared. I am also told that the new tide gate for the project has been, and continues to be, plagued by serious design problems. Upon installation it quickly suffered a major structural failure. I understand that multiple attempts to refit the tide gate, at substantial additional cost, have also not performed as well as hoped.

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Mike Shelby, Executive Director • (360) 424-PEAS (7327) • FAX (360) 424-9343
Email: wwaa@fidalgo.net

I have also learned the Wiley Slough project, which was constructed on Washington Department of Fish and Wildlife owned lands, also has some significant problems. I am told that this was due to faulty engineering design and poor material choices directed by the lead entity. During the initial flooding of the restored estuarine area a major failure of the new tide gates occurred. Correcting the design, and subsequent construction modifications, contributed to substantial unanticipated project expenditures. As explained to me, this could have been avoided had the lead entity followed the earlier recommendations and preferences expressed by the drainage and diking district commissioners and their representatives. The landowners adjacent to the Wiley project were assured that the project would not compromise the farming of their lands. Sadly, what I have been told is that drainage in the area adjacent to the project is not functioning as it did before the project. This project has, in fact, severely compromised drainage function in the area. Many acres and a number of landowners are affected in their ability to farm and are financially impacted by this problem. One farmer has not been able to land apply manure for cropping and large portions of some adjacent corn fields were lost. The continuing high water table, salt water intrusion and surface ponding are an ongoing interference with critical field cultivation and management activity. I am told that the lead entity and WDFW, the project site landowner, have paid for manure transport to a digester and for temporary auxiliary drainage pumping, contributing to even more project cost overruns. And, these are just temporary control measures. More currently, the WDFW has become directly involved and taken the lead to address the continuing project problems, but the agency is limited by funding constraints. The bottom line is that, we appreciate WDFW stepping in and their sincere efforts to continuing to work on these drainage problems. However, no long-term solutions have yet been implemented. The question becomes; what will it take to secure funding for the permanent corrections of the farmland problems imposed by this SRFB supported project.

The Salmon Recovery Funding Board provides funding for projects aimed at salmon recovery, and which incorporate the community values and priorities of its local partners. As you recognize, it is necessary to balance diverse interests, build community support, and provide for the efficient use of resources to maximize the public investment. I am concerned that these projects are not fully reflecting these goals and objectives. While these projects appear to have provided measurable salmon restoration benefit it must be observed that the conduct of these projects have not adequately protected critical community values and priorities. And, given the remedial engineering, design and construction cost components of these projects they ought to receive appropriate oversight and accountability for their expenditure of public funds.

I am asking that the Fornsby/Smokehouse and Wiley Slough restoration projects each be audited and given a specific performance review by the Salmon Recovery Funding Board.

I look forward to hearing from you regarding your follow-up on these projects.

Sincerely,

Curtis Johnson
15510 Snee-Oosh Road
LaConner, WA 98257

Cc: Kaleen Cottingham, Director, Recreation and Conservation Office
Phil Anderson, Director, Washington Department of Fish and Wildlife
Governor's Salmon Recovery Office
Puget Sound Partnership
Office of Financial Management
Senator Mary Margaret Haugen
Representative Barbara Bailey
Representative Norma Smith
Representative Kristine Lytton

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Fax: (360) 902-3026

E-mail: info@rco.wa.gov
Web site: www.rco.wa.gov

STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

August 16, 2011

Curtis Johnson
Western Washington Agricultural Association
2017 Continental Pl. #6
Mount Vernon, WA 98273

RE: Fornsby Creek/Smokehouse Floodplain and Wiley Slough Projects
August 2, 2011 WWAA Letter

Dear Mr. Johnson:

Thank you for your letter requesting the Salmon Recovery Funding Board (SRFB) audit two of its funded projects. The integrity of our salmon recovery grant process requires that we maintain the highest level of oversight of our grant recipients and project implementation. Your suggestion is a good one.

The Recreation and Conservation Office (RCO), which administers SRFB funds, will conduct an independent review of the design and construction of the two projects referenced above. So that we don't duplicate any remedial efforts currently underway by the Department of Fish and Wildlife at Wiley Slough, I will be meeting with WDFW's regional staff to understand their plans to review the project. We will provide the project sponsor an opportunity to provide us their perspective on the implementation of both projects.

RCO's audit will likely be completed by one of the engineers currently on contract who has the appropriate expertise. When this review is completed, RCO will present the information to the SRFB and will make sure you get a copy of the final report.

If you have any questions, please do not hesitate to call me. I can be reached at (360) 902-3003 or kaleen.cottingham@rco.wa.gov.

Sincerely,

Kaleen Cottingham
Director

cc: Steve Hinton, Skagit River System Cooperative
Shirley Solomon, Skagit Watershed Council
Bob Everitt, WDFW
Mike Rundlett
SRFB members

Washington State Senate

Olympia Address:
PO Box 40410
Olympia, WA 98504-0410

Senator Mary Margaret Haugen
10th Legislative District

(360) 786-7618
FAX: (360) 786-1387
e-mail: haugen_ma@leg.wa.gov

RECEIVED
AUG 23 2011
RECREATION AND CONSERVATION OFFICE

COPY

August 18, 2011

Washington State Parks and Recreation Commission
1111 Israel Road S.W.
Olympia, WA 98504-2650

Dear Commissioners,

I have recently learned about a proposal from the Skagit River Systems Cooperative (SRSC) to the Salmon Recovery Funding Board (SRFB) for funding to study the issue of turning a portion of Camano Island State Park into an estuary for fish habitat. I am writing to register my strong belief that the SRSC should look for another location. I am very opposed to this proposal.

I was there over 60 years ago when this park was built in one day by a dedicated group of community members who wanted to ensure public access in the Stanwood/Camano Island area. My parents joined the community to build a park so their children would have a place to enjoy Camano Island beaches well into the future. Camano Island has very limited public beach access. To do anything that would diminish the ability for the public to access these beaches is unacceptable, and further, is an insult to the efforts of those who took time out of their lives to create something that they believed would be a lasting benefit to the entire community for generations to come.

With such limited public funds available, I want to make it clear that I will oppose this proposal, and I am not alone. I encourage the board to consider looking somewhere else for this project. There is already strong public opposition to this plan and it will only continue to grow as people are made aware of this proposal – which I understand would take almost 25% of one of only two state parks on the island out of public use. The greater Stanwood/Camano Island area residents and tourists alike love that park and spend countless hours exploring the beach, flying kites and using the boat launch. Access is so limited already – please do not consider limiting access even further with this proposal.

Additionally, there is going to be a major habitat restoration project on the north end with the Leque Island project. The Stanwood/Camano area is already doing their part for fish habitat. I am certain that the SRSC can find a more acceptable location without

taking such a large part of a well-loved public park out of commission. I understand that Parks is not taking any direct action at this time, but I would hope that you consider encouraging the SRSC to look elsewhere.

Thank you for your consideration. Please keep me informed on the progress of this issue.

Sincerely,

Mary Margaret Haugen
State Senator, 10th Legislative District

cc: Recreation & Conservation Office – Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 1A

Meeting Date: August 2011
Title: Director and Agency Management Report
Prepared By: Kaleen Cottingham, Director

Proposed Action: Briefing

To minimize duplication, some items that might normally be included in the director's report have been deleted here and included in other memos throughout the notebook (such as the policy director's report, legislative update, and the grant manager's report).

RCO Launches Web-based Project Snapshot Feature

In early July, the Recreation and Conservation Office (RCO) launched a new feature on our web site that allows visitors to get detailed information on most grant projects. The new feature, called Project Snapshot (www.rco.wa.gov/prism/projectsearch.aspx), is available on the RCO web site home page, and throughout the site. Web visitors are able to select different criteria for projects (e.g., location, grant program, type of project, year of funding, etc.) and have grant information displayed graphically in charts or graphs. Clicking on the graphics provides details of individual projects. Web visitors can get a full range of information on funding, status, milestones, and see photographs, maps, and other grant agreement documents. These new features don't require visitors to download PRISM, and greatly improves the ability of visitors to learn about, and track, projects in their neighborhoods.

Status of the Operations Manual

For the past two years, the senior grant managers have been working on an operations manual that describes the grant management process. The manual will be a resource tool for new and current staff, will help drive consistency in practice among grant managers, and will help our grant recipients and the public understand what it is a grant manager does. Because of competing priorities, we have asked grant manager, Leslie Ryan Connelly, to take what has been done so far and complete the document by December 31.

Some Contracts to Switch to Performance-Based Format

Last November, the Governor issued Executive Order 10-07, Performance-Based Contracting, which requires state agencies to strengthen their contract management by identifying expected deliverables and performance outcomes, and then making payments based upon those

deliverables. We are not planning to change our project agreements to be performance-based contracts, but will continue to use the milestones and progress reports to actively manage and monitor sponsors' performance. Our non-project contracts and agreements, which include interagency agreements and personal services contracts, will move to performance-based in the next year.

Outreach efforts

- **Washington Association of Land Trusts:** I attended its quarterly meeting and discussed the status of our budgets working their way through the legislative process and the various policy and grant issues of interest to the land trusts.

- **Governor's Office:** We have been meeting with the Governor's Office on a variety of recreation and conservation issues. First, we've been asked to help prepare for a second visit of the Secretary of the Interior next fall. He would like to see some of the big scale restoration efforts. Second, the Governor is the chair of the Western Governors Association and is spearheading an outdoor recreation initiative. We have been asked to help frame the issue.

People on the Move

We said goodbye to many co-workers as the biennium closed this month, and budget cuts forced us to reduce our staff. We're very fortunate that most were able to find new work. The budget cuts also caused some reshuffling of duties of existing staff.

- With the expiration of the statutorily-created Forum on Monitoring Salmon Recovery and Watershed Health, **Ken Dzinbal**, the forum's executive coordinator, transitioned to working full time for the Puget Sound Partnership.

- With the expiration of the Governor's Executive Order on Biodiversity, **Sarah Gage**, the executive director of the Biodiversity Council, transitioned to a federally funded position within RCO related to managing information from previously funded salmon projects.

- **Lucienne Guyot**, an administrative assistant for the Salmon and Conservation sections, left RCO to take a job with the Department of Corrections.

- **Devi Watson**, our Human Resources manager, left RCO for a job with Thurston County's human resources department.

- **Phil Miller**, executive coordinator of the Governor's Salmon Recovery Office in RCO, retired at the end of June. He has been replaced by **Megan Duffy**, who will retain her salmon policy role for the Salmon Recovery Funding Board.

- Our intern **Tristan Vaughn** is returning to school.

- **Rachel Lebaron Anderson** has moved to support the Recreation section and **Tauren Ibarra** has moved to support the Salmon and Conservation sections.

- **Greg Lovelady,** who helped support our cultural resource review process, announced his retirement after 36 years of service, all within the Recreation and Conservation Office (and its predecessor agency).

But all the news isn't about transitions out of RCO: We had a very successful recruitment for RCO's human resource manager. **Megan Melton** began July 18th. She has worked in human resources both in retail and in state government since 1999. She most recently was a human resource consultant with the Department of Fish and Wildlife and also has worked for the Department of General Administration and the Administrator for the Courts.

Agreement with Puget Sound Partnership Continues

The agreement between RCO and the Puget Sound Partnership to share administrative functions has been very successful. In the past year, we have shared information technology staff, graphics support, office support, accounts payable, and communications resources. Starting July 1, two of our five IT staff began devoting half of their time to working for the Partnership.

Centennial Accord Meeting

As with previous years, the Governor and her cabinet met with the state's tribal leaders to share successes and re-commit to working together in a government-to-government manner. The day was filled with state and tribal leaders discussing specific successes and challenges. This year, I was asked to present, along with Nisqually Natural Resources Director David Troutt (and SRFB member) the salmon recovery successes and future challenges. I was able to highlight the number of projects completed, miles of streams opened up, and acres restored. I also was able to highlight several big projects with tribes as the sponsor or key entity behind the project (Elwha dam removal, Qwuloolt estuary restoration, Nisqually restoration, etc). David Troutt talked about the need to get tougher on land use practices (like shoreline development and shoreline armoring) that continue to erode any gains we have been making with our restoration projects. Next year, the natural resource agencies and tribes committed to having a full-day event, so that we can focus on more challenging issues.

Board Updates

Recreation and Conservation Funding Board (RCFB)

The RCFB awarded more than $67.5 million in grants to 234 recreation and conservation projects in 35 of the state's 39 counties. The grants will be used to build parks and trails and protect important farmland and wildlife habitat. While a few of the grants were awarded in March and May, the majority were awarded in late June.

In addition to awarding grants in five programs, RCFB considered some significant policy changes. In particular, the RCFB approved a policy clarifying the eligibility of recreational cabins for grant funding and the types of features you could find in a simple, basic cabin design. The board also discussed the types of uses that might be allowed on a grant-funded site, but ultimately deferred its decision to a later meeting. The meeting was rounded out with briefings on the sustainability policy that will be submitted for public comment this summer.

Washington Invasive Species Council

The council completed an assessment of invasive species in the Puget Sound area and posted the results on the council Web site. When the council was beginning its strategic plan, it didn't have a complete picture of what invasive species were in Washington, where they were, and who was managing their treatment. With a grant from the federal Environmental Protection Agency, the council completed a comprehensive look at the top 15 high-threat species in the Puget Sound area as a pilot effort to identify gaps in information and management efforts.

The Washington Invasive Species Council has developed protocols for the prevention of invasive species and has delivered them to Natural Resources Cabinet member directors. These protocols were developed at the request of agency directors to be used by field staff to prevent the spread of invasive species during routine field work, restoration, and construction.

The Washington Invasive Species Council created a new Web site (www.wise.wa.gov), to help inform people about invasive species, the harm they cause, and how people can stop their spread. The site was paid for with a grant from the federal Environmental Protection Agency.

Habitat and Recreation Lands Coordinating Group

The Legislature created the lands group in 2007 to improve the transparency and coordination of purchases of state land for the purpose of recreation and wildlife habitat protection. Since then, the lands group has established a process for making state land purchases more visible. As part of that process, the lands group hosed the third annual State Land Acquisition Coordinating Forum on August 2. The forum brings together state agencies, local governments, non-government organizations, landowners, tribes, and citizens to learn about and share ideas on proposals for state conservation and recreation land purchases. This year's forum focused on projects that were funded in 2011 and others that may be proposed for funding in 2013.

Governor's Salmon Recovery Office (GSRO)

On May 25, the SRFB decided grant awards for the operations of seven regional salmon recovery organizations and 27 watershed-based lead entities for the 2011-2013 biennium. GSRO has worked with these organizations to finalize work plans and budgets for the new biennium. The new grant agreements became effective July 1.

We also are excited to share a new effectiveness monitoring page in the Habitat Work Schedule (http://hws.ekosystem.us/?p=Page_2dcf09fe-c011-4d40-a62f-710d1d97c13e). This page in the Habitat Work Schedule allows the public to get information about outcomes and lessons learned from monitoring of individual projects. This information represents work within the SRFB Reach-Scale Effectiveness Monitoring Program, which focuses on the efficacy of selected, individual projects in achieving their restoration outcomes.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 1B

Meeting Date: August 2011

Title: Management Status Report: Financial Report

Prepared By: Mark Jarasitis, Chief Financial Officer

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

The attached financial report reflects Salmon Recovery Funding Board (board) activities as of July 19, 2011. The available balance (funds to be committed) is $35 million. The board's balances are as follows:

Fund	Balance
Funds Awarded by the Board	
Current state balance	$9,740,368
Current federal balance – Projects	$3,027,673
Current federal balance – Activities[1]	$1,495,870
Puget Sound Acquisition and Restoration (PSAR) and Puget Sound Restoration (PSR)	$13,567,800
Puget Sound Critical Stock	$96,848
Other Funds	
Family Forest Fish Passage Program (FFFPP) – Awarded by DNR	$2,009,295
Estuary and Salmon Restoration – Awarded by DFW	$4,850,000
Lead Entities	$200,000

Attachments

A. Salmon Recovery Funding Board Budget Summary

[1] Hatchery/Harvest and monitoring activities as defined in PCSRF application, but not yet awarded by RCO

Salmon Recovery Funding Board Budget Summary

For the Period of July 1, 2011 - June 30, 2013, actuals through 07/2011 (fm01); reported 07/20/2011
Percentage of biennium reported: 4.1%

	BUDGET	COMMITTED		TO BE COMMITTED		EXPENDITURES	
	new & reapp. 2011-13	Dollars	% of budget	Dollars	% of budget	Dollars	% of comm
GRANT PROGRAMS							
State Funded 03-05	$758,442	$758,442	100%	$0	0%	$0	0%
State Funded 05-07	1,192,602	1,192,602	100%	0	0%	0	0%
State Funded 07-09	1,963,542	1,923,173	98%	40,368	2%	0	0%
State Funded 09-11	6,318,042	6,318,042	100%	0	0%	441,410	7%
State Funded 11-13	9,700,000	0	0%	9,700,000	100%	0	0%
State Funded Total	$19,932,628	$10,192,259	51%	$9,740,368	49%	$441,410	4%
Federal Funded 2007	$6,315,021	$6,315,021	100%	$0	0%	$0	0%
Federal Funded 2008	11,917,400	11,917,400	100%	0	0%	0	0%
Federal Funded 2009	14,370,012	14,270,012	99%	100,000	0.7%	0	0%
Federal Funded 2010	25,293,990	20,870,447	83%	4,423,543	17.5%	0	0%
Federal Funded 2011	0	0	100%	0	0.0%	0	0%
Federal Funded Total	$57,896,424	$53,372,881	92%	$4,523,543	8%	$0	0%
Lead Entities	$3,351,000	$3,151,000	94%	$200,000	6%	$0	0%
Puget Sound Acquisition and Restoration	37,866,004	24,298,204	64%	13,567,800	36%	217,357	1%
Estuary and Salmon Restoration	9,404,207	4,554,207	48%	4,850,000	52%	0	0%
Family Forest Fish Passage Program	5,216,849	3,207,554	61%	2,009,295	38.5%	0	0%
Puget Sound Critical Stock	3,863,573	3,766,725	97%	96,848	3%	114,454	3%
Subtotal Grant Programs	**$137,530,685**	**$102,542,830**	**75%**	**$34,987,854**	**25%**	**$773,221**	**1%**
ADMINISTRATION							
SRFB Admin/Staff	4,482,619	4,482,619	100%	-	0%	0	0%
Technical Panel	627,828	227,828	36%	400,000	64%	314,022	138%
Subtotal Administration	**$5,110,447**	**$4,710,447**	**92%**	**$400,000**	**8%**	**$314,022**	**7%**
GRANT AND ADMINISTRATION TOTAL	**$142,641,132**	**$107,253,277**	**75%**	**$35,387,854**	**25%**	**$1,087,243**	**1%**

Note: Activities such as Smolt Monitoring and Regional Funding are combined with projects in the state and federal funding lines above.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 1C

Meeting Date: August 2011

Title: Budget/Legislative Update

Prepared By: Steve McLellan, Policy Director

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

The following are some budget and legislative highlights. Staff will provide an update at the August meeting of the Salmon Recovery Funding Board (board).

Budget Outlook

State Funding

The June revenue forecast brought a significant deterioration in the state's financial outlook. The net result of forecast changes was a decline of over $500 million in the next biennium, reducing the ending fund balance to about $165 million. Actual tax collections for July also ran below forecast, leading most observers to predict that September's forecast will be lowered again. Legislative staff is anticipating that the operating budget may need another $1 billion in reductions to address revenue shortfalls and to leave an adequate ending fund balance. Two quarterly revenue forecast revisions – September 15 and November 17 – will be released before the 2012 legislative session.

In anticipation of a reduced September forecast, the Governor has directed agencies to develop proposals for 5 percent and 10 percent general fund budget cuts. The scenarios are due to the Office of Financial Management (OFM) September 22, one week after the next revenue forecast. For the Recreation and Conservation Office (RCO), the OFM target for the 5 percent cut equals $96,000 and the 10 percent cut equals $193,000.

As a result of the cuts taken in the past two biennia, all of RCO's remaining general fund support is salmon-related. The RCO director consulted with the executive management team, the chief financial officer, the GSRO executive coordinator, and the salmon section manager about possible scenarios. She recommends the approaches shown in the following tables to meet the reduction targets, and will be asking the board whether it wishes to backfill the lead entity general fund reductions with unobligated federal PCSRF funds (see below). The other reductions will be absorbed by the agency or shifted to other RCO funds.

Table 1: Five Percent Reduction Scenario

Item	5 percent cut
Vacant GSRO Science Coordinator Position (2 months)	$12,000
Shift portion of Policy Director to other RCO funds	$40,000
Reduce Lead Entity Funding	$44,000
Total Reduction	**$96,000**

Table 2: Ten Percent Reduction Scenario: All cuts in 5% Scenario, Plus Additional Cuts

Item		10 percent cut
Cuts Shown in the Five Percent Scenario (Total: $96,000)	Vacant GSRO Science Coordinator Position (2 months)	$12,000
	Shift portion of Policy Director to other funds	$40,000
	Reduce Lead Entity Funding	$44,000
Additional Cuts to Reach 10 Percent (Total: $97,000)	Additional Lead Entity Reduction	$76,000
	Reduce GSRO goods, services and contracts	$21,000
	Total Reduction	**$193,000**

For the lead entity reductions in either scenario, the board may choose to backfill all or part of the reduction. Doing so would require the board to use unobligated funds from the Pacific Coastal Salmon Recovery Fund (PCSRF) grant[1]. We estimate that enough funds will be available to cover all of the lead entity reductions if the board chooses to do so. The effect of such a decision will be $120,000 less for projects.

After the September 15 revenue forecast, the Governor's Office will decide whether a special session will be called to deal with budget issues. The current direction from OFM is that cuts would be implemented as soon as possible after they are approved in September, and no later than January 1, 2012.

As of now, no requests have been made for reductions to the capital budget, though the OFM memo on the new round of cuts says that agencies may be approached about reappropriations and project timing. Whether cuts are needed in the capital budget will depend on how far revenues fall and/or whether there are increases in interest rates above the level projected when the budget was adopted.

[1] Lead entity grants for the 11-13 biennium currently receive about $1.0 million in state general funds and $2.3 million from federal PCSRF dollars.

Pacific Coastal Salmon Recovery Fund

After numerous revisions, the final Pacific Coast Salmon Recovery Fund (PCSRF) level has been set for federal fiscal year 2011. The total fund amount for Washington State is $28 million, which includes, at NOAA's request, an additional $750,000 allocated to monitoring in the Lower Columbia and a $2.25 million project aimed at testing alternative gear. The funds will be distributed as shown in the table.

Total Funding Available	**$28,000,000**
RCO (3% Administration)	$840,000
Monitoring	$2,500,000
Reporting database updates	$100,000
Lower Columbia Monitoring	$750,000
Salmon Recovery grants	$15,577,402
Hatchery/Harvest Reform Projects	$8,232,598

For federal fiscal year 2012, it appears likely that a final spending number will not be set until well after the October 1 start of the fiscal year. The President has proposed $65 million in PCSRF funding, a number which has been approved in House budget action to date. That funding level also has support from key senators. However, it is not yet clear what the budget reductions in the recently approved debt ceiling agreement will mean for PCSRF levels.

Legislative Update

Statutory Debt Limit

Last year, as part of the final capital budget agreement, lawmakers agreed to a slight decrease in the statutory debt limit and chartered a Blue Ribbon Commission to recommend whether additional steps to reduce debt should be taken. These steps could include a constitutional amendment to reduce the debt limit. The State Treasurer will chair the Commission, which is expected to meet in September and October, and issue a report by December. As of this writing, appointments to the Commission have not been made. RCO staff will follow the proceedings and update the board this fall.

Preparing for the 2012 Session

Salmon-related issues are not currently on the specific interim work agendas for legislative policy committees in either house. Committee staff expects that much of the focus in 2012 will again be on budget issues, including possible changes to the "Discover Pass" enacted last year to provide funding for state recreation lands.

There may be some committee realignments in the Senate, although salmon-related issues are likely to remain with the Natural Resources and Marine Waters committee, chaired by Sen. Kevin Ranker.

As noted in the policy memo, the Habitat and Recreation Lands Coordinating Group sunsets in July 2012. It appears likely that key legislators will propose that the Group be extended; legislative staff plan to begin drafting possible legislation this fall.

The Governor is still developing her 2012 legislative agenda. While final decisions have not yet been made, her legislative director has indicated that the following key issues will remain a priority of the Governor:

- Jobs and the Economy – continue to advance reforms and proposals designed to facilitate economic growth.
- Education – advance proposals to ensure a quality education system and the efficient and effective use of existing resources.
- Health Care – build on the reforms from this session to further decrease health care inflation while maintaining quality care.
- Natural Resources and Puget Sound – protect our natural resources during times of shrinking resources.

Agencies have been asked to limit legislative proposals given a short session and the likelihood of a difficult supplemental budget.

We also will be working during the 2012 legislative session to secure votes on pending board member confirmations in the Senate. This includes confirmations for all five of the governor-appointed members.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 1D

Meeting Date: August 2011

Title: Policy Report

Prepared By: Steve McLellan, Policy Director

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

The Policy Section is working on a number of issues at the request of the Salmon Recovery Funding Board (board), the Recreation and Conservation Funding Board, the legislature, and the Recreation and Conservation Office (RCO) staff and director. This memo highlights the status of some key efforts.

Agricultural Community Involvement Survey

Earlier this year, the Salmon Recovery Funding Board asked staff to identify (a) how the agricultural community is involved in the project review process in certain areas, (b) whether the survey respondents believed agricultural community involvement is adequate, and (c) challenges and opportunities for improving the involvement of the agricultural community. In April, RCO staff worked with the Governor's Salmon Recovery Office lead entity coordinator and the State Conservation Commission to conduct the survey; we are now working together to evaluate the results and identify options for next steps. RCO staff will report back to the board at its December meeting.

Habitat and Recreation Lands Coordinating Group

The Habitat and Recreation Lands Coordinating Group (Lands Group) hosted the 3rd Annual State Land Acquisition Coordinating Forum in August. The goals of the forum are to help make state habitat and recreation land acquisitions more transparent and coordinated. State agencies presented habitat and recreation acquisition projects that were recently approved for funding, as well as projects expected to be submitted for future grant requests. Due to budget conditions, agencies received funding for fewer than half of the requested projects.

The lands group will publish the first State Land Acquisition Monitoring Report on its website in September 2011 to show whether state agencies are achieving acquisition project objectives. The lands group is scheduled to sunset in July 2012 unless extended. The Recreation and Conservation Funding Board will submit recommendations to the legislature in December 2011 on options for continuing the lands group.

EPA Grants for Puget Sound

The Environmental Protection Agency (EPA) provided funding to Washington state agencies to develop and implement six-year strategies for four categories of Puget Sound ecosystem protection and restoration.

Work in each of the four categories is coordinated by one or more state agencies that serve as the "lead organization." The categories and the lead organizations are as follows:

Category	Lead Organization(s)
Marine and Nearshore Protection and Restoration	Departments of Fish and Wildlife and Natural Resources
Watershed Protection and Restoration	Departments of Ecology and Commerce
Toxics and Nutrients Reduction and Control	Department of Ecology
Pathogens Reduction and Control	Departments of Health and Ecology

EPA funds for the four categories total $12 million for the first year ($3 million per category). EPA expects to provide another $5.5 million per category in the second year. The EPA could provide up to $192 million over the next six years, dependent on federal appropriations. Lead organizations are making early direct investments to move their strategies forward and implement specific tasks and actions identified in the 2008 Puget Sound Action Agenda.

The RCO has been asked to manage grants for some of the capital investments in the Marine and Nearshore category. The grants will fund projects on the current ranked list for the Estuary and Salmon Restoration Program (ESRP). RCO is expected to manage about $674,000 in investments for the first year.

In addition, the Puget Sound Partnership and the Northwest Indian Fisheries Commission (NWIFC) have cooperative agreements with EPA. The Partnership's funding will focus on regional engagement and managing the implementation of the Action Agenda. NWIFC awarded grants to the 19 federally recognized tribes in Puget Sound to implement high-priority projects identified in the Action Agenda.

More information is on the Partnership's web site at: http://www.psp.wa.gov/epafunding.php.

Allowable Uses

As part of its work on compliance issues, RCO staff presented a policy proposal regarding allowable uses of grant-funded land and facilities to the Recreation and Conservation Funding Board (RCFB) in June. Any new policy adopted by the RCFB would also be applicable to projects funded by the SRFB.

The policy does not allow or disallow specific uses. Rather, it provides a framework, criteria, and process to help staff and the boards consistently determine whether a use is allowed or whether it would be considered a conversion. Specifically, it establishes staff teams that would evaluate if the proposed use meets the following criteria:

- The use must be consistent with the purposes of the project agreement grant and program; and
- All practical alternatives to the use must have been considered and rejected on sound basis; and
- The use must achieve its purpose with minimum impairment to the resource.

The staff recommendation would be presented to the director, ad hoc advisory groups, and/or the boards for final decisions, as appropriate.

The RCFB asked staff to provide examples of how the process would work in representative cases and a policy matrix to its September meeting for further discussion. We will keep the Salmon Recovery Funding Board informed of the results of that meeting and the policy development process.

Revision of Puget Sound Action Agenda

The Puget Sound Partnership is in the process of adopting a new Action Agenda; the current version was last updated in 2008. The deadline for adopting the new plan has been moved from December 2011 to February 2012 to provide interested parties more time to participate in refinement of strategies and the final version of the Action Agenda.

The Partnership is planning to release a draft in November for comment and revision. The Leadership Council is slated to take final action at its February meeting. The near-term actions adopted with the plan will guide budget development and review for the 2013-15 biennium.

Standard Terms and Conditions

RCO staff has revised its standard terms and conditions, which are a part of every grant contract. Revisions include reorganizing and/or consolidating some sections. Additionally, RCO's legal counsel has provided clarifying language regarding issues such as venue, tribal jurisdiction,

competitive bidding, and prevailing wage requirements. The new language will be part of the contracts for grants awarded this year.

Policy Section Process and Staffing Changes

As part of RCO's response to reduced financial resources, we have made a number of organizational changes that affect the policy section.

We have had one recent retirement in the policy section (Jim Eychaner) and do not plan to refill that position. The policy specialist who most closely works with salmon issues has become the executive coordinator of the Governor's Salmon Recovery Office, but will retain her policy role for the Board. The remaining policy specialist (Dominga Soliz) will be responsible for recreation and conservation programs. The board liaison (Rebecca Connolly) and communications director (Susan Zemek) will continue with their current duties, and will share responsibility for the policy manuals.

It is likely that in the case of special studies or major reports, we will turn to contract or project staff for all or part of the work, coordinated by permanent RCO staff.

The section managers and the Policy Director/legislative liaison (Steve McLellan) will take on a greater policy role under the new model.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board Briefing Memo
Item 1E

Meeting Date: August 2011

Title: RCO Work Plan and Performance Measures Update: Salmon

Prepared By: Rebecca Connolly, Board Liaison and Accountability Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

The Recreation and Conservation Office (RCO) uses performance measures to help the agency reduce reappropriations and improve the way we do business. This memo provides highlights of agency performance related to the projects and activities funded by the Salmon Recovery Funding Board (board).

Analysis

These measures are among those that help us to check our processes at several points in the grant management cycle. All data are for salmon grants only. The chart includes final fiscal year 2011 data, with the exception of the expenditure data, which does not yet include all year-end information. Measures for fiscal year 2012 will be provided beginning with the board's next meeting. Additional detail is shown in the notes on page two and in the charts in Attachment A.

Measure	Target	Final FY 2011 Performance	FY 2011 Indicator
Percent of salmon projects closed on time [1]	70%	48%	↓
Percent of salmon projects closed on time and without a time extension [2]	50%	60%	↑
% salmon grant projects issued a project agreement within 120 days after the board funding date [3]	75%	97%	↑
% of salmon grant projects under agreement within 180 days after the board funding date	95%	95%	↑
Cumulative expenditures, salmon target	44%	46% *(as of FM 24)*	↑
Bills paid within 30 days: salmon projects and activities [4]	100%	70%	⇄
Percent of anticipated stream miles made accessible to salmon [5]	100%	99%	↑

Data Notes:

1. Over the course of the year, the salmon section exceeded the target in five months, neared the target in four months, and fell very short in three months. A major factor in performance on this measure is that many projects are due to close at the same time; failure to meet the targets in those windows drives down overall performance. These windows with high volumes also tend to coincide with other critical deadlines, such as placing grants under agreement and the application due date.

2. Of those that closed, few needed a time extension beyond the original grant agreement.

3. Staff successfully issued agreements for nearly all projects within 120 days of the board funding date. Work continues on receiving those agreements from the project sponsors and placing the projects under contract.

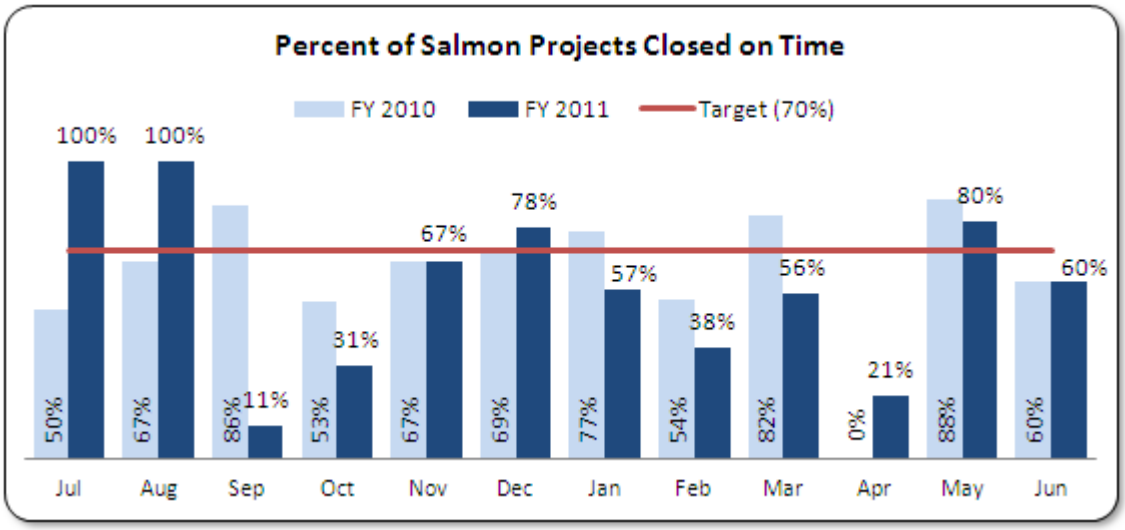
4. In this fiscal year, some invoices were held up because of the new billing source documents requirements. Other challenges included staff time to process invoices and the sponsors' staffing levels and ability to respond to questions. Despite challenges, the average days to pay was 23.

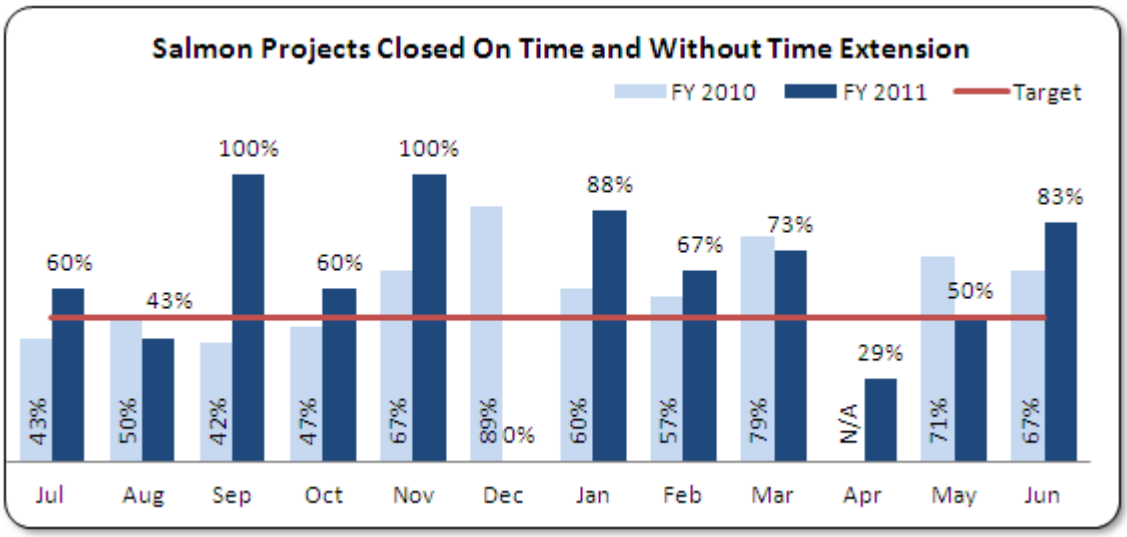
5. Sponsors anticipated making 102.5 stream miles accessible during the fiscal year, and achieved 101.5.

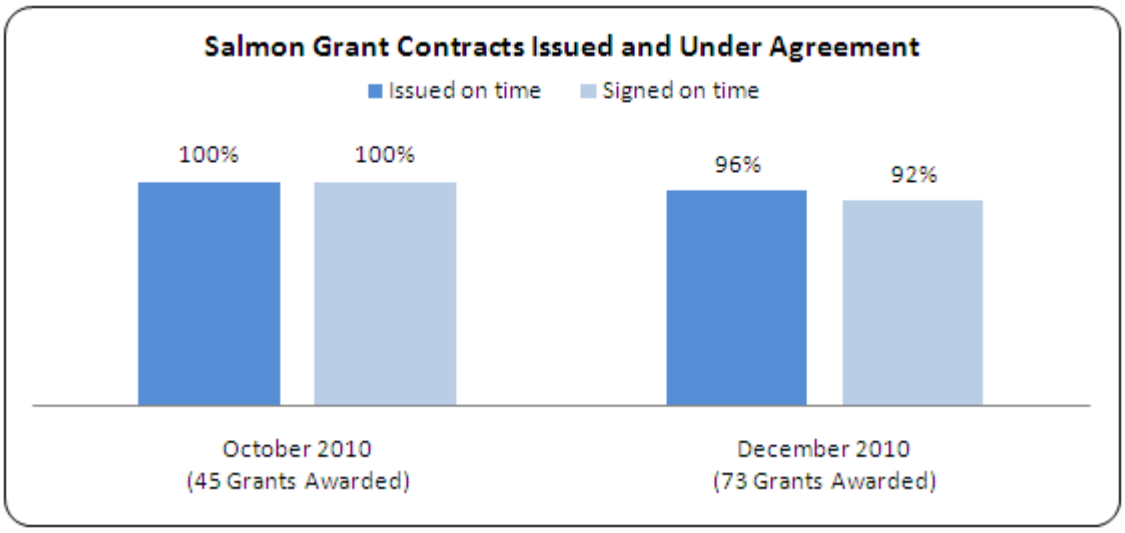
Attachments

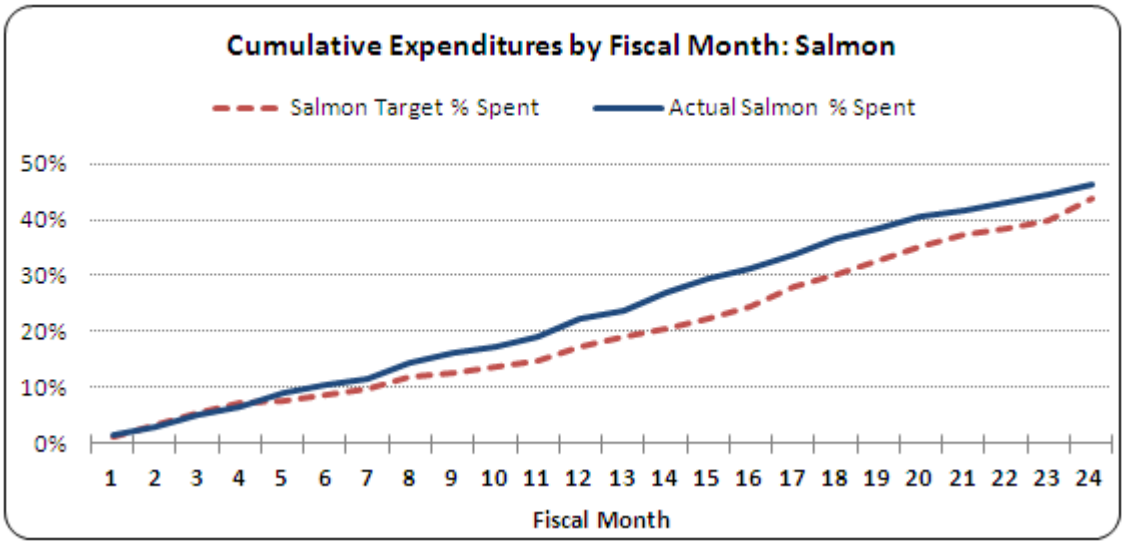
A. Performance Measure Charts

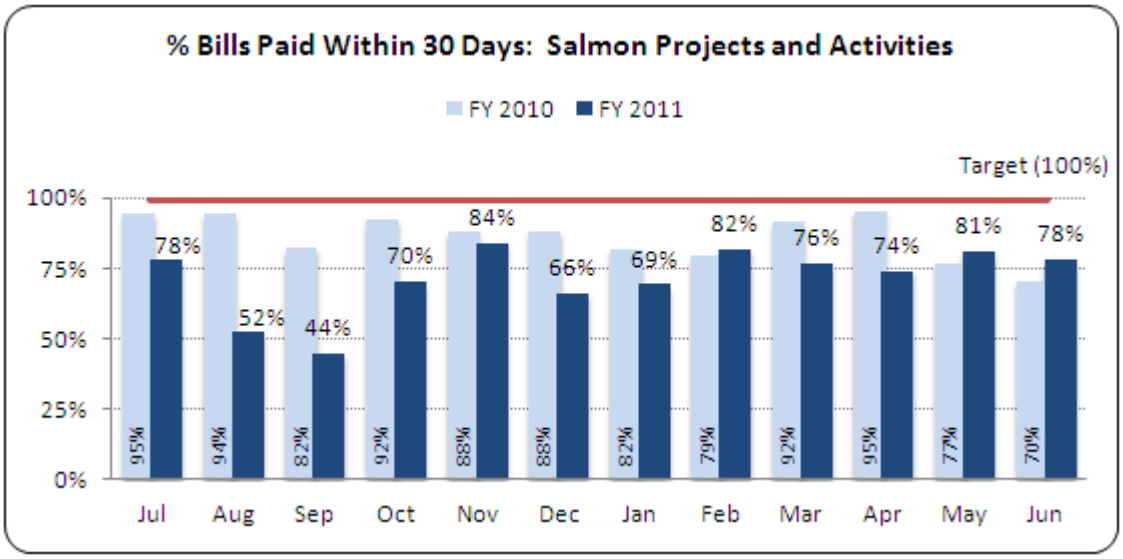
Performance Measure Charts

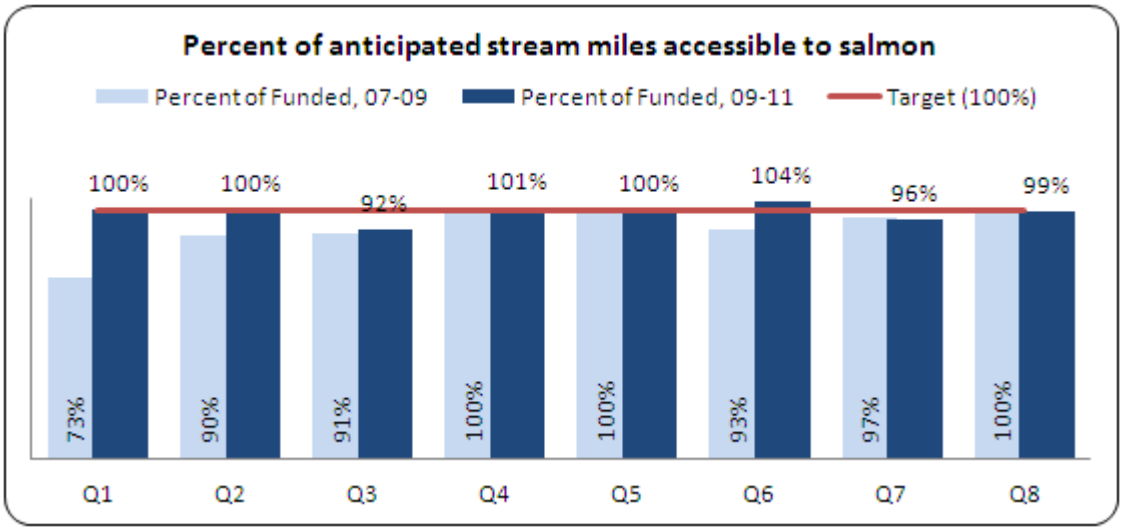







Cumulative Expenditures by Fiscal Month: Salmon
Salmon Target % Spent
Actual Salmon % Spent
50%
40%
30%
20%
10%
0%
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24
Fiscal Month


% Bills Paid Within 30 Days: Salmon Projects and Activities
FY 2010
FY 2011
Target (100%)
100%
75%
50%
25%
0%
95% 78%
94% 52%
82% 44%
92% 70%
88% 84%
88% 66%
82% 69%
79% 82%
92% 76%
95% 74%
77% 81%
70% 78%
Jul Aug Sep Oct Nov Dec Jan Feb Mar Apr May Jun


Percent of anticipated stream miles accessible to salmon
Percent of Funded, 07-09
Percent of Funded, 09-11
Target (100%)
100% 100% 92% 101% 100% 104% 96% 99%
73% 90% 91% 100% 100% 93% 97% 100%
Q1 Q2 Q3 Q4 Q5 Q6 Q7 Q8

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Governor's Salmon Recovery Office

Salmon Recovery Funding Board
Briefing Memo
Item 2A

Meeting Date: August 2011

Title: Management Report, Governor's Salmon Recovery Office

Prepared By: Megan Duffy, Executive Coordinator

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Highlights of Recent Activities

Personnel Changes

The Governor's Salmon Recovery Office (GSRO) is currently recruiting candidates to fill the vacant Science Coordinator position. This position will coordinate fish and habitat monitoring activities related to salmon recovery, including the monitoring funded by the Salmon Recovery Funding Board (board).

Phil Miller, GSRO Executive Coordinator, retired on June 30, 2011 after 31 years of dedicated service to the state, including 14 years with GSRO. Megan Duffy has replaced Phil in the Executive Coordinator position.

Salmon Recovery Information and Reporting Initiatives

GSRO is working with lead entities, regional recovery organizations, and developers to improve the Habitat Work Schedule data system so that it can track, aggregate, and relate information over various time periods. The improvements also provide a schedule view that will make it easier to communicate the sequence of recovery activities. Several features of the PRISM/Habitat Work Schedule interface are already up and running. Users of both systems can view data and attachments from both systems, and can link projects between the systems. The development of this interface was initiated after lead entities asked RCO to minimize the duplicative data entry into the two separate databases.

GSRO also is coordinating with the regional recovery organizations and several agencies to scope and build a reporting platform for the 2012 State of the Salmon in Watersheds Report.

Regional and Lead Entity Operating Grants and Scopes of Work

The contracts for regional organization and lead entity operating grants in 2011-2013 are in place. These agreements reflect the scopes of work and deliverables that GSRO presented to the

board at its May 2011 meeting. GSRO will work with lead entities and regional organizations to ensure scope of work tasks are implemented.

Update Regarding 2008 and 2010 Federal Columbia River Power System Biological Opinions (BiOp)

On August 2, U.S. District Court Judge James A. Redden issued an opinion and order regarding the validity of the 2008 and 2010 Biological Opinions issued by National Oceanic and Atmospheric Administration Fisheries Service to the U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation. The BiOps address the operation of the Federal Columbia River Power System and its impact on ESA listed salmon and steelhead.

Judge Redden ruled that while the plan provides adequate protection for listed species through 2013, it fails to identify specific mitigation plans and habitat improvements after 2013 to protect salmon and steelhead.

The judge ordered the 10-year biological opinion back to the federal agencies to focus on specific habitat improvements from 2014-2018. The new or supplemental plan must be submitted no later than January 1, 2014. The existing Biological Opinion and incidental take statement will remain in place until the new or supplemental plan is submitted and approved.

As of this writing, the National Oceanic and Atmospheric Administration Fisheries Service, which wrote the biological opinion, said they still were evaluating whether to appeal the ruling.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Governor's Salmon Recovery Office

Salmon Recovery Funding Board
Briefing Memo
Item 2B

Meeting Date: August 2011

Title: Monitoring Briefing

Prepared By: Megan Duffy, Governor's Salmon Recovery Office Executive Coordinator

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

When the Monitoring Forum reached its sunset on June 30, the functions of advising the Salmon Recovery Funding Board (board) on monitoring and managing the monitoring contracts shifted to the Governor's Salmon Recovery Office (GSRO). Once the position is filled, the new Science Coordinator will assume these functions. As noted in the GSRO report, the GSRO is currently recruiting for that position.

Funding for Monitoring Programs

For federal fiscal year 2011, the Pacific Coastal Salmon Recovery Fund (PCSRF) grant provides $2.5 million for monitoring contracts. In May, the board allocated some of these funds to the Intensively Monitored Watersheds program. In the past, the board also has funded effectiveness monitoring and status and trends monitoring (fish in/fish out) with these funds. At the August meeting, staff and the Washington Department of Fish and Wildlife will ask the board to consider a contract extension for fish in/fish out monitoring (see item #4). Staff is assessing the current contracts and funding cycles, and looking for ways to better align the federal funding cycles with the timing of the board decisions and contract scopes of work.

The National Oceanic and Atmospheric Administration (NOAA) identified an additional $750,000 from the overall PCSRF allocation for monitoring efforts on the Lower Columbia.

Staff Recommendation

Over the past few years, the Monitoring Forum has provided a venue through which proposed monitoring projects/efforts were vetted for board funding. Recommendations were then made to the Salmon Recovery Funding Board based upon that vetting and prioritization process. With the termination of the Monitoring Forum, staff is suggesting that the board direct staff to work with the regional organizations and selected experts in the monitoring field to develop an approach for allocating monitoring funds to ensure that the board's monitoring dollars are invested wisely. If the board provides such direction, staff will do this work over the course of the fall and provide a briefing to the board in December.

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STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

August 24, 2011

The Honorable Chris Gregoire
Governor
Post Office Box 40002
Legislative Building
Olympia, Washington 98504

Dear Governor Gregoire:

In 2008, you appointed me Chair of the Washington Forum on Monitoring Salmon Recovery and Watershed Health (Forum). The Forum was a committee composed of representatives of state, federal, tribal, regional, local, and private agencies and organizations, charged with coordinating the wide variety of monitoring programs focused on salmon recovery and watershed restoration. As you know, the Forum was originally created by Executive Order during former Governor Locke's administration, then later codified in statute and given a sunset date of June 30, 2011.

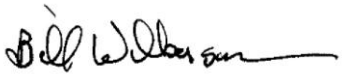
As the Forum has now passed its sunset date, I am pleased to report that we successfully accomplished our main tasks and objectives (the Forum's accomplishments are summarized below). Along the way, we also built important relationships and significantly improved communications and trust across the many agencies, organizations, and public/private partners that have a stake in monitoring salmon and watershed health. I can honestly say I never found any representative to the forum who didn't sincerely want to make things better.

However, despite meeting some important milestones, monitoring remains a challenging issue to fully understand and manage. Much of that simply reflects the realities and deep challenges associated with managing in a multi-jurisdictional environment, and I don't believe there is any greater overlap in monitoring than you would find in any other agency function. Overall, the Forum model was a good one for bringing together all the disparate parties involved in that work, and some form of coordinating body (with staff support) will likely be needed in the future if progress is to be maintained. With that thought in mind, I have attached a few

observations from my tenure as Chair of the Monitoring Forum. Perhaps these will prove useful as agencies and organizations continue their work to make monitoring more effective and efficient.

Thank you for the opportunity to have served you and the people of this state in the capacity of Chair of the Forum on Monitoring.

Sincerely,



Bill Wilkerson
(Former) Chair
Washington Forum on Monitoring Salmon Recovery and Watershed Health

cc: Chairs, Legislative Natural Resources Committees
Marty Loesch
Marty Brown
Natural Resources Cabinet
Forum Members

Observations on coordinating monitoring for salmon recovery and watershed health:

A multitude of agency needs, mandates, and authorities drive monitoring programs toward parochialism. There are dozens of government agencies and organizations with specific responsibility or authority over some aspect of salmon and watershed management. Most agencies need (or are mandated to) collect monitoring data related to their specific authority (e.g. fish data, water quality data, forest health, shellfish abundance, etc.). Different types of data naturally require different sampling methods, sampling designs, and expertise. Funding provisos also force most monitoring programs to narrowly focus on the particular legal requirements and regulatory functions of the implementing agency (i.e. agencies monitor only what they are specifically responsible for, in part because they lack the authority to monitor – or the authority to spend money monitoring – other things). In the absence of any oversight, guidance, or standards, existing drivers cause most monitoring programs to become very parochial and optimized to meet individual agency needs, rather than maximizing overall collective benefits (e.g. by requiring standardized methods or data management systems to make data easier to share between agencies).

Costs to revise existing monitoring programs can be substantial. Many current monitoring programs were developed years ago to meet specific agency requirements, using whatever technology and methods were deemed best at the time. Revising these programs now to make data easier to share (by standardizing around different methods, or migrating historic data to new data management systems) can be very costly and typically provides little direct benefit to the implementing agency (irrespective of any collective benefits). Revising existing programs after years of operation also risks disrupting historical data sets, compromising our ability to track long-term trends from these legacy programs. High costs and disrupting long-term data sets are powerful incentives *against* revising legacy programs.

Monitoring overlaps occur more often *between* levels of government than within the same level of government. Within the same *level* of government (e.g. among state agencies, or between counties) there is relatively little duplication of monitoring because most agencies have clearly different missions or clearly different geographic jurisdictions. There is, however, occasional overlap *between* levels of government (e.g. state, federal, tribal, and local agencies sometimes implement monitoring programs with similar objectives in the same region or watershed, often using different methods, sampling designs, and data management systems. Where funding sources are controlled (e.g. when state agencies provide grants to local or regional organizations), we can generally require that monitoring be well-coordinated with state interests. But when federal, state, tribal, or local agencies fund their own monitoring programs, or draw funding from third-party sources we don't control, monitoring programs can sometimes overlap and appear redundant. Coordinating monitoring <u>between</u> levels of government is challenging because (outside of funding), there aren't direct lines of authority between state, federal, tribal, and local agencies (with regard to monitoring).

The direct savings from coordinating monitoring may be modest at best. Within the same level of government, most monitoring programs only meet minimum requirements and there doesn't appear to be large savings by combining or eliminating programs (albeit there are always efficiencies that can be found and these are certainly worth pursuing). *Between* levels of government, better coordination could potentially reap more significant savings.

Opportunities to answer big questions are lost through lack of coordination. When different monitoring programs use incompatible methods or data management systems (both of which are common), it makes rolling-up data from different agencies and geographic regions difficult. Although individual agencies may be meeting their requirements, the on-going difficulty of combining disparate data sets means we lose opportunities to analyze larger sample sizes, take into account different variables, and conduct more robust analyses. This reduces our ability to understand large problems and make better strategic decisions. It also perpetuates individual monitoring programs which may require many years of additional effort to acquire the same amount of data that might be available if monitoring efforts were better aligned.

The key challenge to coordinating monitoring is to help agencies find ways to align their monitoring methods, sampling designs, and data management systems without compromising their specific legal requirements, and without bearing undue (and unfunded) costs. The regional, statewide, and cross-agency benefits of coordination rarely accrue to the individual action agencies charged with implementing specific, narrowly-focused monitoring programs required under their particular mandates. The benefits of coordination more often accrue to oversight or regional planning/reporting agencies than to individual action or regulatory agencies with a more narrow focus. Action agencies resist changing or modifying monitoring programs which are currently meeting their needs, especially when doing so might compromise the data they need or require funding they don't have.

Coordination costs time and money. Not coordinating incurs long-term costs (and opportunity costs) that are harder to see and quantify. Most agencies conduct monitoring only to meet specific requirements and they invest in monitoring only to the extent necessary. Any additional requirement – staffing and preparing for coordination meetings, cross-training field staff, modifying sampling designs, adding new data elements to be collected, altering data formats or database structures, adding new reporting requirements, etc. – represent additional and typically un-funded costs. Not coordinating around these elements incurs no immediate costs, but over time adds significantly to the overall cost of monitoring while reducing our ability to answer big questions.

The Washington Forum on Monitoring Salmon Recovery and Watershed Health
A brief history and synopsis of important milestones

2004: Forum created by Executive Order 04-03; convenes for the first time in August
William Ruckelshaus and Jeff Koenings appointed co-chairs
Identified and filled many juvenile migrant monitoring gaps through the Governor's budget
Recommended indicators for *"State of Salmon in Watersheds"* report
Advocated for funding for statewide habitat and water quality probabilistic monitoring

2005:
Developed monitoring recommendations for the Salmon Recovery Regions

2006:
Biennial Report on Monitoring for OFM and the Legislature (*Report on implementation of Comprehensive Monitoring Strategy recommendations and actions)*
Report to the Office of Financial Management concerning monitoring programs and associated databases (T*his inventory served as the starting point for the Natural Resources Reform effort on coordinating environmental monitoring)*

2007:
Developed *"Washington State Framework for Monitoring Salmon Populations Listed under the Federal Endangered Species Act and Associated Freshwater Habitats"*
Forum created in statute (RCW 77.85.250)
Forum reviews state agency budget proposals related to monitoring for OFM and the Legislature

2008:
Bill Wilkerson appointed Chair
Forum comments on Northwest Power and Conservation Council's Columbia Basin Fish and Wildlife Program
Forum reviews state agency budget proposals related to monitoring for OFM and the Legislature

2009:
Forum adopts High Level Indicators (December 2009)
Forum transmits formal comments on NOAA's Draft "*Guidance for Monitoring Recovery of Salmon and Steelhead Listed under the Federal Endangered Species Act (Idaho, Oregon, and Washington)"* (Federal Register Vol 74, No. 123).
Forum reviews state agency budget proposals related to monitoring for OFM and the Legislature

2010:
Forum adopts Protocols for monitoring Forum indicators (June 2010)
Completes SRFB Monitoring Program Review *(program evaluation, overall strategy, gaps, technical corrections, funding allocations)*
Forum comments on NPCC Monitoring, Evaluation, Research and Reporting Plan
Forum co-chairs (with BPA) PNAMP Regional Effectiveness Monitoring Workgroup
Forum reviews state agency budget proposals related to monitoring for OFM and the Legislature

2011:
Forum sunsets June 30, 2011
Forum drafts MOU for agencies to guide future monitoring coordination

Major Accomplishments/Products of the Forum include:

Provided a regular venue to meet and discuss policy and technical issues related to monitoring: The quarterly meetings are one of the only places where agency and organization leaders meet in-person to share perspectives, ideas, and concerns around this complex topic that most resource agencies are mandated to conduct, but which remains elusive to coordinate and streamline.

Forum Framework: The Forum's statewide framework for monitoring ESA recovery of fish, habitat, and water quality provides a path forward to meet NOAA's requirement for assessing data necessary for de-listing ESA-listed salmon, has helped guide WDFW's priorities for filling many juvenile salmonid monitoring gaps, and served as the basis for recommendations to regional salmon recovery regions to improve statewide consistency for monitoring salmon recovery.

High-level indicators: The Forum indicators have helped frame the State of Salmon in Watersheds Report, and have helped align the monitoring objectives of the Forum with those of the Puget Sound Partnership, the NW Power and Conservation Council, and other regional bodies.

Protocols for measuring the parameters associated with the high level indicators: Standardizing field data collection methods improves our ability to compile and assess data from multiple, independent agencies and organizations. Standardizing protocols is an important step to leverage monitoring conducted (and paid for) by other entities.

Advisor to the Salmon Recovery Funding Board (SRFB) on monitoring priorities, gaps, and approaches – helping to direct up to $2.65 million dollars/year in federal Pacific Coast Salmon Recovery Funds. The Forum has been an effective advocate for federal funding for several core monitoring programs.

Annual review of state agency budget proposals related to monitoring salmon recovery and watershed health. The coordination and internal review process was arguably of greater value than the resulting recommendations – many proposals were refined and improved as a result of the Forum review.

Biennial "State of Salmon in Watersheds" report: Forum input helped shape the indicators and reporting measures, and many Forum initiatives were intended to compliment the SOSIW objective of compiling data from multiple sources.

2006 Report to OFM (an inventory of monitoring programs and databases). This inventory was originally intended as an assessment of state progress in meeting the objectives of the Comprehensive Monitoring Strategy. More recently, it served as the starting point for identifying agency monitoring programs for the Governor's Natural Resources Reform Initiative to coordinate environmental monitoring.

One State Voice: The Forum has collected, consolidated, and reconciled individual state agency comments on a number of federal monitoring documents circulated for general review and stakeholder input (e.g. NOAA guidance, NWPCC MERR Plan, etc.). The Forum's efforts have

helped reconcile contradictory comments from separate agencies and present a “unified front” to federal agencies seeking comments from state interests.

Coordination point with the Pacific Northwest Aquatic Monitoring Partnership (PNAMP) and other federal/regional bodies: On a simple logistical level, it is often more efficient to discuss regional monitoring issues at the Forum and then represent the collective perspective of multiple agencies with one or two representatives attending PNAMP meetings, rather than depend on PNAMP to separately poll multiple representatives from a variety of agencies which haven’t discussed the issues together, or depend on input from whoever is able to attend the many meetings and initiatives hosted by PNAMP and others.

Salmon Recovery Funding Board
Briefing Memo
Item 2C

Meeting Date: August 2011
Title: Management Report: Salmon Recovery Grant Management
Prepared By: Brian Abbott, Section Manager
Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Grant Management

2011 Grant Round

The 2011 grant round is progressing nicely. The RCO expects to receive about 196 applications from lead entities by the August 26 deadline. The review panel completed their site visits and met on July 6 to review 20 "flagged" projects. Recreation and Conservation Office (RCO) staff is scheduling the regional area project meetings for September 26-29. Staff will provide a brief update at the board meeting.

PCSRF Metrics Project

The National Oceanic and Atmospheric Administration (NOAA), which administers the Pacific Coastal Salmon Recovery Fund (PCSRF), revised the metrics required from all salmon recovery projects within the past few years. The RCO and our sponsors already implemented those metrics for new and active projects. Now, the RCO will receive special funding from NOAA for a project to capture project metrics for all previously completed salmon recovery projects.

We will soon contact all affected sponsors about the projects that require an update, and will provide detailed instructions. Our goal is to make this process as easy as possible for all concerned. NOAA has provided us with funding for a staff member, Sarah Gage, who will be spearheading this effort.

Adding these metrics into the PRISM database will help us better tell the story of salmon recovery projects in Washington, and will help us reach our many audiences, from people at the local, on-the-ground level to decision-makers in the state legislature and Congress.

Project Position – Salmon Section

The Salmon Section will be getting extra project management support in September. RCO will use savings in other parts of our administrative budget to fund a full-time Outdoor Grant

Manager 2 project position through December 31, 2012. Salmon Section staff is excited about having much needed help to get caught up on grant management work.

Update on Project #10-1847, Teanaway River - Red Bridge Road Project

In December 2010, the Salmon Recovery Funding Board (board) approved funding with special conditions for project #10-1847, which was considered a project of concern. The Kittitas County Conservation District proposed using the grant funds to correct a fish passage barrier on the mainstem of the Teanaway River. This barrier blocks fish passage into the majority of the Teanaway watershed. As originally designed, the project would construct four channel-spanning rock weirs to stabilize the streambed and return the river to an elevation that would allow water to flow to the pump station. Based on design concerns from the review panel, the board approved funding for the project with the condition that the lead entity would provide an alternatives analysis to the Review Panel within 90 days.

The project was placed under agreement on March 15, 2011 with the following special conditions clause:

> *The sponsor will complete an alternatives analysis with a preferred design and submit to the RCO by April 30, 2011. The analysis will be reviewed by the SRFB Review Panel. Once a design is selected and reviewed by the SRFB Review Panel, the sponsor will move forward with the final design and construction. If no design is selected, the project will be moved from a restoration project to a design project and closed as complete.*

As of this writing, the sponsor reported that they are working closely with the Bureau of Reclamation on the alternatives analysis. There is some progress, but the recent spring flooding caused their staff to focus on other work. The sponsor asked that the due date for the alternatives analysis be extended to September 30, 2011. RCO staff approved the request and anticipates we will have a document for the review panel to consider by September 30.

Grant Administration

The table on the next page shows the progress of the Salmon Recovery Funding Board in funding and completing salmon recovery projects since 1999. Information is current as of August 3, 2011.

Funding Cycle	Fiscal Year	Active Projects	Pending Projects (approved but not yet active)	Completed Projects	Total Funded Projects
Governor's Salmon Recovery Office Federal 1999	1999	0	0	94	94
Interagency Review Team (Early Action grant cycle) State 1999	1999	0	0	163	163
SRFB - Early (State) 2000	2000	0	0	90	90
SRFB - Second Round 2000	2001	0	0	147	147
SRFB - Third Round 2001	2002	2	0	130	132
SRFB - Fourth Round 2002	2003	2	0	86	88
SRFB – Fifth Round 2004	2004	4	0	108	112
SRFB – Sixth Round 2005	2006	10	0	94	104
SRFB – Seventh Round 2006	2007	16	0	79	95
SRFB – 2007 Grant Round *(includes PSAR)*	2008	79	0	125	204
SRFB – 2008 Grant Round	2009	69	0	37	107
SRFB – 2009 Grant Round *(includes PSAR)*	2010	225	2	19	246
SRFB – 2010 Grant Round *(Oct and Dec)*	2011	111	3	0	114
*Family Forest Fish Passage Program	To Date	35	0	147	182
** Estuary Salmon Restoration Program	To Date	9	0	0	9
Totals		**562**	**5**	**1,319**	**1,886**
	Percent	*29.8%*	*.003%*	*69.9%*	

Table Notes:

* FFFPP projects landowners that have applied to the program and are waiting to become a high priority for funding. These projects are not included in totals.

** Shows ESRP projects either under contract with the RCO or approved for RCO contracts. Older projects are under contract with the Department of Fish and Wildlife.

Washington Council of Salmon Recovery Regions
Report to the Salmon Recovery Funding Board
August 2011

The Council of Regions met on July 18 and again on August 12 to discuss the role of the COR, key issues and priorities. Among the topics discussed were how to:

- Further regional recovery efforts through consistent messaging and effective communications;
- Gain greater federal and state participation in recovery efforts;
- Achieve more effective coordination of monitoring efforts;
- Secure greater consideration of salmon recovery in land use and resource management efforts;
- Address habitat project liability concerns; and
- Ensure the State of the Salmon in Watersheds report provides an accurate and effective picture of regional salmon recovery efforts and progress.

COR worked with the Governor's Salmon Recovery Office to draft an initial work plan for the 2012 SoSiW report. Over the next several months, the regional organizations will be working with GSRO to review progress metrics, examine more effective approaches to tell the recovery story, and discuss recovery efforts with state and federal agencies.

Lead Entity Advisory Group Report
to the Salmon Recovery Funding Board, August 2011
Prepared and Submitted by LEAG Past Chair, Barbara Rosenkotter

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The Lead Entity Advisory Group (LEAG) met via conference call in early August where they elected their Executive Committee members along with a new Chair, Cheryl Baumann and Vice-Chair, Jennifer Goodridge.
LEAG Executive Committee Members:

- Cheryl Baumann (North Olympic), LEAG Chair
- Jennifer Goodridge (Chelan), LEAG Vice-Chair
- Barbara Rosenkotter (San Juan), LEAG Past Chair
- Alan Chapman (WRIA1)
- John Foltz (Klickitat)
- Char Schumacher (Okanogan)
- John Sims (Quinault)

Lead Entities throughout the state have been busy with the 2011 SRFB grant round culminating in submittal of applications on August 26th.

Lead Entities through various work groups along with RCO/GSRO staff continue to advance the goals set forth at the April 2010 LEAG retreat:

- Habitat Work Schedule (HWS) Enhancements
  - Implementation Scheduling
  - Tracking Programmatic Actions
  - PRISM to HWS Interface

The new version of HWS released in May included the new PRISM/HWS interface. The new Contracts Module in HWS allows users to relate one or many grants (contracts) to one or many projects and is the mechanism to interface with PRISM. Also released in May was the new PRISM View which allows users to view information about a project in either PRISM or HWS and a new Monitoring Module in HWS. Additional features still in the works for HWS will allow the ability to track metrics and budgets over time, i.e. time series tracking, and a new Schedule View which will provide the ability to show projects in a Gantt chart view.

The July meeting also included an overview of the proposed Watershed Investment Districts (WIDs) draft bill. The proposed legislation allows creation of special purpose "watershed investment districts" organized on watershed boundaries and authorizes them to raise and disburse funds to conserve and restore lands and waters. It authorizes WIDs to seek funds to implement watershed and salmon habitat recovery plans. While the legislation was developed by WRIAs in Central Puget Sound, it could apply statewide. LEAG members were able to provide feedback on the draft legislation.

Regional Fisheries Enhancement Groups Collaborative Projects

A Few Examples From Around the State

Hemlock Dam Removal,
Skamania Co.

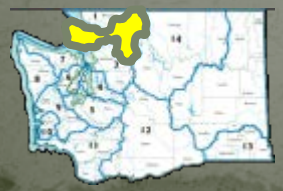
Pierce Co – Greenwater River Restoration

- Reach level effort to restore habitat forming processes by removing roads and installing log jams
- Partners include Forest Service, DOT, two tribes, and RFEG
- Construction in '10 & '11
- Total project cost of $1.5 million from multiple sources, including SRFB

South Puget Sound Salmon Enhancement Group

Skagit Co. - Finney Creek Restoration

- A decade of large woody debris restoration 2000-2010
- 190 log jams installed over 7.6 miles
- Benefits Chinook, coho, chum, pink, steelhead, cutthroat and rainbow
- Partnerships with USFS, NPS, commercial timber companies, and private landowners
- Funding from SRFB, DOE, NFWF and EcoTrust



Skagit Fisheries Enhancement Group

Skamania Co.
Lower Hamilton Creek Restoration

- Engineered log jams installed to improve habitat & passage, & protect spawning channel
- Partners included city, agencies, & RFEG
- SRFB share $417k; match $75K
- Second phase planned in 2011

Lower Columbia Fisheries Enhancement Group

Walla Walla - Mill Creek Fish Passage

- Goal is to improve access to over 40 miles of high quality habitat by correcting fish passage barriers in a six mile flood control channel
- 15 Partners, including agencies, municipalities, irrigation district, college, non-profits
- Multi-year effort. Construction in 2011
- SRFB $963,487; Match $310,936

Tri-State Steelheaders Fisheries Enhancement Group

Hood Canal – Little Quilcene Delta Cone Removal

- Restored estuarine processes to ensure sediment routing, high quality habitat and fish passage
- Removed dikes and fill
- Reconstructed river channel
- Partners include local town, agencies, RFEG
- Construction 2008-2010
- SRFB $866,940 ; Match $165,131

Hood Canal Fisheries Enhancement Group

Whatcom Co. - North Fork Nooksack River

- Enhanced existing LWD accumulations using additional LWD and pilings to increase channel island longevity and associated side channel development
- Partners included Private landowners, WDFW, WDNR, and RFEG
- Total project budget: $380,000
- SRFB Share: $220,000

Nooksack Salmon Enhancement Group

Skagit Co. - McElroy Slough Tide Gate

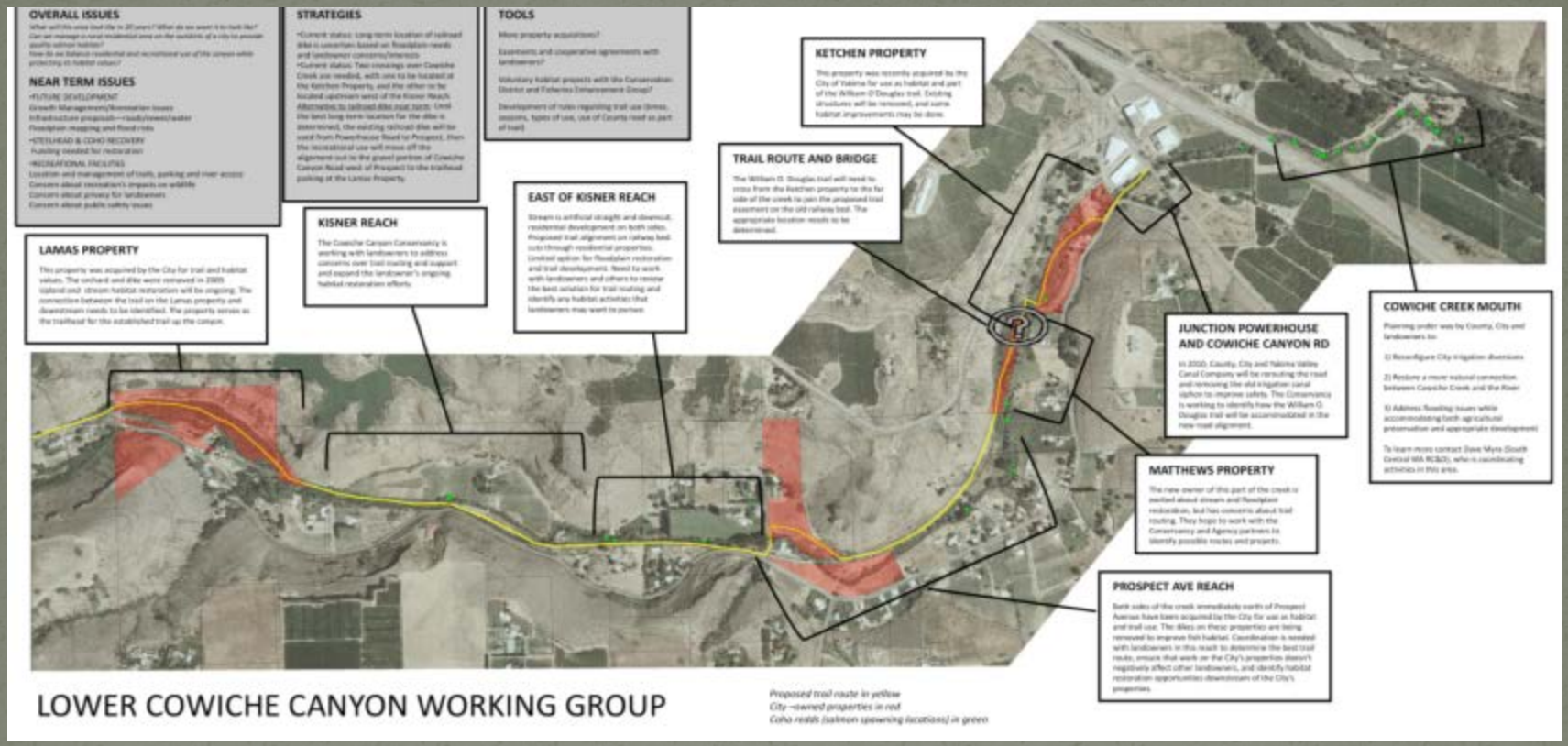
- Project started in 1997, constructed in 2006
- Partnership with Skagit County
- Improved access to 5 miles
- Total cost: $1.1 million
- SRFB share: $439,000

After

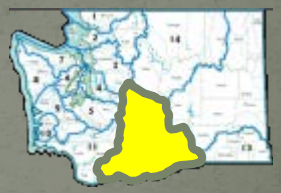
Before

Skagit Fisheries Enhancement Group

Yakima Co – Cowiche Creek Restoration



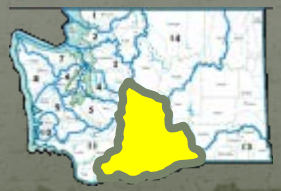
- Restore passage, floodplain and riparian function by removing barriers and dikes and planting riparian areas
- Included acquisition and restoration
- Partners include RFEG, Cowiche Canyon Conservancy, City of Yakima, USFWS, WDFW, North Yakima Conservation District
- Total cost $570,000, including $277,140 from SRFB
- Construction 2009-2012



Mid-Columbia Fisheries Enhancement Group

Kittitas Co.
Reecer Creek Floodplain Restoration

- Enhancement of rearing habitat
- Setback of 4,000-ft levee to reactivate floodplain
- Creation of 6,000-ft meandering channel
- Revegetation of 58-acre floodplain
- Total cost: $1.2 Million
- SRFB share: $473,976



Mid-Columbia Fisheries Enhancement Group

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Kittitas Co.
Reecer Creek Floodplain Restoration

Ellensburg WASHINGTON

Mid-Columbia FISHERIES ENHANCEMENT GROUP

South Central Washington RC&D Resource Conservation and Development Council

FISHERIES YKFP YAKAMA NATION

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE Salmon Recovery Funding Board

DEPARTMENT OF ECOLOGY State of Washington

U.S. FISH & WILDLIFE SERVICE DEPARTMENT OF THE INTERIOR

KITTITAS RECLAMATION DISTRICT

Yakima Tributary Access & Habitat Program

Kittitas County Water Purveyors

Kittitas County Conservation District

Reiss-Landreau Research

Central Nursery

Community Volunteers!

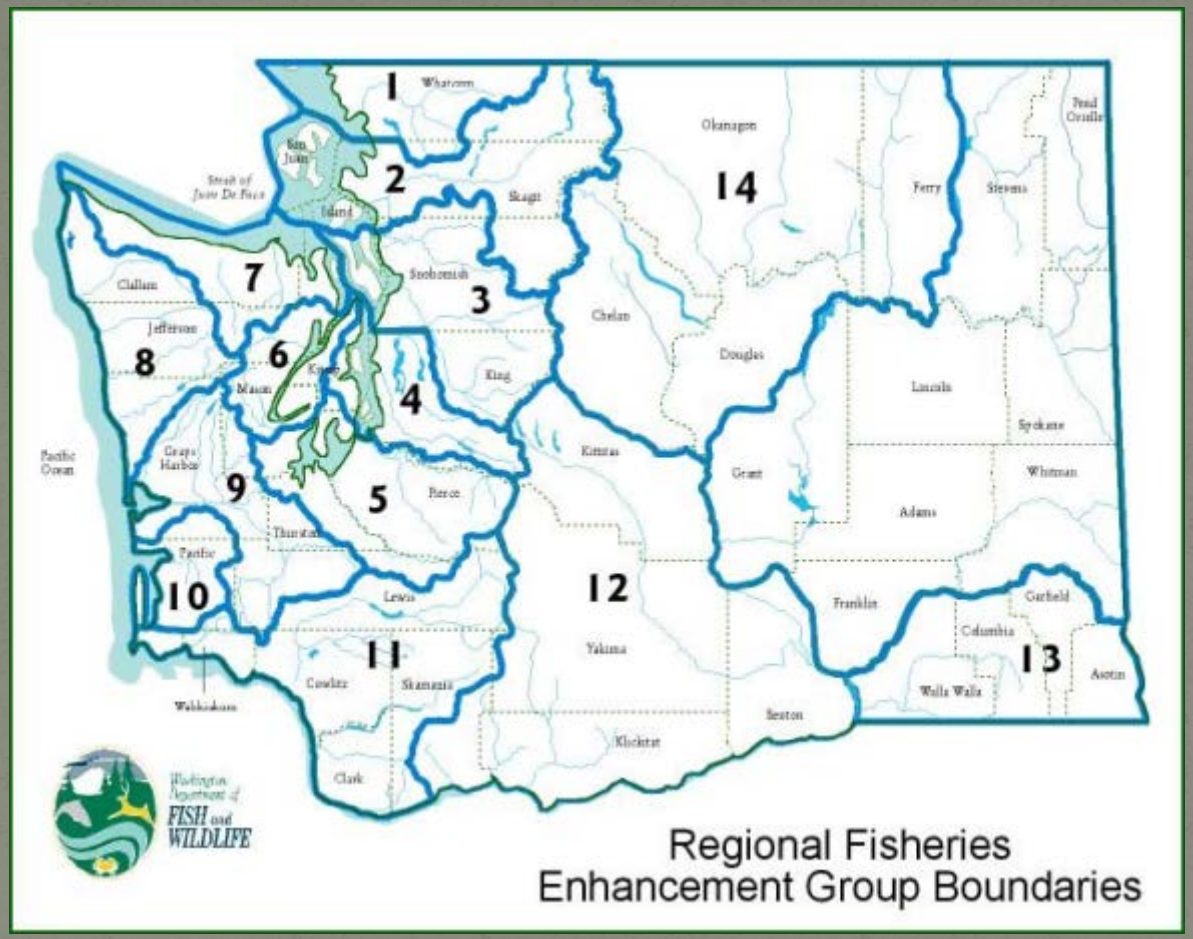
BELSAAS & SMITH

ANCHOR QEA

Gray & Osborne, Inc.

BFI NATIVE SEEDS

Thank you!



Rebecca Wassell, Mid-Columbia Fisheries Enhancement Group

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2011 IMPLEMENTATION STATUS ASSESSMENT

FINAL REPORT

Photo courtesy of the Puget Sound Partnership

A Qualitative Assessment of Implementation of the

Puget Sound Chinook Salmon Recovery Plan

A Report for the National Marine Fisheries Service

Task Order 2002 – Puget Sound Chinook Recovery Tracking

Prepared By: Millie M. Judge

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Appendix A: 2011 Implementation Status Assessment by Watershed

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I. Introduction

Puget Sound Chinook Salmon was listed as "threatened" under the Endangered Species Act (ESA) in 1998. Nine years later, after a series of local efforts to create a response to the listing, a nonprofit organization known as the Shared Strategy for Puget Sound succeeded in creating the nation's first locally-written species recovery plan under the ESA. The National Marine Fisheries Service (NMFS) adopted the Shared Strategy's 2005 Puget Sound Chinook Salmon Recovery Plan ("Recovery Plan") in January, 2007. The Recovery Plan consists of a 2-volume Recovery Plan containing regional and 14 watershed-specific strategies to recover Puget Sound Chinook Salmon within its evolutionarily significant unit (ESU), together with the NMFS's Final Supplement to the Shared Strategy Recovery Plan. It was adopted pursuant to Section 4(f) of the Endangered Species Act. The Recovery Plan is the culmination of years of local collaborative work designed to achieve recovery of the species, while ensuring the social and economic prosperity of the Puget Sound region.

The Recovery Plan is based upon local watershed strategies designed to meet the specific needs of each of the 22 Puget Sound Chinook salmon populations within the ESU. The Recovery Plan is comprised of strategies and actions to address habitat impacts, harvest, hatcheries and hydropower factors ("all H's") over time. Harvest and hatchery strategies are incorporated into the Recovery Plan from the Puget Sound Chinook Harvest Resource Management Plan ("Harvest RMP"),[1] and the Puget Sound Comprehensive Chinook Salmon Resource Management Plan ("Hatchery RMP").[2]

In terms of the pace of its implementation, the Recovery Plan lays out long-term (50-year) recovery goals and strategies, but its primary focus is on the first ten years of actions to place the region on a path toward recovery. A 10-year time frame was used as a reasonable period of time to ask for commitments from the various parties working toward recovery and to begin seeing progress and results.[3] A fundamental assumption of the Recovery Plan is that local watershed habitat efforts, coupled with harvest and hatchery actions, will lead the region to recovery.

Both the creation of the Recovery Plan and its implementation are proceeding through voluntary, locally-based efforts that are led by 14 lead entity organizations throughout Puget Sound. The lead entity organizations in each watershed resource inventory area ("WRIA" or "watershed") are the backbone infrastructure of Recovery Plan implementation in Puget Sound. They consist of a lead entity coordinator who supports a policy leadership group that typically includes local elected officials and representatives from all major stakeholder groups, and a technical group that includes representatives from the various participants in the watershed with special expertise in the scientific fields needed for salmon recovery (e.g., fish biologists, ecologists, engineers, and GIS staff). Together these groups and staff set the watershed's annual priorities and carry out a number of functions including: working with their partners to develop capital restoration projects and programs in support of the annual work program, screening and ranking projects for funding, coordinating in the regional effort led by the Puget Sound Partnership ("PSP") in implementing the Recovery Plan as well as the new Action Agenda for Puget Sound, collaborating with other Lead Entities in areas of mutual interest, maintaining the Habitat Work Schedule (a computer database of projects), and preparing updates to the 3-Year Work Program list and narrative for the PSP.

All of this voluntary work to implement the Recovery Plan is being done under the auspices of the PSP, a new state agency, and the successor organization to the Shared Strategy for Puget Sound.

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[1] This Plan was jointly developed in 2004 by the Washington State Department of Fish and Wildlife (WDFW) and Puget Sound Treaty Tribes under Limit 6 of the Endangered Species Act 4(d) Rule for the 2004-2009 fishing years.
[2] Completed in 2004, the Hatchery RMP contains 42 specific Hatchery Genetic Management Plans designed to limit adverse impacts to threatened populations of salmon from hatchery programs and operations.
[3] Puget Sound Chinook Salmon Recovery Plan at pp. 18-19.

Purpose and Scope of the Project

NMFS is conducting this assessment of progress at the five year mark toward the initial 10-year recovery goals described in the Recovery Plan to gain an understanding about the status and pace of implementation. The results of the investigation will be used to confirm or re-direct Recovery Plan implementation strategies, and identify opportunities to better support Chinook Salmon recovery. The project scope includes an evaluation of progress toward recovery goals for harvest, hatchery, hydropower[4] and habitat (all "H's").

This report examines local and regional efforts taken to implement the Recovery Plan since its adoption through the end of 2010, and assesses whether those efforts are resulting in the proposed 10-year trajectory toward recovery. The report describes the wider context within which recovery efforts are happening in Puget Sound, to the extent other issues influence the performance of work under the Recovery Plan. Finally, the report considers the roles of NMFS, the PSP, and implementers at the watershed scale, as well as those persons or groups whose efforts also influence the performance of recovery actions within the ESU.

Executive Summary

The Recovery Plan was built on several pillars, including habitat protection and restoration, and harvest and hatchery reforms and rebuilding efforts (the "H's"). It was created using a collaborative model to agree upon voluntary improvements in habitat conditions, and linked to the negotiated agreements involving harvest and hatchery practices, which balanced Chinook salmon recovery needs with well-established Tribal treaty rights. Five years into the effort, this assessment attempts to understand how well those pillars are being implemented, where we find success and where more support, funding or effort is needed to achieve the Recovery Plan's 10-year goals.

There are reasons to celebrate success across all of the H's. Although we cannot state them all, a few notable reasons include:

- ✓ The Co-Managers (the WDFW and Puget Sound Treaty Tribes, collectively) met or exceeded the harvest management performance measures required in the 2004 Harvest Management Plan.
- ✓ The WDFW completed its 21st Century Salmon and Steelhead Initiative, which will help them identify, monitor and evaluate long-term, science-based hatchery management strategies.
- ✓ Numerous high priority habitat restoration projects have been accomplished across every watershed in Puget Sound.
- ✓ The Nisqually watershed completed a major portion of their largest project, the Nisqually Refuge Estuary restoration project, with the support and shared contribution of funds from other South Sound watershed groups.
- ✓ The Elwha River Dam removal project is finally funded and scheduled for demolition next year.

[4]The project does not include a specific focus on hydropower, except to the extent that it is covered under watershed habitat strategies.

- ✓ Despite a severe recession, significant change in the organizational structure supporting Puget Sound salmon recovery, a loss of staff and severe funding shortages, the local commitment to salmon recovery across the ESU remains firm and work is continuing.

As with any undertaking of this scope and magnitude, some adjustments also need to be made to ensure that the effort continues to move toward the 10-year goals set forth in the Recovery Plan. Based on the assessments performed for this report, some conclusions can be stated about the status of Puget Sound habitat, as well as the programs being used to implement the Recovery Plan. Other habitat information is incomplete, which is to be expected at this stage of implementation. Where appropriate, we offer NMFS our recommendations for addressing issues found during the assessment process.

Key Conclusions and Recommendations

1. **Habitat is still Declining.** Key indicators addressed by the PSP's 2009 State of the Sound Report tell us that important habitat for Chinook salmon is still declining, despite the ESA listing over 10 years ago. As such, the region needs to increase its scrutiny of the sources of habitat decline, and the tools we use to protect habitat sites and ecosystem processes. Habitat status and trends monitoring at the population, major population group and ESU scales is urgently needed and should be a priority focus for funding. In addition, the effects of climate change on the assumptions made in the Recovery Plan needs to be analyzed and discussed across the ESU. Where indicated, new strategies and action should be created to address impacts from climate change.

2. **Habitat Protection Needs Improvement.** The recovery effort is relying heavily on the protection of remaining habitat within the ESU, using a mix of regulatory and incentive programs. As noted above, key indicators show that habitat is still declining. No studies have been performed to analyze the effectiveness of the protection tools described in the Recovery Plan. We note that many of these protection tools are the same ones that have been implemented since the mid-1990s or even earlier, and their existence did not forestall the ESA listing of Puget Sound Chinook Salmon.

   In addition, efforts to develop the regional strategies and actions called for in Chapter 6 of the Recovery Plan are largely nonexistent. These include:

   - The Protection of Existing Physical Habitat and Habitat-Forming Processes
   - The Protection and Restoration of the Nearshore, Puget Sound and Pacific Ocean
   - Water Quantity – The Strategy for Achieving and Protecting Instream Flows
   - Water Quality Strategies
   - Commercial Forestry Strategies
   - Commercial Agriculture Strategies
   - Research, Monitoring and Adaptive Management

   Additionally, local Lead Entities and regional groups such as the PSP or Recovery Council are not advocating for stronger regulatory programs to protect habitat at the federal, state or local level, largely based on socio-political factors. NMFS can help by (a) Defining the necessary level of critical habitat required to ensure the recovery of Chinook Salmon and other listed species across the ESU; (b) Assessing the effectiveness of various protective regulations; (c) Using its legal authority and other tools to ensure that protection programs are being properly implemented and enforced; and that regulatory updates are completed within statutory deadlines, or at a minimum, within a reasonable future time.

3. **Habitat work is underway, but heavily weighted toward capital projects.** Habitat managers within the 14 watersheds are implementing the strategies defined in the Recovery Plan, but at this stage of implementation, the work is heavily weighted toward capital habitat restoration activities. Non-capital programs are just as important for the success of the Recovery Plan, but funding sources tend to favor capital projects, and disfavor the funding of staff necessary to perform the work.

4. **Funding levels are inadequate to fully implement current 3-YearWork Programs.**

- **Although state and federal funding has steadily increased for implementation, it lags behind what is needed to fully fund the Recovery Plan**. Today, the Lead Entities report having only 20% of the funding they need to complete the habitat capital and non-capital work identified in the 3-Year Work Programs. Currently, the 3-year effort is estimated to cost $1.1 billion and only $344 million is available.[5]

- **Most watersheds report that they are behind the expected pace of implementation** at this 5-year mark, mainly due to a lack of funding and inadequate numbers of staff.

- **Watershed leaders believe that grant local matching requirements are too rigid and unnecessarily limit their work.** The staff believes that they can do a better job of implementing their programs and projects if they are simply given the funding needed for projects and programs and held accountable for the results. They find that a tremendous amount of their time and energy is now being devoted annually to the bureaucracy that has sprung up around capital and non-capital funding. They also feel pressed by increasing mandates to maintain the 3-Year Work Programs and the Habitat Work Schedule (HWS) and participate in other regional programs. These administrative duties place an increasing burden on staff, which are often overloaded trying to accomplish their substantive work on salmon recovery. Efforts should be made to address these administrative issues.

- **Staffing for core habitat programs remains insufficient and hampers implementation.** The Lead Entities consistently state that they lack adequate staffing resources to fully implement their Recovery Plans. Most Lead Entity organizations are run with only one or two paid staff. They have identified core staffing needs that include the following staff to ensure all priority programs and projects are timely implemented:

  <u>Core Program Staffing Needs</u>:
  - Program Director (typically, the lead entity coordinator)
  - Program Planner/policy support person (trained in land use planning; develop new strategies, participate in protection programs)
  - Restoration/Acquisition Project managers (manage or supervise construction projects, land acquisition negotiations and real estate transactions)
  - Outreach and education staff (develop programs and marketing materials, build community relationships and support, lobby opinion leaders and legislators)
  - Basic clerical support staff (schedule meetings, take minutes, coordinate work)
  - Biologists, ecologist or other technically-trained staff (for project development and review, status/trends monitoring, other field work)

[5]See, Watershed 3-Year Work Programs, available at www.psp.wa.gov.

They also described an additional set of program support services that are very important, but it may be possible to perform these services at the regional scale to provide efficiencies and cost-savings. These services included:

Central Service Needs:

- Group purchasing of supplies and equipment for offices, projects and programs
- Highly skilled meeting facilitators
- Annual design and publishing of marketing and outreach materials
- Grant writers
- Information systems support (technical support to maintain and improve the HWS; and to create and update watershed websites)
- Writers to create stories of success and newsletters for stakeholder engagement;
- Skilled Planners (or access to consultants) to create new habitat protection incentive programs for deployment around the ESU

5. **The Adaptive Management Plan has not been completed. In its absence, there is no process in place to recognize changes that are being made to Recovery Plan strategies as implementation proceeds.**

- Apart from Recovery Implementation Technical Team, (RITT) review, there has been no formal follow up with watersheds that had incomplete plans at the time the Recovery Plan was adopted to acknowledge their completion, and to examine new strategies that have been added as a result of additional research or planning work. Additionally, the HWS and 3-Year Work Program remain the only tools currently available for reporting changes to the original recovery plan strategies. NMFS has not defined the process for updating the Recovery Plan, although it called for the creation of regional and local adaptive management plans as part of the NOAA Supplement to the Recovery Plan. Given that NMFS expects the Recovery Plan to be adapted over time, NMFS should expedite completion of the adaptive management framework under development by the RITT and work with the watersheds to determine the best process for documenting changes in Recovery Plan implementation.

- Additionally, efforts that began five years ago to create the regional framework for the Adaptive Management Plan for the Recovery Plan appear to have ceased at the end of 2007. NMFS should ensure that the regional framework for adaptive management is completed as called for in the Supplement to the Recovery Plan. Additionally, the Lead Entities are being held responsible for creating local adaptive management plans that will fit within the larger regional framework when it is completed. But, the necessary funding and support to engage in this work has not been provided to them by the region or NMFS, which is frustrating to many watershed staff.

6. **The Harvest RMP is being implemented as planned**. NMFS is presently analyzing the new RMP and expect to release information in the next few months which will update the information presented here. In the meantime, it appears from available information that the harvest limits established in the Harvest RMP have been followed for all 22 populations since its adoption. In terms of the performance of the population under the Harvest RMP, total natural escapements for 11 of 19 populations (and one management unit for which there are rebuilding thresholds), met or exceeded the established thresholds from 1999-2008.[6] In terms of the level of effort expended in

[6]Per Susan Bishop, NMFS, (September 2010). Additional information analyzing the new RMP is expected to be released within the next few months. That information will update and in some cases, may change, the information presented here.

implementing the Harvest RMP Plan, the Co-Managers have implemented a significant amount of monitoring and reporting, and this work is on-going each year. Canadian and Alaskan harvests continue to account for a substantial proportion of harvest for many Puget Sound Salmon, but the harvest is consistent with the terms of the 2008 Pacific Salmon Treaty Annex. As the timeframe of the initial Harvest RMP comes to a close, work is now underway to renegotiate the Harvest RMP Plan between NMFS and the Co-Managers.

7. **The Hatchery program within NMFS is critically under-resourced.** As discussed below, over 100 *Hatchery and Genetic Management Plans* (HGMPs) are still awaiting review and approval by NMFS. This limits the implementation of the Hatchery RMP. Additional staff should be added to this program to ensure that the ESA and NEPA goals of the Hatchery RMP can be accomplished in a timely way.

8. **H-integration and sequencing of various efforts remains challenging** to implement and requires more resources for all necessary parties to participate, including support from the RITT members.

II. Assessment Methodology

The report presents both a qualitative and quantitative statement about the status of implementation of the Recovery Plan through the end of 2010, across each of the 14 watersheds and nearshore areas that make up the Puget Sound ESU.[7] Recognizing that it is still early in the region's work under the Recovery Plan, the report examines what can be said about the status of implementation activities so far, in light of the Recovery Plan's 10-year goals. As a snapshot in time, the report attempts to identify the current status of habitat and the factors that make up the Viable Salmonid Population (VSP) criteria established by the NMFS Technical Recovery Team (TRT). The overall questions sought to be answered by this Report are: (1) Are the recovery strategies being implemented as described in the Recovery Plan?; and (2) Is the work proceeding at the expected pace toward 10-year goals?

To answer these questions we evaluated the following:

- All major elements of implementation of recovery strategies found in the Recovery Plan (*all H's*) within each of the 14 watershed and nearshore areas;
- The implementation of required updates or additions to strategies, as described in NMFS's Supplement to the Recovery Plan; and
- The degree to which strategies and actions across the various H's have been integrated for each population.

In order to gauge the status of implementation, we gathered available information about each of the Harvest, Hatcheries and Habitat elements of the Recovery Plan.[8] The specific information and criteria used to evaluate each component of implementation is described below.

Habitat Plan Assessment Criteria

[7] The assessment report is not a technical assessment about the scientific underpinnings of the recovery assumptions that were made in creating the Recovery Plan.

[8] Other NMFS listing factors which must be addressed for recovery were not analyzed as part of this Report.

For the habitat component of the Recovery Plan, a set of objective reporting standards does not yet exist to evaluate the performance of implementation efforts.[9] Accordingly, the assessment used both qualitative and quantitative measures to evaluate and report on the status of actions designed to protect and restore habitat important for recovery. Where available, the assessment was based on objective data, but it also considered self-reported progress and observations from key leaders who are working on the Recovery Plan at both the regional and local scales.

We examined the commitments made in the Recovery Plan, gaps identified by the TRT and its successor, the RITT, and the NMFS Supplement to the Recovery Plan. We compared that information to the watershed 3-Year Work Programs from 2008, 2009 and 2010, as well as the Habitat Work Schedule, and other local work program or guidance documents that describe implementation efforts. Using this information, habitat actions were assessed against the criteria listed below.

For the habitat actions in each watershed, we examined qualitative performance indicators to determine whether implementation is on track, including:

- Whether a responsible party has been identified for each of the actions listed under a given strategy in the Recovery Plan (responsible for leading, implementing, tracking and reporting on the actions being taken in furtherance of the Recovery Plan)
- Whether strategies in the Recovery Plan are being pursued through the implementation of prioritized actions, as reflected in the 3-Year Work Programs
- Whether the watershed has adopted a monitoring and adaptive management plan
- Whether major obstacles exist or are known that pose a risk to any specific set of strategies.[10]

In addition, we used certain quantitative measures to determine whether habitat implementation was on track, including:

- Whether high priority strategies identified in the Recovery Plan are included in the 3-Year Work Program and are being implemented
- Whether an adequate amount of funding is available for the work
- The total number of actions underway and projected completion dates
- Whether gaps or incomplete items identified in either the Recovery Plan, the Supplement to the Recovery Plan or by the TRT (or RITT) are being actively worked on and have a reasonable plan for completion.

Finally, we performed additional research using public information sources (federal, state and local government sources, the on-line "Habitat Work Schedule," and individual watershed websites). We interviewed key staff from each watershed and from the regional organization to gain a better understanding of each watershed's programs and activities and to verify report findings prior to finalizing them. In some watersheds, interviews also included key stakeholders and technical team members.

Using this information, a watershed profile, summary report and assessment table was created for each of the 14 watersheds within Puget Sound ESU. From this work, information and data was

[9] A framework for monitoring the progress of implementation, ESU habitat status and trends, and the effectiveness of recovery strategies was suggested in the Shared Strategy's *Draft Monitoring and Adaptive Management Plan dated October 31, 2007* for all H's. It is our understanding that additional work is underway on the regional adaptive management plan, but remains incomplete at this time.

[10](See, e.g., the US Army Corps of Engineers proposed change to their Levy Vegetation Policy; or the effects of global climate change on recovery strategies).

aggregated and key messages were identified for the final report and recommendations. Watershed profiles, assessment summaries and tables are presented for each watershed in Appendix A.

Harvest RMP Assessment Criteria

Harvest actions designed to contribute to Puget Sound Chinook Salmon recovery are defined in the Harvest RMP. It is being implemented by the Co-Managers (Puget Sound Tribes and the WDFW throughout Puget Sound. The implementation of strategies and actions are tracked and evaluated annually in the Post-Season Harvest Report. The sources used to analyze harvest performance under the Harvest RMP included the Post-Season Harvest Report, Annual Report Covering the 2009-2010 Fishing Season, the Co-Manager's Harvest Management Performance Measures presentation to the Salmon Recovery Council (2010), and interviews with NMFS Staff.[11]

The assessment of Harvest RMP implementation efforts is based on the 2004-2008 timeframe. The criteria used to assess whether implementation is occurring as identified in the Harvest RMP include the following benchmarks, derived from the Harvest RMP itself (and suggested in Tables 1 and 2 of Volume III of the Shared Strategy's *Draft Monitoring and Adaptive Management Plan* dated October 31, 2007):

Core Strategy 1: Ensure sufficient spawners to maintain stability of all populations based on current habitat conditions and productivity

Suggested Benchmarks:

- All 22 populations in the ESU are protected by fishing exploitation rate (ER) ceilings based on abundance and natural productivity thresholds;
- Total fishery mortality (landed catch and non-landed mortality) is accounted for each year;
- Population abundances are predicted each year that incorporate the best estimates of uncertainty (measurement error, management error, and population variability);
- Escapement assessed annually;
- Technical tools for assessing fishery mortality are improved with new information;
- Technical tools for assessing population abundance, productivity, and diversity are improved with new and better information;
- Enforce fishery rules and regulations; and
- Evaluate effectiveness of regulations.

Core Strategy 2: Allow populations to rebuild as other constraining factors are alleviated by limiting mortality rates on individual populations to levels that are consistent with achieving ESU viability.

Suggested Benchmark:

- Identify Recovery Exploitation Rates (RERs) for all populations[12]

Core Strategy 3: Provide harvest opportunity on other species while rebuilding the ESU

[11] The consultant's analysis was confirmed using NMFS's harvest performance analyses set forth in the draft report, "Bishop, S., Preliminary Review of Status of Puget Sound Chinook Populations, Exploitation Rates, Catch and Sampling under the 2004-2008 RMP."

[12] RERs may be developed by a variety of analyses. As used here, total RERs refer to rates developed by using CWT data to quantify total mortality and spawning ground escapement and age information to develop spawner-recruit relationships.

Suggested Benchmark:

- Fishing opportunities occur for other Pacific salmon species while preventing further declines of Chinook populations due to harvest

Core Strategy 4: Adhere to the principles of the Puget Sound Salmon Management Plan (PSSMP) and other legal mandates pursuant to *U.S v Washington* and the terms of the Pacific Salmon Treaty (PST) and its annexes.

Suggested Benchmark:

- Harvest management occurs as a government-to-government process among Tribal, state, and federal managers
- Annual fishing regime is established each year following procedures in PSSMP
- Preseason forecasts and management agreements occur annually
- In-season modifications of harvest regulations follow procedures specified in PSSMP
- U.S. and Canada manage fisheries consistent with the terms of the PST annexes.

Hatchery RMP Assessment Criteria

Hatcheries in Puget Sound are managed pursuant to the legal framework established from the *U.S. v. Washington*[13] decision, which led to the adoption of the PSSMP. As a part of the PSSMP, the WDFW and Puget Sound Treaty Tribes (collectively known as the "Co-Managers") operate hatcheries according to the PSSMP "tools":

(1) A set of descriptions of standard modes of operating hatchery programs developed under regional planning by the Co-Managers (equilibrium brood documents and equilibrium brood programs;

(2) Annual descriptions and review of the operating objectives and changes from the standard program that can be used for annual planning (Future Brood Document and Co-Managers' Fish Disease Policy);

(3) Regional management plans to coordinate Co-Manager activities and priorities;

(4) Exchange of technical information and analyses through coordinated information systems; and

(5) Dispute resolution.

The PSSMP pre-dated the ESA listing of Puget Sound Chinook Salmon, and many of its tools were updated to meet the needs of hatchery reform identified by the Hatchery Scientific Review Group (HSRG) process, a panel of independent scientists charged by the U.S. Congress with promoting hatchery reform, and to respond to the ESA listings of various salmonid species.

Based on this framework, the parties to *U.S. v. Washington*, with the NMFS, developed the Puget Sound Chinook Salmon Hatcheries Plan (PSCSH) (March, 2004), jointly as part of the Comprehensive Chinook Salmon Management Plan, which identifies interim goals for harvest and hatcheries. The plan describes the scientific foundation and general principles for evaluating artificial production programs and for continued hatchery reform. It builds on a biological assessment of tribal hatchery programs submitted

[13]US v. Washington, 759 F.2d 1353, 1360 (9th Cir., en banc), *cert.denied*, 474 U.S. 994 (1985).

to NMFS by the Bureau of Indian Affairs (BIA) in October, 1999, as required by section 7 of the ESA, and incorporates management alternatives subsequently developed by NMFS and the Tribes. It also draws from the recommendations of the HSRG. The PSCSH Plan has four overall strategies for threatened salmon:

(1) Protect and recover indigenous populations of salmon in watersheds where they still occur (Recovery Category 1 watersheds);

(2) Implement management actions that use the most locally adapted stock to reestablish and sustain natural production in watersheds that no longer have indigenous populations, but where natural production is possible given existence of suitable or productive habitat (Recovery Category 2 watersheds);

(3) Manage watersheds that historically may not have supported self-sustaining, naturally spawning populations for hatchery production, when desired, while maintaining habitat for other species that are supported by these watersheds (Recovery Category 3 watersheds); and

(4) Protect treaty rights by providing fish for harvest.

In addition to these overall strategies for ESA-listed salmon, the PSCSH Plan adopted several general principles that govern the hatchery programs in each watershed:

- Hatchery programs need clearly stated goals, performance objectives, and performance indicators.
- Hatchery programs need to coordinate with fishery management programs to maximize benefits and minimize biological risks so that they do not compromise overall plans to conserve populations.
- Priorities for brood stock collection of listed fish depend on the status of the donor population, relative to critical or viable population thresholds. Highest priority for brood stock collection of listed populations below the viable threshold is conservation. Brood stock collection for other priorities depends on meeting the conservation goals and not appreciably slowing recovery to viable levels.
- Hatchery programs need protocols to manage risks associated with fish health, brood stock collection, spawning, rearing, and release of juveniles; disposition of adults; and catastrophes within the hatchery.
- Hatchery programs need to assess and manage the ecological and genetic risks to natural populations.
- Hatchery programs must have adequate facilities and maintenance to rear fish, maintain fish health and diversity, and minimize domestication in fish of naturally spawned brood stock.
- Hatchery programs should be based on adaptive management, which includes having adequate monitoring and evaluation to determine whether the program is meeting its objectives and a process for making revisions to the program based on evaluating the monitoring data.
- Hatchery programs must be consistent with the plans and conditions identified by Federal courts with jurisdiction over tribal harvest allocations.

- Hatchery programs will monitor the "take" of listed salmon occurring in the program and will provide that information as needed.

Based on the PSCSH Plan, the Co-Managers have created 46 separate *Hatchery and Genetic Management Plans* (HGMP) in five major geographic regions of Puget Sound (Strait of Juan de Fuca, North Sound, Mid Sound, Hood Canal, and South Sound). The salmon stocks in each hatchery are managed for one or more purposes: "integrated," "isolated," "harvest," "recovery" and/or "research." In addition to meeting stated release goals, each HGMP sets forth operational commitments that the Co-Managers have agreed to meet for each hatchery, depending upon its management status.[14]

Ideally, each of the HGMPs operating under the Hatchery RMP would be analyzed for implementation progress according to each of their component parts. With regard to the Puget Sound HGMPs, however, this was not possible for the reasons described in the Hatchery Assessment Results Section, below.

III. Assessment Findings

A. The Effect of Recovery Work on Salmon Habitat and Chinook Populations

While it is important to recovery to assess how well the region is doing in implementing the Recovery Plan, it is equally important to assess the effect that the implementation of those strategies and actions may be having on habitat critical for recovery, as well as the effect of those actions on the Chinook population, itself. To do this in a meaningful way requires consistent and widespread status and trends monitoring. That isn't happening across Puget Sound at this time. As noted above, a framework for monitoring status and trends was suggested in the Shared Strategy's *Draft Monitoring and Adaptive Management Plan (2007)*, but a framework has not yet been completed and implemented at the regional and watershed scales.

Accordingly, there is no framework defining the indicators that should be monitored to report on habitat status and trends specific to the Recovery Plan.[15] In the absence of agreed upon indicators, we examined the status of certain habitat indicators set forth in the *2009 State of the Sound Report, Ecosystem Status and Trends* published by the PSP in order to assess whether the region's efforts at recovery have had a detectable effect on habitat or salmon populations.

Clearly, gaps in our scientific understanding of ecosystem processes and the absence of an ESU-wide habitat status and trends monitoring program, limit our ability to make a statement about habitat status at the present time. In the absence of that information, we defer to the analysis and conclusions presented in the PSP's most recent *State of the Sound Report*, which analyzed the condition of various habitat types.

The Status of Puget Sound Habitat

Forest Cover and Habitat Complexity

[14]Source: Tim Tynan, NOAA Fisheries Service, 2010

[15]However, the Governor's Forum on Monitoring has published the Washington Comprehensive Monitoring Strategy and Action Plan for Watershed Health and Salmon Recovery (December, 2002). See, www.rco.wa.gov for more information.

Selective findings from the PSP's *State of the Sound Report* include:

- ✓ The Puget Sound basin has experienced substantial loss and degradation of native ecosystems types over the last 150 years. Much of the activity has occurred in the Puget Lowlands (below 1000 ft. elevation), to provide living space (houses and associated infrastructure) for people.

- ✓ Since statehood in 1889, Washington has lost an estimated 70% of its estuarine wetlands, 50% of its riparian habitat, and 90% of its old-growth forest. Together, these native habitat types have been considered among the most diverse and productive in the State.

- ✓ Land development is a major determinant of the extent and condition of Puget Sound habitats. Most development continues to occur in the Puget Sound Lowlands but is not limited to relatively undisturbed lands. Agricultural lands also appear to be declining in support of more intensive land uses. In addition to development, climate change, pollution and non-native species will also affect habitat quality and quantity in the region.[16]

- ✓ From 2001 to 2006, the amount of developed land in Puget Sound increased about 3%, with nearly two-thirds of that land being converted to impervious surfaces. This translates into a loss of about 10,700 acres of forest types and 4,300 acres of agricultural land over the five-year period. This period was *after* the ESA listing of Puget Sound Chinook Salmon.

- ✓ As of 2006, approximately 25% of the Puget Lowlands was in urban use and agriculture. Some ecosystem types, particularly those in the lowlands and along riverine and marine shorelines, have experienced more change than others. Less obvious are changes in the conditions of habitat. Much of the old forest that dominated the region in the early 1900s has been converted to younger commercial forests, which will be logged again in the future.

- ✓ From 1988-2004, Western Washington forest lands have declined by 25%, a loss of 936,000 acres of State and private forest land. These losses (meaning conversion to other uses), were the result of changes in markets conditions for wood products, changes in land ownership, impacts from competing land uses and the health of timber stock. Recent research from the University of Washington indicates that nearly one million more acres of private forestland are threatened with conversion. Across all of Washington, the potential risk of conversion is highest in the Puget Sound region.[17]

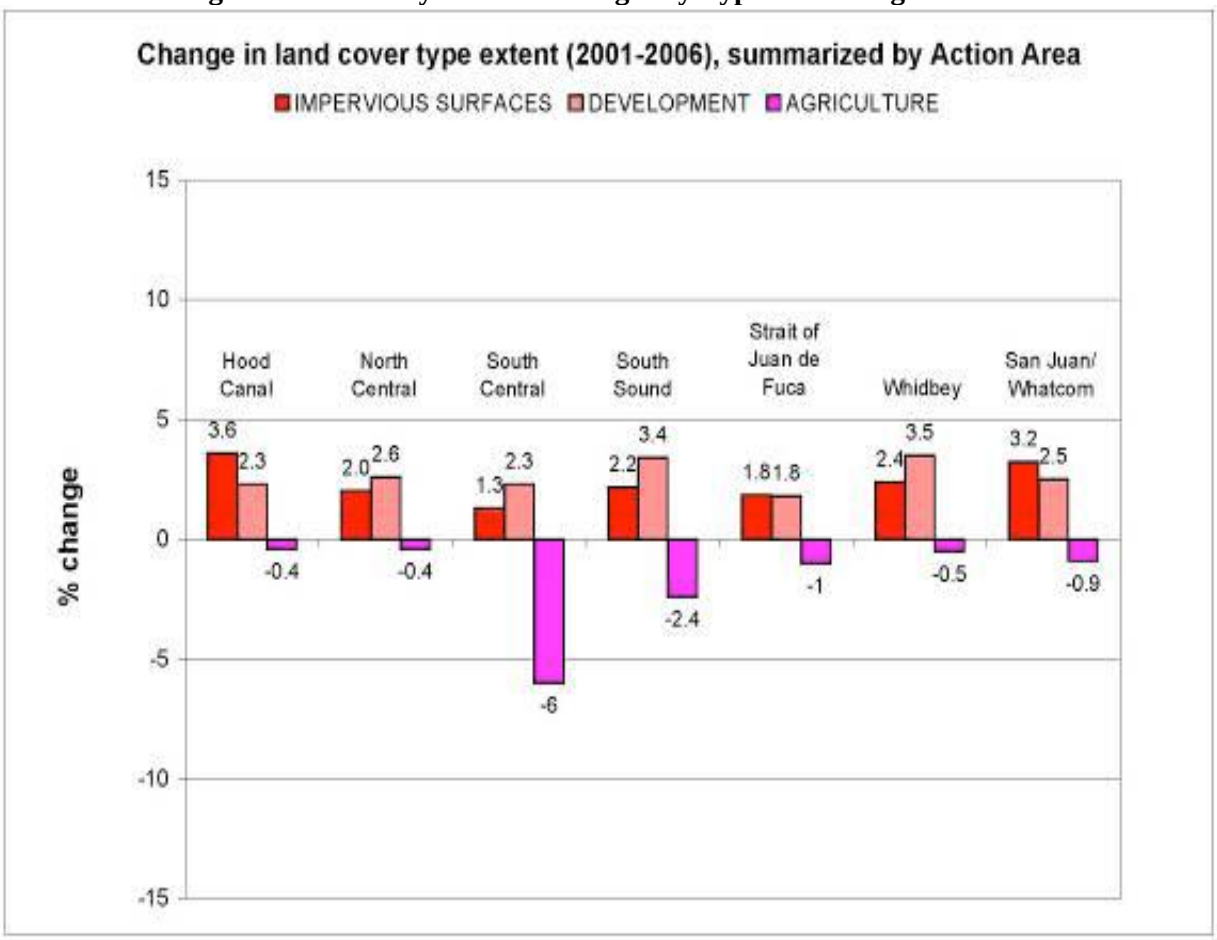
Shown in Figures 1 and 2 below[18], consistent conclusions were found when the PSP examined the rate of land use conversions and increases in impervious surfaces across Puget Sound from 2001-2004, which grew from 2%-3%.[19] This habitat loss is added to the existing background of land disturbance and development across Puget Sound. The numbers show a disturbing trend of continuing loss despite the

[16]Puget Sound Partnership. 2009. Ecosystem Status and Trends, State of the Sound Report, p. 67.
[17]Id. See, 2006 Western Washington Land Use Change Dataset ©2009 University of Washington.
[18]Puget Sound Partnership. 2009. Ecosystem Status and Trends, State of the Sound Report
[19]Puget Sound Partnership. 2009. Ecosystem Status and Trends, State of the Sound Report, p. 67.

State's adoption of some of the most aggressive land management tools in the Nation, including the Shoreline Management Act (SMA), Growth Management Act (GMA), Critical Areas Regulations (CAR) and the Forest and Fish Agreement, which led to changes in the Forest Practices Act to protect Salmon.[20]

The data shows a disturbing trend of continuing loss of habitat, despite our State's adoption of some of the most aggressive land management tools in the Country.

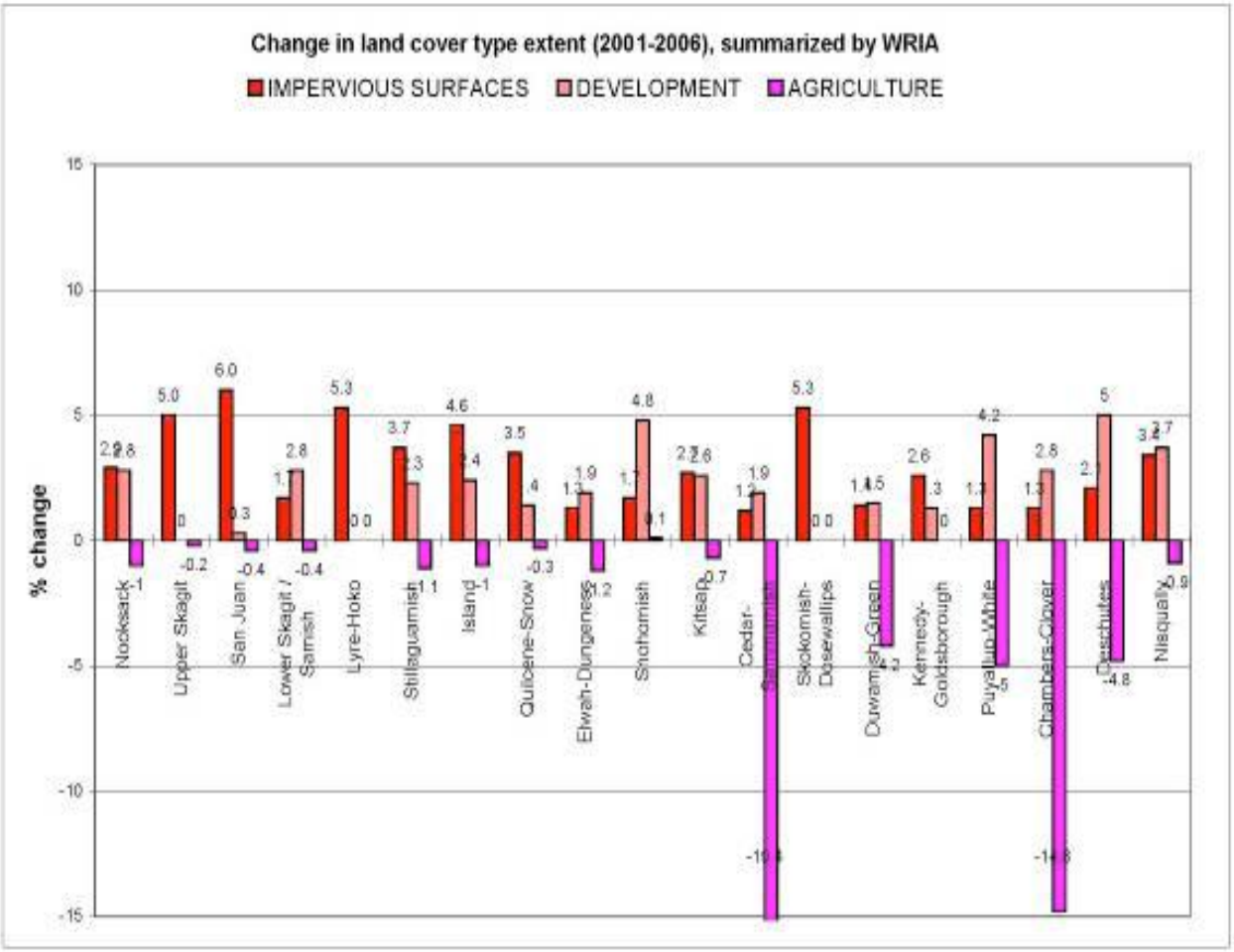
Figure 1. Summary of Land Changes by Type across Puget Sound[21]



[20] See, Chapter 36.70A RCW; Ch. 76.09 RCW

[21] The increases in developed land and impervious surface were fairly consistent across the Action Areas, ranging around 2%-3%. However, the San Juan and Hood Canal Action Areas had greater increases in impervious surface than development. This suggests that open/natural areas within existing developed land experienced further development into impervious surfaces, possibly within Urban Growth Areas (UGA). Agricultural land decreased from about 1%-6%, with the 6% loss within the South Central Puget Sound Action Area.

Figure 2. Changes in Puget Sound Land Cover Type and Extent by Watershed



Since the 1990s and continuing into this decade, scientists studying the effects of increasing effective impervious areas (EIA) and decreasing forest cover in Puget Sound watersheds ("urbanization"), have consistently sounded the alarm on the damage it causes to watershed health:

> In the realm of physical channel conditions, the data collected from field observations have consistently shown remarkably clear trends in aquatic-system degradation. In this region, approximately 10% effective impervious area in a watershed typically yields demonstrable degradation, some aspects of which are surely irreversible. Although early observations were not sensitive enough to show significant degradation at even lower levels of urban development, the basin plans of the early 1990's recognized that such damage was almost certainly occurring. More recently, biological data (*e.g.*, Morley, 2000) have demonstrated the anticipated consequences at these lower levels of human disturbances. . . .
>
> Hydrological analyses suggest that maintaining forest cover is more important than limiting impervious-area percentages, at least at rural residential densities where zoning effectively limits the range of EIA between 2 and 6 percent of the gross development area. . . . **[**However,] hydrologically and biologically, there are no truly negligible amounts of clearing or watershed imperviousness (Morley, 2000), even though our perception of, and our tolerance for, many of the associated changes in downstream channels appear to undergo a relatively abrupt transition. Almost every increment of

> cleared land, and of constructed pavement, is likely to result in some degree of resource degradation or loss.[22]

Scientists now know that managing the effects of urbanization for the protection of riparian habitat is complicated, and does not lend itself to the one-size-fits-all treatments that most regulatory schemes provide. As one group of researchers said:

> … [U]rbanization does not affect all streams the same way. The degree of urbanization and the specific complex of activities characterizing local development differ for each stream. . . . [A]ny effort to manage a specific stream must relate stream biological condition to specific human activities and their effects in that watershed. Not doing so is akin to prescribing a cure for an ill person without identifying his symptoms or looking for their likely causes.[23]

Beyond forest cover, impacts to the complexity and functioning of riparian and nearshore habitats have also been measured, shown through intertidal wetland loss, loss of natural shoreline function, shoreform alteration, and changes in eelgrass beds.

Intertidal wetlands

In its 2009 *State of the Sound Report*, the PSP found that intertidal wetlands are one of the Puget Sound habitat types most threatened by human activities:

> Locally, development pressures associated with a growing human population in the Puget Sound basin and the maintenance of a viable economy threaten the extent and quality of intertidal wetland habitats. Globally, warming of the atmosphere is driving local changes that impact intertidal wetlands such as changes in sea level, frequency and severity of habitat-shaping storms, volume and timing of freshwater input, and changes in water temperature and nutrient cycling. To understand changes in these critical habitat types and to begin to prioritize management actions, the Puget Sound Nearshore Ecosystem Restoration Project (PSNERP) recently completed an intertidal change analysis."[24]

PSNERP's study revealed dramatic losses in all but one place in Puget Sound in the last 150 years. Much of this loss is attributed to the legacy of European settlement of the region, which was focused on development of the waterways for economic development. They found that the "loss of intertidal wetlands contributed to the decline of Chinook salmon, which in turn may be affecting other food web elements such as Orca and other marine mammals."[25]

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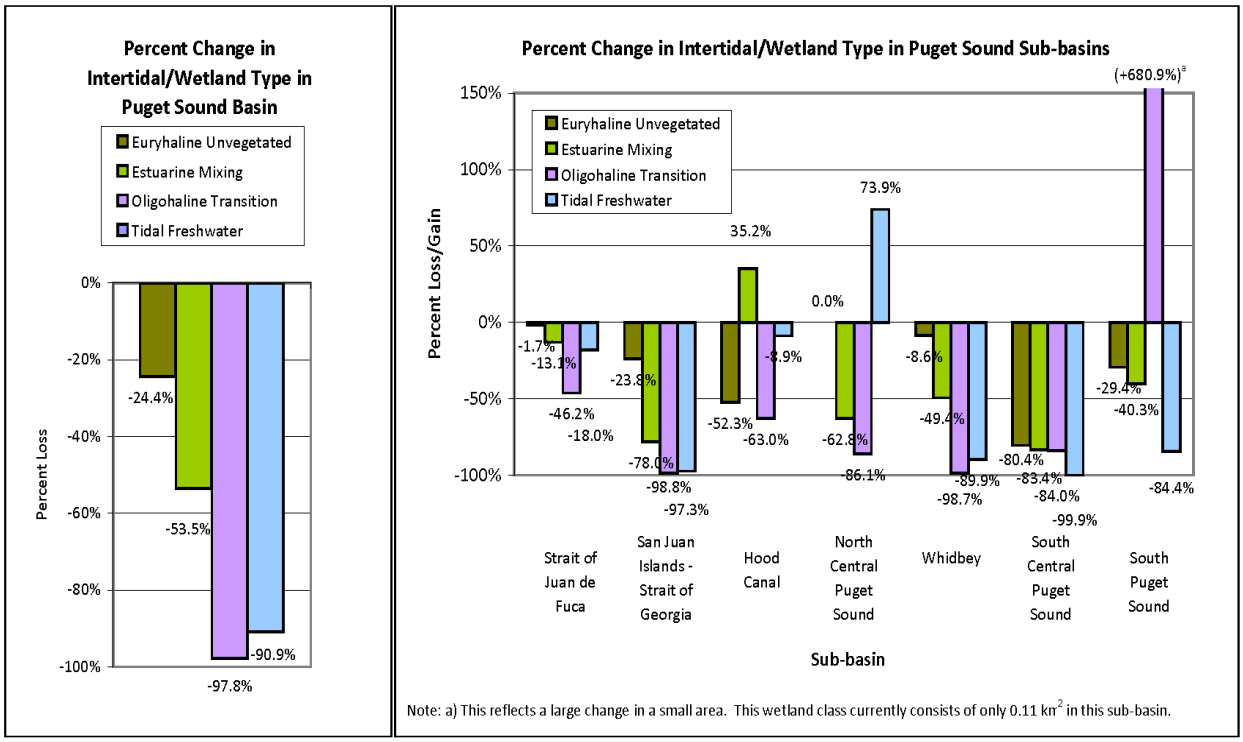
[22](Emphasis Added). Booth, D.B, D. Hartley, R. Jackson, Forest Cover, Impervious Surface Area, and the Mitigation of Stormwater Impacts. Journal of the American Water Resources Association, v. 38:835-845 (2002).
[23]Booth, D. B., J.R. Karr, S. Schauman, C.P. Konrad, S.A.Morley, M.G. Larson and S. J. Burges. In Press. Reviving Urban Streams: Land Use, Hydrology, Biology, and Human Behavior. Journal of the American Water Resources Association.
[24]Puget Sound Partnership, *State of the Sound Report, Ecosystem Status and Trends* at pp 80-82 (2009).
[25]Id.

Figure 3. Intertidal Wetland Change, 1850s-2006 in Puget Sound Basin and Subbasins[26]



Shorelines and Nearshore Areas

Shorelines and nearshore areas across Puget Sound have also been impacted by human activities. PSNERP concluded that the shoreline of Puget Sound is shorter now (2000-2006) than it was historically (1850s-1890s), reflecting a simplification of its complex geology.[27] Total shoreline length of all shoreforms combined declined by approximately 15% Sound-wide, and the composition of geomorphic shore types has changed with significant gains in artificial (primarily nearshore fill) and losses in delta and embayment (barrier estuaries, barrier lagoons, closed lagoon marshes, and open coastal inlets) shore types. Shoreform change has been dominated by either a transition to artificial or the complete disappearance as a recognizable shoreform (i.e. filling a lagoon).[28]

Eelgrass Areas

The health of eelgrass beds in the Puget Sound nearshore are an indicator of the health of nearshore areas. In the *State of the Sound Report*, the PSP noted:

> Eelgrass is the dominant sea grass in Washington. It grows in tidelands and shallow waters along much of Puget Sound's shoreline. Eelgrass serves as a haven for many fish and wildlife species, providing them with food, breeding areas and protective nurseries. Because eelgrass habitat supports intricate food webs and diverse fauna, it plays a critical role in the health of Puget Sound. Eelgrass is a valuable indicator of estuarine health not only because of the ecosystem functions it provides, but because it is known to be

[26] Puget Sound Partnership, *State of the Sound Report*, *Ecosystem Status and Trends* (2009).
[27] Id. at 83.
[28] Id.

> sensitive to environmental stressors. Excess nutrients, sewage and algae can reduce water clarity while storms, runoff and dredging can stir up sediment, preventing light from penetrating the water and reaching the eelgrass. Boat wakes, propellers and docks can also disturb eelgrass beds. Also, since eelgrass is protected by many regulations, its condition reflects, in part, the success of management actions.[29]

In terms of the quantity and distribution of eelgrass, the PSP found that there are 50,000 acres of eelgrass in greater Puget Sound. It is found along approximately 43% of Puget Sound shoreline.[30] Eelgrass commonly occurs in two different habitats — narrow beds that parallel the shoreline ("fringe" beds), and broader beds within bays ("flats"). Over 25% of all Puget Sound eelgrass is found in two expansive embayments: Padilla and Samish Bays in Skagit County.

The PSP found that an overall pattern of slight decline has been detected on smaller sites in seven out of eight years since monitoring began in 2000. The number of sites with significant annual declines has outnumbered those with increases every year in seven out of the last eight years. Sites with long-term declines also outnumber sites with long term increases. The regions of greatest concern for eelgrass losses are Hood Canal, and the San Juan Islands.[31] The PSP concluded:

> The observed eelgrass declines could reflect increased environmental stressors, such as excess nutrients, runoff, boat damage, docks, algae blooms and climate change. Because it is protected by many regulations, eelgrass condition reflects, in part, the success of management actions. Observed decreases suggest that there may be gaps in regulatory protections or their implementation.[32]

Water Quality

As an important indicator of the human and ecosystem health, water quality is measured against Washington's Water Quality Standards (*See*, Ch. 90.48 RCW; Ch. 173-200 WAC and Ch. 173-201A WAC). Water quality monitoring is on-going across Puget Sound for varying pollutants and chemical contaminants, some in response to the National Pollutant Discharge Elimination System (NPDES) permits issued under the Federal Clean Water Act. But, gaps in monitoring data remain. Given the limitations of this Report, we do not attempt to characterize the current state of water quality in Puget Sound. For more information on the Department of Ecology's Environmental Assessment Program, and in particular Status and Trends Statewide Monitoring Framework, see their website at: http://www.ecy.wa.gov/programs/eap/stsmf/index.html. Additional information may be found in the 2009 *State of the Sound Report* published by the PSP.

Conclusions about the Status of Habitat within the ESU

The status and trend data summarized above reveals habitat losses across many indicators when compared against both historical data, and even since the ESA listing of Puget Sound Chinook Salmon. A fundamental assumption of the Recovery Plan is that it must result in habitat protection. "Protection is

[29] Id. (Eelgrass data and analysis provided to the PSP by *Helen Berry, Jeff Gaeckle, Pete Dowty and Tom Mumford, Washington Department of Natural Resources).*
[30] Id.
[31] Further information is available in the annual monitoring report: http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr_nrsh_eelgrass_monitoring.aspx
[32] Id. At pp. 86-89.

needed at the individual habitat site as well as at the ecosystem scale to ensure the processes that create habitat continue to function."[33] The TRT stated:

> The Puget Sound TRT finds that protecting existing habitat and the ecological processes that create it *is the most important action needed in the short-term* to increase the certainty of achieving plan outcomes. Protection must occur in both urban and rural areas if we are to ensure the long-term persistence of salmon in Puget Sound.[34]

(Emphasis added). The key indicators addressed by the PSP's 2009 *State of the Sound Report* tell us that habitat losses continue; that increased scrutiny on the sources of decline and the tools we use to protect habitat sites and ecosystem processes is warranted, and likely urgent. Additional monitoring of habitat status and trends within each watershed is an important need that generally has not been agreed to or funded at any significant level to date. As the Recovery Plan itself states, the success of the Recovery Plan depends on it. Accordingly, we recommend that immediate efforts be made to complete the monitoring and adaptive management plan and to fund status and trends monitoring across the ESU and within each watershed.

Chinook Population Status and Trends

In addition to examining the state of habitat across the Puget Sound ESU, we also attempted to assess the current status of the Puget Sound Chinook population. For the 22 Chinook populations within the ESU, NOAA established the viable salmonid population criteria (VSP) prior to the completion of the Recovery Plan:

> NOAA Fisheries defines viability as a 0.95 probability of population persistence over a 100-year time frame. Four main population parameters—abundance, productivity, spatial structure and diversity—describe the attributes of a viable population. The abundance and productivity attributes are estimated through quantitative population models; spatial structure and diversity of viable populations are described more qualitatively. Population viability has been determined using two methods: one assuming density independent returns from spawners and the other using density dependent functions.[35]

For each of those VSP parameters, the TRT suggested the following indictors be used:

Table 1. VSP Data Indicators established by the Puget Sound TRT.

Monitoring Data to Determine Viable Salmonid Populations (VSP)	
VSP Parameter for Puget Sound Chinook Salmon Populations	**Indicators**
Abundance	Use adult salmon counts (and juveniles where possible) to assess abundance for each wild population.
Productivity	Use ratio of adult recruitment per spawner (and juvenile production per spawner where possible) to assess productivity.
Spatial Distribution	Use spatial distribution of natural origin spawners to assess spatial distribution.
Diversity	Use relative frequencies of different life history types to assess diversity.

[33]Puget Sound Chinook Salmon Recovery Plan at p. 353.
[34]Id. at p. 354.
[35]Sands, N.J., K. Rawson, K.P. Currens, W. H. Graeber, M.H. Ruckelshaus, R.R. Furstenberg and J.B. Scott. 2007. Draft Dawgsz N the Hood, the Hood Canal Summer Chum Salmon ESU. U.S. Dept. Commer., NOAA, NWFSC.

NOAA is currently conducting a 5-year status review under the ESA for the 22 populations of Puget Sound Chinook Salmon. The results of that review will provide the broader status report for the entire ESU on all VSP factors. Until that status review is complete, we can report on one of the factors listed: Abundance.

Conclusions about Chinook Population Abundance

Using Puget Sound TRT guidance and reporting metrics, we examined whether data trends show positive improvement toward the target ranges established in the Recovery Plan. For the abundance parameter, NOAA's Northwest Fisheries Science Center ("NWFSC") recently published its analysis of 1999-2008 Abundance Trends for Puget Sound Chinook Salmon Populations, using information compiled from state and tribal sources using the methodologies developed by the NWFSC Technical Recovery Teams ("TRT").

NMFS concluded that over the 10-year period, only the Lower/North Fork/Middle Fork Nooksack, Cedar, and White Rivers showed an "increasing" abundance trend out of 22 populations. The South Fork/Mainstem Stillaguamish River showed a "decreasing" trend over the same period. The remaining 18 populations showed no trend change.[36]

NMFS found that trends in escapement are positive for most populations while trends in growth rate are declining for most populations in the ESU, although many are close to 1.0.[37] The highest escapement trends were observed in the NF Nooksack, White and Dungeness river populations. The lowest escapement trends were observed in the Stillaguamish and Puyallup river populations. Both escapement trends and growth rates are declining in Suiattle, North Fork Stillaguamish, South Fork Stillaguamish, Puyallup and Mid-Hood Canal populations.[38]

Unfortunately, NMFS data shows that the region's ability to accurately predict abundance numbers in any given year using current methods appears to be fairly poor. In the same study cited above, NMFS found that pre-season forecasts generally overestimated abundance levels for the 2001-2007 returns by substantial margins, many by over 50%.[39] Accordingly, it will continue to be important to refine forecasting methods and models, and to approach all-H recovery strategies using precautionary principles.

B. Assessment of Implementation by All H's under the Recovery Plan

Results of Hatchery RMP Assessment

The Hatchery Management Plan created an implementation structure within HGMPs would be created within each population and submitted for approval to NMFS. This review and approval step is a condition precedent to a hatchery receiving protection from liability for "take" of Chinook Salmon under the ESA that might occur as a result of hatchery operations. Over the last six years, NMFS has received 114 HGMPs for review and approval, describing all anadromous salmon and steelhead hatchery programs operated by the WDFW, the 16 Puget Sound Treaty Tribes, and the USFWS in the Puget Sound region.

[36]See, http://www.nwfsc.noaa.gov/

[37]Bishop, Susan. *Preliminary Review of Status of Puget Sound Chinook Populations, Exploitations Rates, Catch and Sampling under the 2004-2008 RMP*, NWRO, NOAA - *Draft pending* (2010)

[38] Id.

[39] Id. at Table 1.

Of this total, the WDFW has submitted 78 individual state-operated hatchery plans for review and the Tribes have submitted 36 HGMPs, shown below in Table 2.

Table 2. HGMPs Submitted for Approval in Puget Sound

Plan Type:	Total 114	Chinook 41	Coho 36	Pink 2	Chum 13	Sockeye 2	Steelhead 20
State Hatcheries	76	27	23	2	4	2	18
16 Tribal Hatcheries	37	14	12	0	9	0	2
USFWS Hatchery (Quilcene)	1	0	1	0	0	0	0

These HGMPs are currently being evaluated for ESA and NEPA compliance through an on-going, programmatic review process led by the NMFS Salmon Recovery Division, Hatcheries and Inland Fisheries Branch. With regard to the status of the HGMPs, NMFS stated:

> The ESA review portion of the process will lead to a determination of whether the plans address criteria defined in the ESA (4)d Rule Limit 6 for the Puget Sound chinook and Hood Canal summer chum salmon ESUs (70 FR 37160, June 28, 2005) and in the 4(d) Rule for the Puget Sound Steelhead DPS (73 FR 55451, September 25, 2008). For HGMPs determined through NMFS review to address the 4(d) Rule criteria, ESA section 9 take prohibitions will not apply to all hatchery activities managed in accordance with the plans. To meet NEPA requirements associated with NMFS's proposed ESA determination, an EIS is being completed to disclose to the public the likely environmental effects of the proposed hatchery programs, and of alternative hatchery production scenarios under the programs, on natural and human resources in the Puget Sound region.
>
> A DEIS should be available for public review and comment in summer 2011, with the FEIS proposed for completion in early 2012. We plan to use the information and analysis developed in the FEIS process to indicate likely hatchery program and associated research, monitoring and evaluation action effects on listed Chinook salmon, summer chum salmon and steelhead doe completing final ESA 4(d) Rule limit 6 determinations for the regional programs. A section 7 biological opinion will also be completed using FEIS findings to address the effects of the federally managed and funded programs and actions in the Puget Sound region on listed salmon and steelhead. The ESA review process for the region's hatchery programs should also be completed in late 2011.
>
> For the interim period, all Puget Sound region HGMPs submitted to NMFS are considered to be in the process of ESA review. As such, although no final ESA determinations have yet been made for the plans, the state, tribal and federal plan operators have taken all of the necessary steps available to ensure that the hatchery plans are considered under the appropriate, required NEPA and ESA impact review processes. The hatchery programs remain in operation as the ESA and NEPA review processes progress. NMFS maintains regular contact with WDFW, tribal, and USFWS hatchery resource managers to ensure that the on-going Puget Sound hatchery programs are being implemented as described in the HGMPs now under review, and to incorporate any adjustments in regional hatchery planning efforts (e.g., implementation of newly

> developed hatchery reform measures) in the on-going NEPA and ESA effects review processes.
>
> Given the current status of our ESA review process, *it would be pre-decisional at this time to indicate any NMFS position about the acceptability of the regional hatchery plans with regards to compliance with ESA protective provisions, including section 7 consultation findings*. With the exception of programs propagating and affecting summer chum salmon in the Hood Canal region, the hatchery programs in Puget Sound are not covered under any ESA authorization for listed salmon and steelhead takes at this time. Again, WDFW, the Tribes, and USFWS have taken all of the necessary steps to ensure that their HGMPs are considered for approval through NMFS's ESA review processes, which are on-going, and due for completion in late 2012.[40]

Based on the foregoing, we conclude that the assessment of HGMPs under the Hatchery RMP is premature and should await the NMFS ESA review process which is underway.

However, in terms of implementation status, we should note that our interviews with NMFS and Co-Managers staff indicate that the NMFS hatchery review program is critically under-resourced. There is presently a backlog of 114 HGMPs that require review, analysis and approval, and only one staff person has been allocated by NMFS to handle this work. The approval of these HGMPs is a critical element of the implementation of the Hatchery Management Plan.

Although the HGMPs are not yet approved, the Co-Managers intend to track progress of each HGMP through the HGMP permit reporting process and through other reporting tools. For example, the WDFW recently developed the 21st Century Salmon and Steelhead Initiative (SSI), an integrated management framework, to help it identify and evaluate long-term, science-based management hatchery strategies. The SSI sets out goals, assesses where WDFW is in relation to those goals, and identifies benchmarks to measure progress. Additionally, the WDFW is implementing the Hatchery and Fishery Reform Policy (Pol-C3619, adopted by the Washington State Fish and Wildlife Commission). The WDFW also provides information on hatchery management activities to the Governor's GMAP (interagency) performance management system, and provides annual hatchery information for the Governor's State of the Salmon Report.

All of those sources, along with tribal monitoring and reporting activities, should be used in the future to determine the performance of the implementation of the Harvest RMP. Finally, additional staff resources should be allocated within NMFS to allow for timely completion of NEPA and ESA review processes required to authorize on-going and new hatchery risk minimization and reform actions included in the HGMPs currently being implemented, or proposed for implementation, in Puget Sound.

Results of the Harvest RMP Assessment

Using the benchmarks for implementation suggested in the October 31, 2007 Draft Monitoring and Adaptive Management Plan, we examined whether the core strategies found in the Puget Sound Chinook Salmon Harvest RMP are being met. The results were gathered from the monitoring data collected by the Co-Managers and as analyzed by NMFS. We should note that NMFS is expected to release the results of its analysis of the new RMP within the next few months, which will update the information presented here. As a result, their conclusions may change based on newer information. In the meantime, it appears that the Harvest RMP is being implemented as planned. Additional resources

[40](Emphasis added). Memorandum from Tim Tynan, NOAA NMFS, 2010.

are needed to continue to adapt and improve the technical tools used to estimate population abundance, productivity and diversity, and to continue enforcing harvest limits regulated by the WDFW.

Table 3. Assessment of Performance under the Harvest RMP[41]

Benchmark	Achieved	Not Yet Achieved	Status Unknown	Comments
Core Strategy 1: Ensure sufficient spawners to maintain stability of all populations based on current habitat conditions and productivity				
All 22 populations in the ESU are protected by fishing exploitation rate (ER) ceilings[42] based on abundance and natural productivity thresholds		X		Exploitation rates have been established for only about 8 of the 22 populations based on productivity and capacity (Skagit summer/fall, Skagit spring and Stillaguamish NF and SF).[43]
Total fishery mortality (landed catch and non-landed mortality) is accounted for each year	X			See, Post-Season Harvest Reports. Technical tools to assess fishing mortality are being improved. Technical tools have been revised to correct bias and improve individual stock information in management units that are comprised of multiple populations. However, more improvement is needed. The FRAM model which is the primary harvest planning tool does not provide estimates of natural-origin escapement for any but the Nooksack populations, which limits the ability to assess the impacts of harvest on natural-origin production.[44]
Population abundances are predicted each year that incorporate the best estimates of uncertainty (measurement error, management error, and population variability)	X			Predictions were largely inaccurate from 2001-2007, significantly over-estimating annual abundance. The region needs to continue to refine the tools it uses to estimate abundance.
Escapement assessed annually	X			See, Post-Season Harvest Reports
Technical tools for assessing fishery mortality are improved with new information			X	It is unclear as to whether this is occurring.
Technical tools for assessing population abundance, productivity, and diversity are improved with new and better information.		X		The results here are mixed. Improvements in technical tools to assess *diversity* in any more depth (beyond population-specific analyses) have not occurred. However, better assessments of *productivity* are occurring as information is gained from improvements in estimating hatchery and wild contribution to spawning escapement, and with the increased availability of habitat-based tools.

[41] The assessment and comments are based on the comments received from Susan Bishop, NMFS staff. The analysis may change when NMFS releases its analysis of the new RMP in the next few months.

[42] In many cases, exploitation rates are expressed only in terms of southern U.S. (excluding Canadian and Alaskan harvest) or pre-terminal southern U.S. rates. From a legal standpoint, this makes sense because the Harvest RMP only has jurisdiction within U.S. waters (specifically, within Puget Sound). In the future, the Co-Managers may want to consider establishing total exploitation rates (TER) because it requires the management of fisheries in a way that takes into account the full amount of harvest impact on a stock, and develops exploitation rates that are more conservative biologically, in terms of survival and recovery.

[43] Other populations consist of a mix of past average rates, rates that have seen some increase in escapement, policy choices about balances of conservation and fishing opportunity and transitional strategies. In several cases, NMFS believes the data may be insufficient to develop productivity/capacity-based rates. Additional monitoring is needed to provide the necessary data, although EDT assessments may provide a workable substitute in the near-term.

[44] Comments from Susan Bishop, NMFS (September 2010).

Benchmark	Achieved	Not Yet Achieved	Status Unknown	Comments
				Improvements in *abundance* assessments are also occurring but the pace could be faster.[45]
Enforce fishery rules and regulations	X			See, Post-Season Harvest Reports; Given the current State budget crisis (which is resulting in WDFW budget cuts and may affect Tribal resources) future enforcement efforts could be impacted.
Evaluate effectiveness of regulations		X		WDFW and the Puyallup Tribe track and report on their regulatory enforcement efforts. Neither agency has evaluated the effectiveness of their fishery regulations. Other Tribes do not report on their regulatory enforcement efforts.
Core Strategy 2: Allow populations to rebuild as other constraining factors are alleviated by limiting mortality rates on individual populations to levels that are consistent with achieving ESU viability.				
Identify RERs for all populations[46]		X		As noted above, RERs have been defined in the Harvest RMP for 8 of the 22 populations. NMFS has developed RERs for several additional populations; uses them in its assessments of harvest, but the Co-Managers have not adopted them (Nooksack, Green, Skokomish). Several of the watershed recovery plan chapters call for development of RERs, but that has not occurred yet.
Core Strategy 3: Provide harvest opportunity on other species while rebuilding the ESU				
Fishing opportunities occur for other Pacific salmon species while preventing further declines of Chinook populations due to harvest	X			See, Post-Season Harvest Reports.
Core Strategy 4: Adhere to the principles of the Puget Sound Salmon Management Plan (PSSMP) and other legal mandates pursuant to *U.S v Washington* and the terms of the Pacific Salmon Treaty (PST) and its annexes.				
Harvest management occurs as a government-to-government process among tribal, state, and federal managers	X			
Annual fishing regime is established each year following procedures in PSSMP	X			
Preseason forecasts and management agreements occur annually	X			
In-season modifications of harvest regulations follow procedures specified in PSSMP	X			See, Post-Season Harvest Reports.
U.S. and Canada manage fisheries	X			Canadian and Alaskan harvest does impact (in some

[45] For example, the Cedar River escapement goal was revised last year, but did not incorporate the increased capacity above Landsburg Dam. It should be noted that all of this work is very labor intensive. With more listed species, increasing demands for improved information and fewer people to do the work (with shrinking resources), NMFS staff reports that much of the work is being accomplished through "triage." Unless additional resources are added to this work, the changes needed are unlikely to happen within a reasonable timeframe. (S. Bishop, NMFS Staff, September 2010).

[46] Recovery exploitation rates (RER) may be developed by a variety of analyses. As used here, total RERs refer to rates developed by using CWT data to quantify total mortality and spawning ground escapement and age information to develop spawner-recruit relationships.

Benchmark	Achieved	Not Yet Achieved	Status Unknown	Comments
consistent with the terms of the PST annexes.				cases, significantly), Puget Sound populations, but it is being conducted in accordance with the 2008 PST Annex.

NMFS has concluded that the harvest limits established in the Harvest RMP have been followed for all 22 populations since its adoption. In terms of the performance of the population under the Harvest RMP, total natural escapements for 11 of 19 populations (and one management unit for which there are rebuilding thresholds), met or exceeded the established thresholds from 1999-2008.[47] In terms of the level of effort expended in implementing the Harvest RMP, the Co-Managers have implemented a significant amount of monitoring and reporting, and this work is on-going each year. As noted in the table, above, there are several areas within the Harvest RMP Plan that need further work and additional resources to accomplish it. In addition, the Co-Managers need additional funding to continue (or in some cases, to begin) working with their counterparts in each watershed to pursue H-integration.

As the timeframe of the initial Harvest RMP comes to a close, work is now underway to renegotiate the Harvest RMP between NMFS and the Co-Managers.

Results of the Habitat Plan Assessment

Background

Five years have passed since the creation of the Shared Strategy's Puget Sound Chinook Salmon Recovery Plan. Since that time many things have changed. The Shared Strategy nonprofit organization was closed as planned, and the work of implementing the Recovery Plan was transferred to the newly created PSP at the direction of the Legislature. New staff was hired to lead the PSP's Salmon Recovery Program, including a new manager and new watershed liaisons. In the past three years, the PSP Salmon Recovery Program has grown from three to seven full-time watershed liaison staff positions, but their work has also expanded from supporting each watershed's salmon recovery effort to include ecosystem recovery as well. Additionally, the Governor's Salmon Recovery Office has been moved out of the Governor's Office and placed under the authority of the Recreation and Conservation Office (RCO), which also supports the Salmon Recovery Funding Board.

Stakeholders who were key participants in creating the Salmon Recovery Plan began working with the PSP and others to create the Action Agenda, a blueprint for ecosystem recovery in Puget Sound. New groups were formed to support the effort, including the Ecosystem Coordination Board, Leadership Council, and Federal Caucus, to name a few. New action areas were defined, as called for in the PSP's enabling legislation, within which the ecosystem recovery work would occur. The Action Agenda was adopted in 2008 and it included the Puget Sound Chinook Salmon Recovery Plan. The implementation of the Action Agenda is newly underway, and the PSP is working to determine how that work integrates and complements the work that is already happening under the Recovery Plan at the local level.

In analyzing implementation of the Recovery Plan, we asked two questions: First, we asked whether the strategies that were included in the Plan are being acted upon to determine whether the Plan is actually guiding actions across the ESU. Second, we asked whether the pace of implementation was sufficient to achieve the 10-year goals stated in the Plan in order to determine whether we are on track or falling behind in implementation. The answers to those questions are set forth below.

[47]Per Comments from S. Bishop, NMFS (2010). The results of NMFS evaluation of the new RMP is expected to be released in the next few months and will update (and may change) the information presented here.

Question 1: Are the Recovery Strategies Being Implemented as Described in the Recovery Plan?

Like the rest of the nation, the economy in Puget Sound has suffered under the worst recession since the 1930s. As a result, state and local governments have seen significant shortfalls in tax revenues, causing program and staffing cuts at all levels. Work in each of the 14 watersheds has continued, but many of the Lead Entity organizations have suffered significant cutbacks in staff and program financial support that they receive from local government partners. Both Island County and San Juan County lost their full-time watershed lead staff for a time. Those staff have been partially restored, but not to prior levels.

Watershed leads report that their programs are critically under-resourced and most are behind the pace they expected to achieve at the outset of their recovery work. They face increasing competition for their time and that of their stakeholders, with new efforts to implement the Action Agenda, update local NPDES and shoreline programs, respond to new National Flood Insurance Program requirements, address the effects of climate change, create adaptive management programs, support and foster restoration projects, respond to regional demands and reporting requirements, and collaborate across the ESU.

In short, there are many reasons why the work could be faltering or failing. However, in spite of all these challenges, and significant changes in the effort's infrastructure, the voluntary effort around the Sound persists. The participants' commitment to recovery has not wavered. This alone is a significant accomplishment for the collaborative model of recovery planning under the Endangered Species Act. But, there is more.

Progress is being made and with five years of experience behind them, watershed recovery work is becoming more strategic and efficient across the Sound. In this Report, we will examine the areas where progress has been made and where challenges or obstacles exist, using the qualitative and quantitative measures described in Section II, above. For the analysis of each individual watershed effort, see Appendix A, "Puget Sound Chinook Salmon Recovery Plan: Watershed Implementation Progress Reports."

> Not all watersheds started from the same place in terms of recovery implementation. We review their progress relative to where their implementation efforts began.

As a key part of the assessment work, we created tables for each watershed that reflect their habitat goals and strategies published in the Recovery Plan, and then tracked the watershed's reported actions to see whether they were implementing those goals and strategies, and whether they were on pace with the Recover Plan's 10-year timeframe.[48]

In reviewing the assessment findings, it is important to note that not all watersheds started from the same place in terms of implementing their local recovery plans. For example, the Snohomish and Green-Duwamish watersheds prepared very specific, targeted recovery goals and strategies that were complete at the time of adoption of the Recovery Plan. But several other watersheds (e.g., Elwha-Dungeness, Island, Puyallup-White, East Kitsap, etc.) stated that additional studies were needed in order to complete their local watershed plans and create additional strategies and actions for recovery. For the latter group, the early years of plan implementation were largely years of additional research, study and further plan development.

[48] See Appendix A.

Still other watersheds had planning areas that were so large, they required very lengthy plans, with hundreds of individual strategies defined by sub-basins and river reaches (See, e.g., WRIA 8, the Lake Washington/Cedar/Sammamish watersheds and South Sound nearshore planning groups). For them, the sheer geographic scope of the work has forced them to be opportunistic at times and create "start lists" that don't cover all of the plan strategies, but it has helped them prioritize their efforts in the early years. Accordingly, when we gauge the progress of a watershed against its plan, we recognize that progress is made within the context of and relative to the unique circumstances of that place.

In answering Question 1, we can say with confidence that the original strategies defined in the Recovery Plan for the 14 watersheds in the ESU are being pursued through various actions, but at this stage of implementation, the work is heavily weighted toward capital habitat restoration activities.

The work to implement the Recovery Plan is divided into two general categories: capital programs (e.g., habitat restoration projects and property acquisitions), and programmatic actions (e.g., habitat protection through regulation or incentive programs, outreach and education, scientific research and technical assessments, project development and lead entity support). Both of these major program areas were assessed and the findings are described below.

Capital Projects

Most watersheds have heavily weighted their efforts in early years toward capital projects (meaning habitat restoration and property acquisition actions). Some of this emphasis may reflect a bias in available funding, which tends to favor capital projects that are "shovel-ready," for which immediate tangible results can be shown, over programmatic work which is harder to evaluate. Additionally, the Lead Entity structure set forth in state law only speaks to habitat capital projects.[49] Additionally, capital projects are often easier to agree on and accomplish than non-capital work, which is typically more time intensive, policy-oriented, political and often more difficult to accomplish without causing and resolving conflict within a diverse watershed group.

We used the 3-Year Work Program Schedules and HWS to track whether actions were consistent with stated goals and strategies. Our analysis found that most watersheds are actively working on high priority projects, with some exceptions. There are many stories of success and progress that can be shared from watersheds around the Sound. Many of them are found in Appendix A. Where actions were not in keeping with stated Plan priorities, we found that the reasons for the exceptions varied from place to place. The reasons included:

- In some cases, the reasons reflect local politics and social issues, such as the belief that funding raised through local sources needs to be spent in local areas, even if those aren't the highest priority areas in the Plan.[50]

- In other cases, just the opposite was true. Some watersheds have transferred their funds to other watersheds to support high priority projects, rather than spend funds locally. Most did this because they felt that the actions in other areas were critical to the success of their own plans. (This has been

[49]See, RCW 77.85.050.

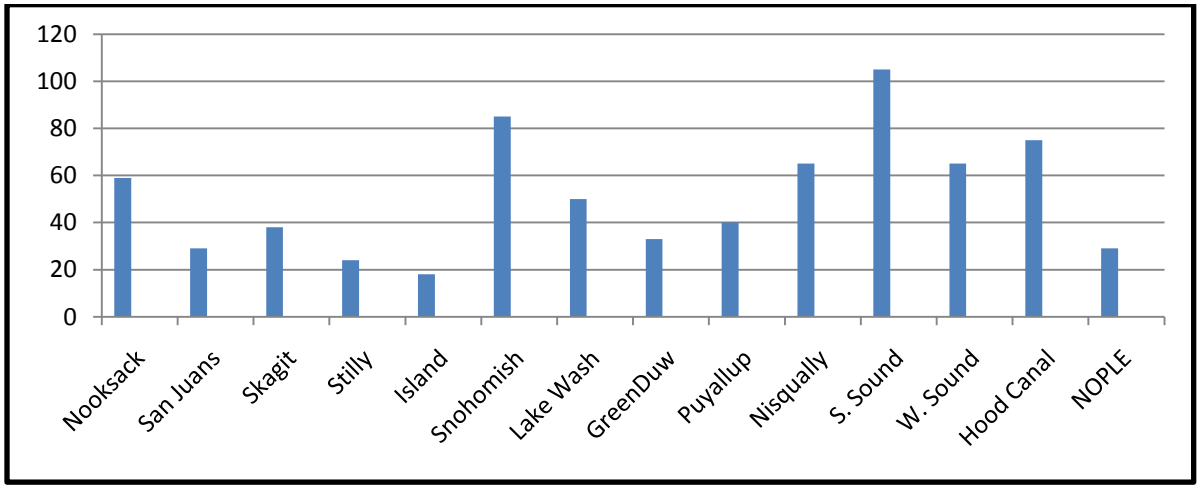
[50]For example, in the Snohomish Plan (WRIA 7), the Plan states that the highest priority actions in the first 10 years (meaning 80% of their efforts) should be focused in the nearshore, estuary and mainstream areas. Funding received through the Lead Entity in WRIA 7 (e.g., SRFB Funds) is allocated in accordance with this goal through a 40%-60% King/Snohomish County funding split. However, other funds received separately through other sources by the jurisdictions are not allocated according to the Plan's 40%-60% split. In the Green/Duwamish (WRIA 9), the ILA members are seeking to address this same issue by creating a watershed investment district, which would allow funds to be raised across jurisdictional boundaries and spent within the watershed on Plan priorities.

true in the nearshore planning areas of South Sound and West Sound, where cross-watershed collaboration has been high, leading to the successful construction of the Nisqually watershed's estuary restoration project).

- In a few watersheds, high priority actions consist of single, significant projects such as the Nisqually Delta Restoration Project or the removal of the Elwha dam. In these cases, until adequate funding is found and other preliminary actions (land acquisitions, native plant propagations, permits acquired) are taken, lower priority actions continue to be taken to advance recovery.

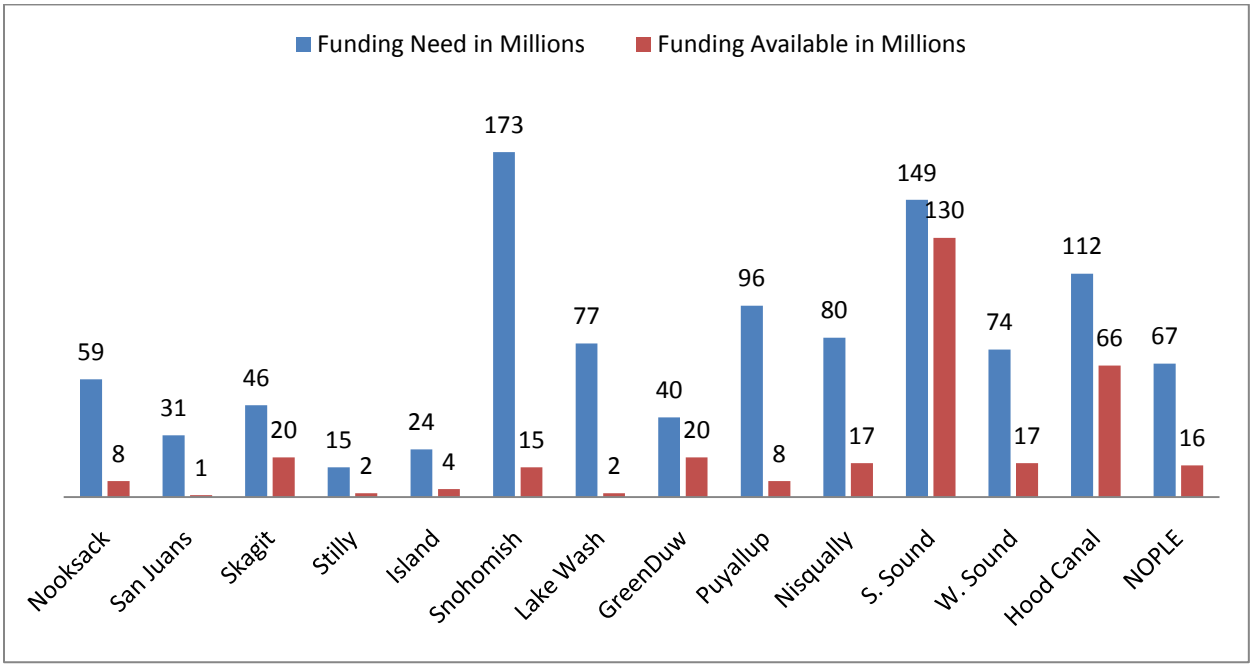
In terms of the scope of the overall capital restoration work in progress, the total number of planned projects reported on current three year project lists is approximately *715 projects*. The estimated funding needed for those projects is *$1.04 billion*. The amount of funding available is *$326 million* (or 31% of the amount needed to accomplish the work). To close the funding gap of $686 million, the region must consider making a significant change from the status quo.[51]

Table 4. Total Number of Capital Projects on 3-Year Work Programs by Watershed



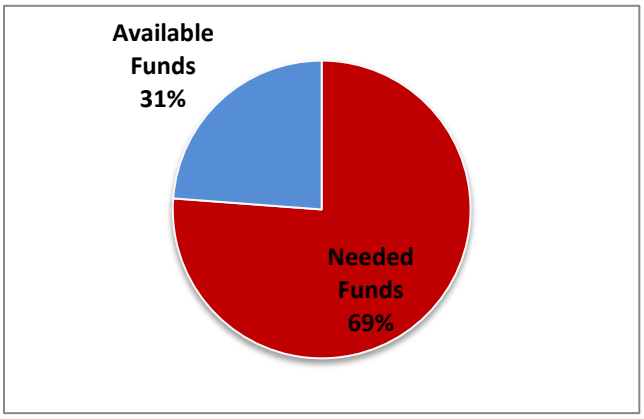
[51]Our assessment found that the Green-Duwamish Watershed has taken the initiative on its own to address its funding resources. In addition, the RCO is presently developing a state and regional funding strategy for implementing recovery plans.

Table 5. Funding Status for Capital Projects on 3-Year Work Programs by Watershed



Clearly, the funding needed to complete the current three year list of projects is simply not available. Although the amount of funding for capital projects has increased by significant amounts over the past five years, funding levels still need to take a quantum leap forward if watersheds are to stay on track and successfully complete their habitat restoration work within the 10-year time frame established in the Recovery Plan.

Figure 4. Total Funding for Capital Projects Shown on 2010-2013 Work Programs



Funds Needed: $1.04 billion
Funds Available: $326 million

Capital Projects – Issues of Concern

There are several issues of concern relating to the way in which capital projects are being handled for salmon recovery that NMFS may want to address over time. First, the Lead Entity Coordinators uniformly stated that the lack of funding for capital program staffing (sometimes referred to as "capacity" funding), not only hurts their local efforts within the Lead Entity organization, but it also limits the ability of their local partners who design and build capital projects ("project sponsors") to advance projects in a timely way. They also reported that the manner in which grant funding is distributed is unnecessarily constraining their efforts. Specifically, they state that grant local matching requirements are too rigid and unnecessarily limit projects. The staff believes that they can do a better job of implementing their programs if they are

simply given the funding needed for projects and programs and held accountable for the results. They note that a tremendous amount of their time and energy is now being devoted annually to the bureaucracy that has sprung up around funding, and the 3-Year Work Programs, and it is limiting their ability to accomplish their substantive work on salmon recovery.

Second, inadequate funding has consequences for habitat protection, as well. All watersheds are relying on some level of land acquisition as a key strategy to protect and restore habitat, and most, if not all of them, have prioritized land acquisition sites within their 3-Year Work Programs. However, acquisition opportunities may be permanently lost without adequate funding to timely purchase lands when they become available. (For example, the Green-Duwamish watershed reports that several critical acquisition properties have been recently sold for development, forestalling restoration and protection on those sites for the foreseeable future). At some point, watersheds heavily relying on acquisition for protection of habitat may need to reconsider their Plan strategies and VSP assumptions, if they are unable to purchase those lands needed for recovery.

Third, the manner in which capital projects are being accomplished appears to be somewhat opportunistic and may be inefficient. In operating a typical public works construction program, the public agency identifies needed construction projects, establishes their priority, seeks needed funding, designs the project, solicits bids for construction, and provides some level of management oversight of the construction project for quality control. There is some variation in the manner in which these tasks are performed across the State (where some of these tasks are performed through outside consultants), but overall, most capital construction programs are run in this manner. This centralized system has evolved over time for a number of reasons (e.g., funding constraints, need for efficiency and quality control, labor laws, etc.), but is fairly well-established as the way in which large, on-going capital programs are accomplished.

The capital project lists for salmon habitat restoration are in fact large capital programs. However, they are not run in the same centralized manner as other public capital programs. Instead, they operate in a decentralized fashion. The Lead Entity uses the broad framework of the Recovery Plan to solicit proposals from the public and private sectors on an annual basis, tied to funding cycles. The Lead Entity does not drive the construction program in the same way as a public works agency would. Instead, they put out an annual call for projects, hoping that their partners within the watershed are interested in and capable of designing, constructing and managing the capital construction projects that support the Recovery Plan. Those watersheds with enough staff often work with project proponents to shape the design of projects, but not all have the staffing to do this. In addition, not all watersheds have prioritized project lists. Some are operating on an opportunistic level to build projects, instead of driving projects in the places where the need is the greatest according to the Recovery Plan.

The effect of this decentralized approach on the implementation of habitat restoration is that it can lead to a patchwork of projects across the landscape. Without a centralized focus driving priorities under the local Plan, the Lead Entity may be less efficient from a time and cost standpoint. More importantly, a patchwork approach could prevent a watershed from achieving the synergistic effect of restoring habitat in a way that leads to the restoration of habitat-forming processes.

Non-Capital Programs

Each watershed has also adopted programmatic strategies that need to be implemented as part of the protection and restoration goals in their local plans. They generally fall into the following categories:

- Habitat protection through land acquisition, improved regulation and the creation and use of incentive programs
- Outreach and education to the public, stakeholders and the Legislature/Congress

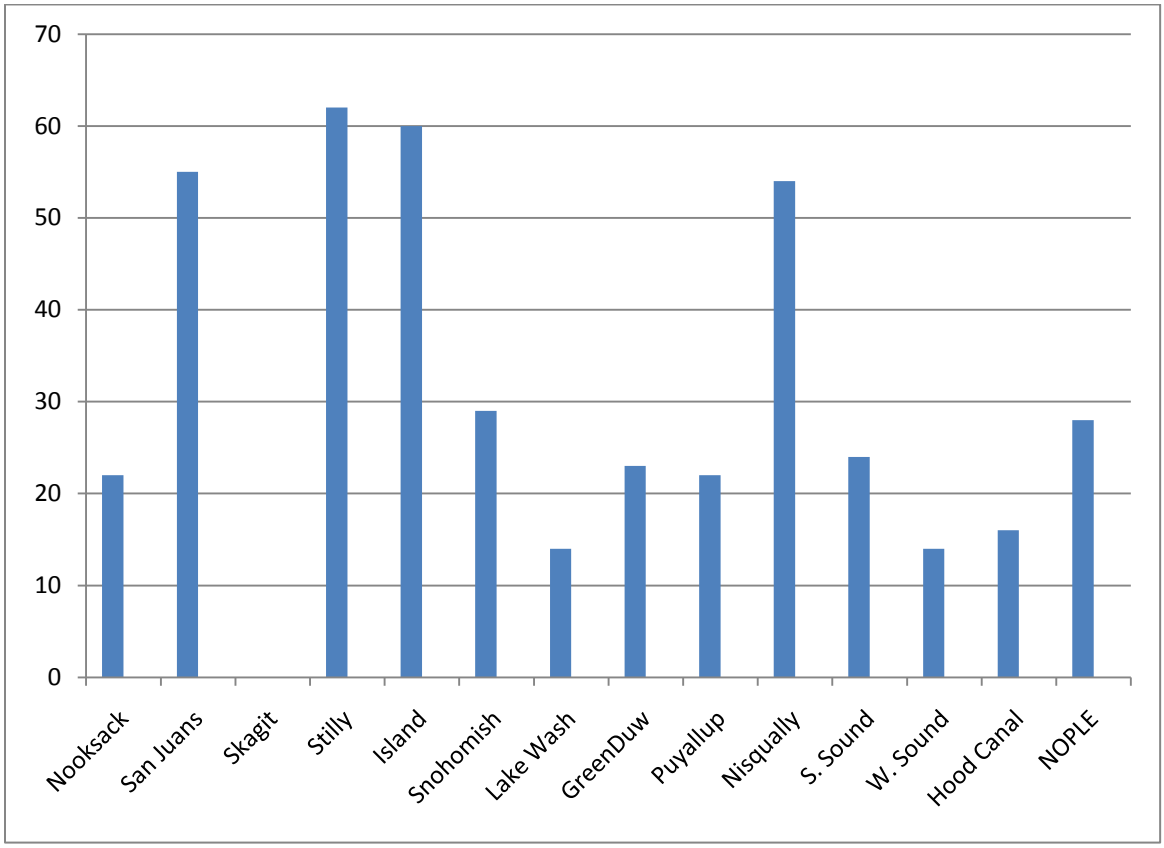
- Scientific research and assessment projects
- Habitat status and trends monitoring
- Adaptive management program development
- Cross-watershed collaboration and coordination
- Lead Entity partners and stakeholder coordination and collaboration
- Development of additional plan strategies and actions
- Habitat restoration project development and planning
- Habitat restoration project management

Although each watershed plan contains many or all of these programmatic strategies, we found that the implementation of actions related to them varies greatly. As noted above, funding for non-capital programs is severely limited. However, these programs are vitally important to the success of the Recovery Plan.

As to specific portions of the non-capital programs, every watershed plan calls for outreach and education as a key component of gaining adequate support for Recovery Plan implementation. Yet, only a few watersheds have adequate funding and staff to engage in this staff-intensive work on an on-going basis. Fewer yet have the ability to engage in outreach to key legislators, who are important players in funding Recovery Plan programs. The same is true for habitat monitoring and adaptive management programs.

In terms of the scope of the overall non-capital programmatic effort in progress, the total number of programs reported on current 3-year project lists is more difficult to assess than capital programs because some watersheds don't report this data on the 3-Year Work Program. For those watersheds that report non-capital programs, there are *423 total programs* proposed for implementation in the 2010-2013 3-Year Work Program. The estimated funding needed for those programs is approximately $*78 million*. The amount of funding available is approximately $*18 million* or 20% of what is needed to accomplish the work. Clearly, the funding available for non-capital programs is far below what is needed to achieve the 10-year objectives established in the Recovery Plan.

Table 6. Total Number of Non-Capital Programs on 3-Year Work Programs by Watershed[52]



[52]Note that this information is our best estimate to date given the incomplete information set forth in the 3-Year Work Programs.

Table 7. Funding Status of Non-Capital Programs on 3-Year Work Programs by Watershed

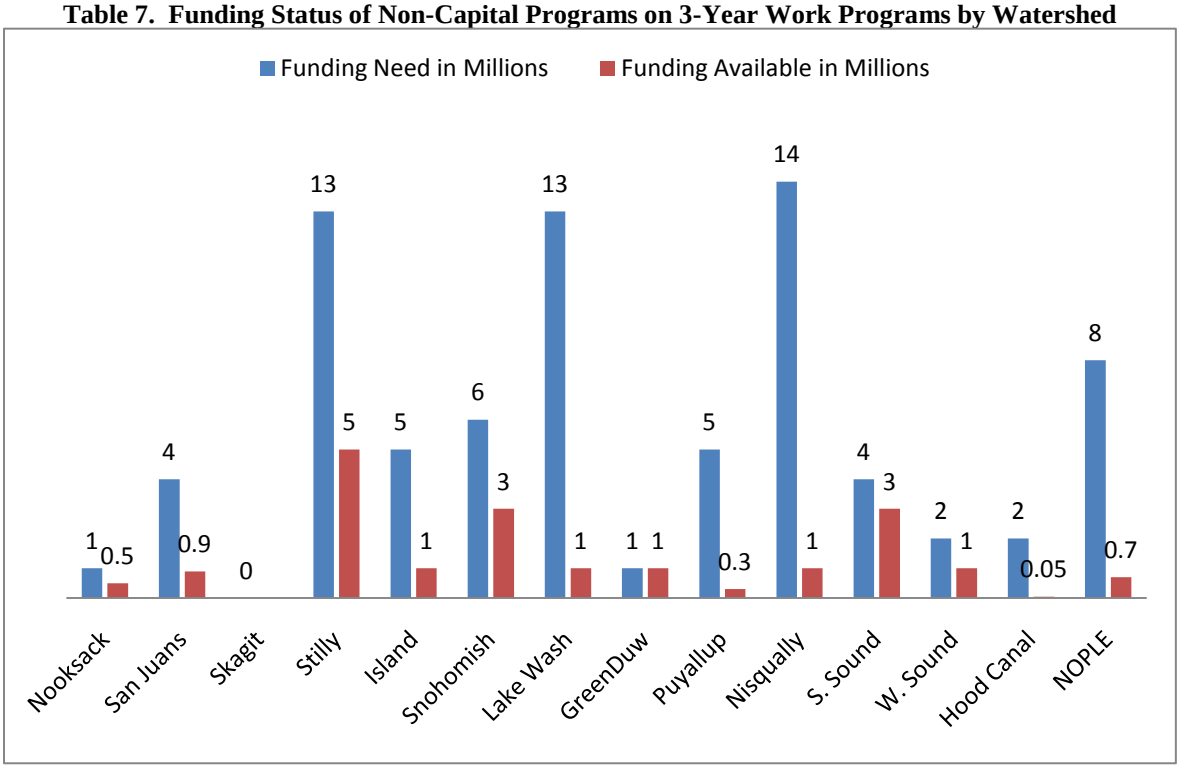
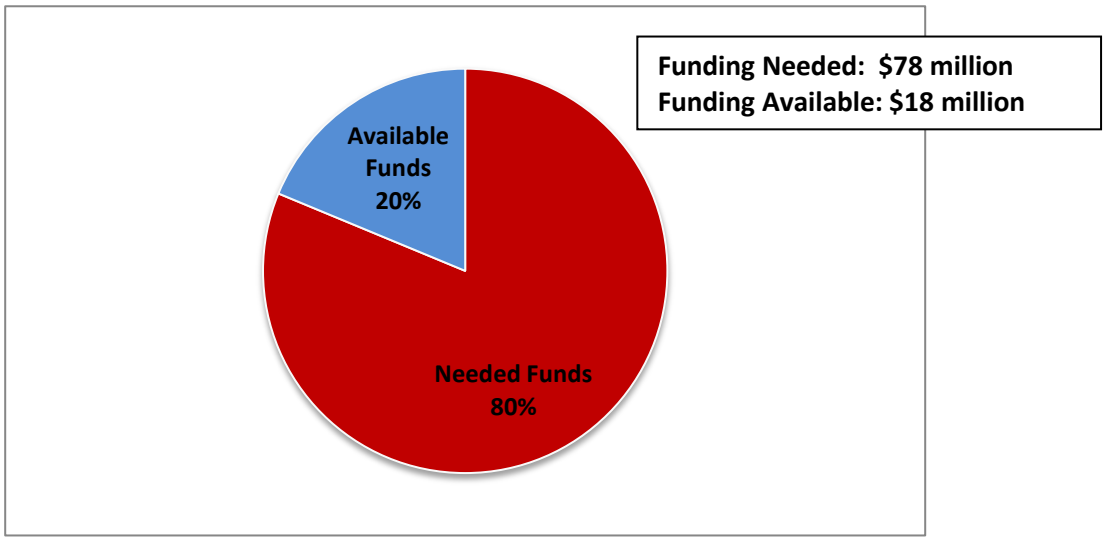


Figure 5 – Total Funding for Non-Capital Programs on the 2010-2013 Work Programs.[53]



[53]Note: These figures represent our best estimate of funding needed and funding available, given the limited information available in the 3-Year Work Programs. Several watersheds do not report non-capital program items in the Plan. Others have incomplete information shown in terms of program cost estimates and available funding sources.

Habitat Protection

As a special area of inquiry, we were asked to examine whether watersheds are implementing the habitat protection strategies found in their Recovery Plans. We found that all watershed plans include habitat protection and rely on a mix of strategies, including land acquisition, land use regulation and the creation of new land use incentive programs. We will examine each strategy in turn.

Protection through Acquisition

We found that every watershed is actively engaged in land acquisition for protection, but that funding is a significant limiting factor in the pace of implementation, as well as landowner willingness to participate. Where land becomes available for acquisition, funding constraints often limit a watershed's ability to compete with the private sector in purchasing such properties.

In addition, most of the watersheds that have a solid track record of success in acquiring properties also have active outreach and education programs aimed at properties in an area targeted for acquisition. Watersheds that lacked funding for this initial outreach work felt they were less successful in acquiring lands from private property owners.

Protection through Regulation

All but a few watersheds are relying on existing and/or planned updates to state and local land use regulatory programs to protect habitat against further decline. However, our cursory survey of federal, state and local regulatory programs found that despite the ESA listing of Puget Sound Chinook Salmon in 1998, few regulatory programs have changed much since that time. In particular, even though Section 7 requires consultation by federal agencies whose programs or actions may adversely affect listed species, many have been slow to change without external pressure (such as through litigation).[54]

Additionally, very few local governments within the ESU have completed updates to their key environmental regulations (e.g., critical areas ordinances, shoreline master programs, flood hazard regulations, clearing, grading, drainage and stormwater regulations using best available science). Many federal, state and local governments are still using land use and aquatic regulations that were part of the consideration for NMFS's listing decision. We note that deadlines for completing updates to critical areas ordinances, shoreline master programs, stormwater regulations under NPDES, and NFIP flood hazard regulations are pending and are likely to be completed over the next five years. But, further work needs to be done to quantify the status of regulatory protections across the ESU. An examination of code enforcement programs at the federal, state and local levels could also enhance the effectiveness of regulatory programs, by ensuring that regulations are being properly applied during permitting and followed by landowners. This type of assessment is probably more important now as state and local funding levels have caused significant layoffs in permitting and code enforcement staff.

We also found that few regulatory agencies or Lead Entities have studied the effectiveness of the regulations on which they are relying (which requires on-going monitoring). Only the San Juan Islands has assessed the regulatory programs on which they are relying to determine whether they are achieving the type of habitat protection necessary for recovery, or whether further habitat decline is occurring. Without such an assessment, the other watersheds cannot say whether their assumptions about habitat protection are being achieved through regulatory tools and enforcement efforts that are in effect.

[54] See, for example, the US Army Corps of Engineer Levy Vegetation Standards; the FEMA National Flood Insurance Program

In terms of their participation, we found that most watersheds (Lead Entities) are *not* actively advocating for increased habitat protection through land use regulations mainly because Lead Entities are "big tent" organizations. They include people and organizations that often have significant differences of opinion about the role that land use regulation should play in habitat protection.[55] While some believe that governments need to do more to protect habitat through regulation, others oppose stronger land use regulations to protect habitat. Given this dynamic, most watershed groups find it difficult, if not impossible, to advocate for stronger regulations without alienating some of their partners.

Although most Lead Entities are not leading the charge for more protective regulations, they can, and often are, playing a supportive role in regulatory change. We found that more Lead Entities are actively tracking regulatory update processes of local governments within their planning areas than was first thought. Many technical staff from one or more of the participating agencies or Tribes within a watershed are working with local governments in some form (many by participating on technical advisory committees) to provide the scientific information needed to support regulatory updates and improvements that will benefit salmonids and increase habitat protection.

Finally, we found that there is no uniformity in the level of protection afforded to habitat processes, structures, or functions across Puget Sound. Regulatory standards for habitat protection vary widely across the ESU.

- Although the State Department of Commerce (formerly CTED) plays a role in reviewing GMA critical areas ordinances, they have no authority to require changes to those plans absent a successful appeal to the Growth Management Hearings Board (and success in further court appeals). Given the risk and expense of litigation, most jurisdictions will not re-open or amend these environmental regulations more frequently than they are required by law. As such, if a local jurisdiction's regulations are not appealed, they typically remain in place unchanged for another seven years.

- Shoreline master programs under the SMA, and drainage and grading codes implemented pursuant to NPDES permits are reviewed by the Department of Ecology (DOE), which increases the uniformity of protection for shorelines and against stormwater pollution; however the deadlines for most jurisdictions to complete those updates are several years away.

- FEMA has recently produced new guidance for regulating flood hazards within the floodplain and adjacent upland areas in response to NMFS's Biological Opinion examining the NFIP. Following FEMA's new guidance is required for jurisdictions that want to participate in the NFIP. However, these regulations will likely differ from the standards required to be met under the SMA and GMA for protecting the same geographic areas.

- In addition, there is little to no guidance in existence at the federal, state or local level for implementing regulations that employ "mitigation sequencing," (meaning one that calls on developers to avoid, minimize, mitigate, and/or restore habitat impacted by development). There is no guidance as to how much of an effort must be made to avoid, before one is allowed to minimize or mitigate impacts. This type of guidance is crucial to understanding the true level of protection that will be afforded from a regulatory standard.

Using land use regulation to protect habitat can be a powerful tool. However, the system of federal, state and local laws that form the web of regulation applicable to the lands needed to recover Puget Sound Chinook Salmon is complex and sometimes difficult to understand. The issues outlined above require

[55]When asked in 2007 about playing a leadership role within their watersheds to increase protection through regulation, many watershed staff stated that their watershed groups were not formed for that purpose and believed that many parties would not participate if that was their stated role. It is unlikely that this position has changed much in the past three years.

further study and strategic analysis to ensure that protection is being accomplished in a meaningful way. The Recovery Plan recognized the complexity of these issues in describing the regional work that needs to be accomplished for recovery. However, we found that no federal, state or local program or project currently exists to tackle all of these complex regulatory issues in a holistic fashion.

Protection through Incentive Programs

Every watershed plan calls for the creation and use of voluntary, incentive programs to encourage landowners to protect habitat. However, virtually no work is being done in any watershed to implement this specific protection strategy. No such programs were found on the 3-Year Work Program lists, and it appears that no project or program has been funded by a federal, state or local government to accomplish this work. There has been some work to develop Transfer of Development Rights programs by local nonprofit organizations and a few local governments, but few other incentive tools have been attempted.

Protection through Regional Program Elements

The Recovery Plan calls for the creation of a number of strategies on issues that affect Chinook Salmon across the ESU.[56] Many of these regional strategies are cited in the NOAA Supplement to the Recovery Plan as high priorities for development and implementation. The regional issues called for in the Recovery Plan include:

- The Protection of Existing Physical Habitat and Habitat-Forming Processes
- The Protection and Restoration of the Nearshore, Puget Sound and Pacific Ocean
- Water Quantity – The Strategy for Achieving and Protecting Instream Flows
- Water Quality Strategies
- Commercial Forestry Strategies
- Commercial Agriculture Strategies
- Research, Monitoring and Adaptive Management

As part of our research, we forwarded the list of regional strategies that was described in the Recovery Plan to the PSP, and asked whether the development of these programs was on the current regional work program or being developed or advanced by the PSP or Recovery Council. No response has been received yet. Based on our independent research, it does not appear that these programs are being advanced at this time.

As one example, further discussion and collaboration was called for in the Recovery Plan relating to land use conflicts between commercial agricultural and habitat for salmon recovery.[57] Further work on this topic was stalled when the Legislature enacted a "time-out," essentially prohibiting the adoption of new critical areas regulations that placed prohibitions on agricultural lands until the Ruckelshaus Center convened a team of stakeholders to try to resolve those conflicts. Apart from individual efforts by local governments, tribes or nongovernmental organizations (NGOs) to carry forward the goals of the Recovery Plan into those discussions, the Lead Entities are not participating in these discussions and do not have a formal seat at the negotiating table. Further work is needed on these regional topics.

[56] See, Puget Sound Chinook Salmon Recovery Plan, Volume I, Chapter 6.

[57] Snohomish County, which is participating in salmon recovery in both the Stillaguamish and Snohomish watersheds, is engaged in a project (Sustainable Agriculture) to begin solving these issues, but it does not appear that the salmon recovery leaders from across the region are participating in this effort.

In addition to these program concerns, we also found that work on other important programmatic items is not advancing systematically across the ESU:

Adaptive management and monitoring – regional and local

Although cited in the NOAA Supplement to the Recovery Plan as a high priority for completion, an Adaptive Management Plan has not been completed for the ESU. In addition, most watersheds have not yet created their local monitoring and adaptive management plans and few have set numeric goals for habitat implementation that can be tracked. Watershed leaders have uniformly expressed frustration that although they are criticized annually for not having completed this work, the promised resources (RITT support and funding) for this work have not yet materialized.

H-Integration across the ESU

Most watersheds are still not integrating and coordinating the work of Hatchery, Harvest and Habitat Plan implementation, and several Lead Entities reported that support from the PSP, State and NMFS for this work has been lacking.

Question 2: Are the Actions Being Taken on Track to Meet Expected 10 Year Goals?

As we examined the work of each watershed across the ESU to determine what they were doing to implement the Recovery Plan, we also attempted to qualitatively assess how well their efforts are succeeding, what issues they may be facing and what might be needed to help address any such issues. As part of this effort, we met with each watershed and discussed their work, shared our analysis about their efforts, and listened to the staff "in the trenches" to learn more about the strength of their organizations and what if anything needs to happen to ensure they are successful.

We heard plainly that the answer to Question 2 is "no." With the exception of one watershed (Nisqually), all of the watersheds report that they are behind where they thought they would be at the start of Recovery Plan implementation, in terms of the pace of their work in achieving 10-year goals. The reasons for this vary, but the main cause appears to be inadequate and unstable funding levels.

Project Funding

As discussed above, the total amount of funding that the Lead Entities have estimated is needed for the 2010-2013 period for capital and non-capital programs is just over *$1.1 billion*. The amount that appears to be available at this snapshot in time is approximately *$344 million*. This represents approximately 20% of the funding needed in the 3-year period. Without a significant change in the amount of funding available for implementation, as well as the manner in which the funds may be spent, the 14 Lead Entities will continue to fall further behind the expected pace of recovery work.

Program Staffing

Having adequate staff to perform the necessary planning and policy work to carry out all of the programs and projects identified in the Recovery Plan is vital to each watershed's success. Most watersheds appear to be critically under-staffed to perform the sheer volume of work required to stay on the 10-year trajectory. With local government revenues falling, continued participation by their staff in watershed processes is difficult and uncertain. Staffing at the Lead Entity is critical, but it should not be overlooked that the partner agencies, Tribes and organizations contributing to recovery work in each watershed need adequate funding too, which is presently lacking.

Each of the 14 Lead Entity organizations has had five years to gain experience implementing their Recovery Plan. When we interviewed each one of them, we asked them to describe their current staffing level, as well as what they felt was needed to be successful. They responded with strikingly similar answers about the number and type of staff needed to fully implement their local Plan. From their responses we have identified a core set of program needs. They include:

Core Watershed Program Staffing Needs

- Program Director (typically, the lead entity coordinator)
- Program Planner/policy support person (trained in land use planning; develop new strategies, participate in protection programs)
- Restoration/Acquisition Project managers (manage or supervise construction projects, land acquisition negotiations and real estate transactions)
- Outreach and education staff (develop programs and marketing materials, build community relationships and support, lobby opinion leaders and legislators)
- Clerical support staff (schedule meetings, take minutes, coordinate work)
- Biologists, ecologist or other technically-trained staff (for project development and review, status/trends monitoring, other field work)

They also described an additional set of program support services that are very important, but it may be possible to perform these services at the regional scale to provide efficiencies and cost savings. These services included:

Central Service Needs:

- Group purchasing of supplies and equipment for offices, projects and programs
- Highly skilled meeting facilitators
- Annual design and publishing of marketing and outreach materials
- Grant writers
- Information systems support (technical support to maintain and improve the Habitat Work Schedule and to create and update watershed websites)
- Writers to create stories of success and newsletters for stakeholder engagement
- Skilled planners (or access to consultants) to create new habitat protection incentive programs for deployment around the ESU.

Organizations that might be able to provide such services include the PSP, GSRO, RCO or a new nonprofit organization. Without significant advancements in staffing levels, each watershed will continue to fall behind the expected 10-year pace. Chronic understaffing of these programs has other, unintended consequences too. Some of the watersheds have experienced high staff turnover, and burnout is a continuing concern. Where local governments have provided the staff necessary to support a Lead Entity's program work, many have had to lay off staff or reduce positions to half-time due to funding shortages, causing experienced staff to seek employment elsewhere. Many Lead Entity Coordinators reported that they are concerned about "brain drain" as valued employees left or retired, with no transfer of their knowledge to the next generation of staff.

The Lead Entity staff uniformly reported feeling a significant increase in regional mandates associated with implementing and integrating both their salmon recovery work and the PSP's Action Agenda, with no new staff to support this work. Nearly all watersheds acknowledged and were grateful for the role that the PSP currently plays in seeking additional funding for watershed programs and capital projects. When asked what role the PSP's watershed liaisons (also called "Ecosystem Coordinators") play in were helping to advance their work, responses were mixed. Nearly all reported having a good rapport with their liaison, but some staff wanted their liaisons to do more. The type of support desired

ranged from fulfilling one or more of the core program staff positions and central service items listed above, to providing more sophisticated political support, including using the PSP's influence to bring absent federal or state agencies to the table.

Implementation Tracking Tools are Limited

Projects (capital and programmatic) are tracked using different approaches by each watershed, but all use two tools: the 3-Year Work Program Schedule and the Habitat Work Schedule ("HWS"). Each has its strengths and limitations, which make tracking recovery work more difficult.

The HWS is a database that links to an on-line map-based information system created by the WDFW. It shows current and past capital restoration project activity by watershed and is available to the public. However, it cannot be used to generate reports at this time that would allow a person to summarize the totality of the work in any area. Additional features are expected to be added to the HWS to improve its usefulness to project managers and the public over time.

The 3-Year Work Program Schedule was created by the Shared Strategy during the earliest years of Recovery Plan work to track capital restoration projects and programmatic actions and ensure consistency with Recovery Plan goals and strategies. The 3-Year Work Program is updated annually and includes a narrative summary by each watershed of the changes that have occurred since the last report, a description of the progress made and the challenges faced by the watershed during the reporting period and any other information important to convey to the PSP and the RITT, who review and comment on the annual summaries. One significant limitation in the 3-Year Work Program reporting system is that the watersheds use the report and attached schedules differently from one another. For example:

- There are those watersheds that track their entire capital and programmatic plan components on the 3-Year Work Program schedules, even those actions that won't be accomplished for many years to come. Conversely, there are a number of watersheds who only use it to show what they believe can be accomplished within the 3-year timeframe that the report covers. All other actions are left off the schedule.

- A few watersheds track projects that are completed; others remove a project from the schedule once it is completed.

- Some only show capital projects, not programmatic efforts.

- Funding estimates vary widely. Some watersheds only fill in funding boxes on the 3-Year Work Program Schedule when the funds are expected to be received with a high degree of certainty, and within the 3-year time frame. Others simply estimate the total cost of the work and list potential funding sources they may ask for the funds, with no certainty as to whether the funds will be received.

- Some watersheds use a color-coding system to convey information on the status of projects, but all of them use different colors meaning different things.

The net result of this variability in the use of the 3-Year Work Program is that it makes it very difficult to track implementation across the ESU with any systematic approach. The variability also reduces the transparency of the watersheds' efforts to the public, where they may not be privy to how each watershed uses the report. Many watersheds find this tool to be useful in helping them track their activities, but others only do the minimum required. Nearly all watersheds interviewed complained that the time, energy and coordination that is required to track and maintain these two reporting systems is

significant and a drain on their limited staffs. They welcome any improvements that can be made that will help alleviate this burden.

Finally, apart from RITT review, there has been no formal follow up with watersheds that had incomplete plans at the time the Recovery Plan was adopted, where they have added new strategies as the result of additional research or planning work. The HWS and 3-Year Work Program remain the only tools currently available for reporting changes to the original recovery plan strategies. NMFS has not defined the process for updating the Recovery Plan, although it called for the creation of regional and local adaptive management plans as part of the NOAA Supplement to the Recovery Plan. Given that NMFS expects the Recovery Plan to be adapted over time, NMFS should work with the watersheds to determine the best process for documenting such changes.

IV. Conclusion and Recommendations

The Recovery Plan was built on several pillars, including habitat protection and restoration, harvest and hatchery reforms and rebuilding efforts (the "H's"). It was created using a collaborative model to agree upon voluntary improvements in habitat conditions, and linked to the negotiated agreements involving harvest and hatchery practices, which balanced Chinook Salmon recovery needs with well-established Tribal treaty rights. Five years into the effort, this assessment attempts to understand how well those pillars are being implemented, where we find success and where more support, funding or effort is needed to achieve the Recovery Plan's 10-Year goals.

There are reasons to celebrate success across all of the H's. Although we cannot state them all, a few notable reasons include:

- ✓ The Co-Managers met or exceeded the harvest management performance measures required in the 2004 Harvest Management Plan.
- ✓ The WDFW completed its 21st Century Salmon and Steelhead Initiative, which will help the Department identify, monitor and evaluate long-term, science-based hatchery management strategies.
- ✓ Despite a severe recession, significant change in the organizational structure supporting Puget Sound salmon recovery, a loss of staff and severe funding shortages, local commitment to salmon recovery across the ESU remains firm and vibrant.
- ✓ The Nisqually watershed completed a major portion of their largest project, the Nisqually Refuge Estuary Restoration Project, with the support and contribution of funds from other South Sound watershed groups.
- ✓ The Elwha River Dam removal project is finally funded and scheduled for demolition next year. Numerous high priority habitat restoration projects have been accomplished across every watershed in Puget Sound.

As with any undertaking of this scope and magnitude, some adjustments also need be made to ensure that the effort continues to move toward the 10-Year goals set forth in the Recovery Plan. Based on the assessments performed for this report, some conclusions can be stated about the status of Puget Sound habitat, as well as the programs being used to implement the Recovery Plan. Where appropriate, we also offer NMFS our recommendations for addressing issues found during the assessment process.

1. **Habitat is still Declining.** Key indicators addressed by the PSP's 2009 *State of the Sound Report* tell us that important habitat for Chinook Salmon is still declining, despite the ESA listing over 10 years ago. As such, the region needs to increase its scrutiny of the sources of habitat decline, and the tools we use to protect habitat sites and ecosystem processes. Habitat status and trends monitoring at the population, major population group and ESU scales is urgently needed and should be a priority focus for funding. In addition, the effects of climate change on the assumptions made in the Recovery Plan needs to be analyzed and discussed across the ESU. Where indicated, new strategies and action should be created to address impacts from climate change.

2. **Habitat Protection Needs Improvement.** The recovery effort is relying heavily on the protection of remaining habitat within the ESU, using a mix of regulatory and incentive programs. As noted above, key indicators show that habitat is still declining. No studies have been performed to analyze the effectiveness of the protection tools described in the Recovery Plan. We note that many of these protection tools are the same ones that have been implemented since the mid-1990s or even earlier, and their existence did not forestall the ESA listing of Puget Sound Chinook Salmon.

   In addition, efforts to develop the regional strategies and actions called for in Chapter 6 of the Recovery Plan are largely nonexistent. These include:

   - The Protection of Existing Physical Habitat and Habitat-Forming Processes
   - The Protection and Restoration of the Nearshore, Puget Sound and Pacific Ocean
   - Water Quantity – The Strategy for Achieving and Protecting Instream Flows
   - Water Quality Strategies
   - Commercial Forestry Strategies
   - Commercial Agriculture Strategies
   - Research, Monitoring and Adaptive Management

   Additionally, local Lead Entities and regional groups such as the PSP or Recovery Council are not advocating for stronger regulatory programs to protect habitat at the federal, state or local level, largely based on socio-political factors. NMFS can help by (a) Defining the necessary level of critical habitat required to ensure the recovery of Chinook Salmon and other listed species across the ESU; (b) Assessing the effectiveness of various protective regulations; (c) Using its legal authority and other tools to ensure that protection programs are being properly implemented and enforced; and that regulatory updates are completed within statutory deadlines, or at a minimum, within a reasonable future time.

3. **Habitat work is underway, but heavily weighted toward capital projects.** Habitat managers within the 14 Watersheds are implementing the strategies defined in the Recovery Plan, but at this stage of implementation, the work is heavily weighted toward capital habitat restoration activities. Non-capital programs are just as important for the success of the Recovery Plan, but funding sources tend to favor capital projects, and disfavor the funding of staff necessary to perform the work.

4. **Funding levels are inadequate to fully implement current 3-Year Work Programs.**

   - Although state and federal funding has steadily increased for implementation, it lags behind what is needed to fully fund the Recovery Plan. Today, the Lead Entities report having only 20% of the funding they need to complete the habitat capital and non-capital

work identified in the 3-Year Work Programs. Currently, the 3-year effort is estimated to cost $1.7 billion and only $339 million is available.[58]

- **Most Watersheds report that they are behind the expected pace of implementation** at this five-year mark, mainly due to a lack of funding and inadequate numbers of staff.

- **Watershed leaders believe that grant local matching requirements are too rigid and unnecessarily limit their work.** The staff believes that they can do a better job of implementing their programs and projects if they are simply given the funding needed for projects and programs and held accountable for the results. They find that a tremendous amount of their time and energy is now being devoted annually to the bureaucracy that has sprung up around capital and non-capital funding. They also feel pressed by increasing mandates to maintain the 3-Year Work Programs and the Habitat Work Schedule (HWS) and participate in other regional programs. These administrative duties place an increasing burden on staff, which are often overloaded trying to accomplish their substantive work on salmon recovery. Efforts should be made to address these administrative issues.

- **Staffing for core habitat programs remains insufficient and hampers implementation.** The Lead Entities consistently state that they lack adequate staffing resources to fully implement their Recovery Plans. Most Lead Entity organizations are run with only one or two paid staff. They have identified core staffing needs that include the following staff to ensure all priority programs and projects are timely implemented:

  <u>Core Watershed Program Staffing Needs</u>
  - Program Director (typically, the lead entity coordinator)
  - Program Planner/policy support person (trained in land use planning; develop new strategies, participate in protection programs)
  - Restoration/Acquisition Project managers (manage or supervise construction projects, land acquisition negotiations and real estate transactions)
  - Outreach and education staff (develop programs and marketing materials, build community relationships and support, lobby opinion leaders and legislators)
  - Clerical support staff (schedule meetings, take minutes, coordinate work)
  - Biologists, ecologist or other technically-trained staff (for project development and review, status/trends monitoring, other field work)

They also described an additional set of program support services that are very important, but it may be possible to perform these services at at the regional scale to provide efficiencies and cost savings. These services included:

<u>Central Service Needs</u>:
- Group purchasing of supplies and equipment for offices, projects and programs
- Highly skilled meeting facilitators
- Annual design and publishing of marketing and outreach materials
- Grant writers
- Information systems support (technical support to maintain and improve the HWS; and to create and update watershed websites)
- Writers to create stories of success and newsletters for stakeholder engagement;

[58]See, Watershed 3-Year Work Programs, available at www.psp.wa.gov

- Skilled planners (or access to consultants) to create new habitat protection incentive programs for deployment around the ESU.

5. **The Adaptive Management Plan has not been completed. In its absence, there is no process in place to recognize changes to Recovery Plan strategies.**

- Apart from RITT review, there has been no formal follow up with watersheds that had incomplete plans at the time the Recovery Plan was adopted to acknowledge their completion, and to examine new strategies that have been added as a result of additional research or planning work. The HWS and 3-Year Work Program remain the only tools currently available for reporting changes to the original Recovery Plan strategies. NMFS has not defined the process for updating the Recovery Plan, although it called for the creation of regional and local adaptive management plans as part of the NOAA Supplement to the Recovery Plan. Given that NMFS expects the Recovery Plan to be adapted over time, NMFS should work with the watersheds to determine the best process for documenting such changes, and should work with the RITT to expedite the completion of the Adaptive Management Plan.

- Additionally, efforts that began five years ago to create the regional framework for the Adaptive Management Plan for the Recovery Plan appear to have ceased at the end of 2007. NMFS should ensure that the regional framework for adaptive management is completed as called for in the Supplement to the Recovery Plan. Additionally, the Lead Entities are being held responsible for creating local Adaptive Management Plans that will fit within the larger regional framework, **but the promised funding and support to engage in this work has not been provided to them by the region or NMFS.**

6. **The Harvest RMP is being implemented as planned. NMFS has concluded that the harvest limits** established in the Harvest RMP have been followed for all 22 populations since its adoption. In terms of the performance of the population under the Harvest RMP, total natural escapements for 11 of 19 populations (and one management unit for which there are rebuilding thresholds), met or exceeded the established thresholds from 1999-2008.[59] In terms of the level of effort expended in implementing the Recovery Plan, the Co-Managers have implemented a significant amount of monitoring and reporting, and this work is on-going each year. Canadian and Alaskan harvests continue to account for a substantial proportion of harvest for many Puget Sound Salmon, but the harvest is consistent with the terms of the 2008 Pacific Salmon Treaty Annex. As the timeframe of the initial Harvest RMP comes to a close, work is now underway to renegotiate the Harvest RMP Plan between NMFS and the Co-Managers.

7. **The Hatchery program within NMFS is critically under-resourced.** As discussed above, over 100 HGMPs are still awaiting review and approval by NMFS. This limits the implementation of the Hatchery RMP. Additional staff should be added to this program to ensure that the goals of the Hatchery RMP can be accomplished in a timely way.

8. **H-integration and sequencing of various efforts remains challenging** to implement and requires more resources for all necessary parties to participate, including support from the RITT members.

[59] S. Bishop, NMFS (September 2010). NMFS expects to release its analysis of the new RMP in the next few months. The information presented there will update (and may change) the information presented in this report.

A REPORT FROM THE
TREATY INDIAN TRIBES IN WESTERN WASHINGTON

Treaty Rights At Risk

Ongoing Habitat Loss, the Decline of the Salmon Resource, and Recommendations for Change

July 14, 2011

Executive Summary

This paper examines how the rights of western Washington treaty tribes to harvest treaty fish and shellfish, and the federal government's salmon and orca protection efforts, are at grave risk. This is being caused by a lack of coordinated federal leadership, a failure to exercise authorities and the disparate application of salmon conservation measures. The U.S. government must step up and provide the leadership needed to resolve these issues if salmon are to be successfully recovered and protected.

Stopping habitat degradation is the cornerstone of salmon recovery, but habitat is still declining.

According to the Puget Sound Chinook Salmon Recovery Plan developed by the state and tribal salmon co-managers and adopted by the National Marine Fisheries Service (NMFS), protecting existing habitat is *the most important action needed in the short term.* Despite this commitment, NMFS' 2010 assessment of the Puget Sound Chinook Salmon Recovery Plan declared that habitat is still declining and protection efforts need improvement.

Tribal harvest is accountable and tribes are doing their share to promote recovery.

In 1974, the federal court decision in *United States v. Washington* – known as the Boldt decision – affirmed the tribes' treaty right to half of the harvestable salmon, and established the tribes as co-managers of Washington fisheries. Initially, this recognition of the tribes' rights led to a significant increase in treaty harvest because the tribes finally were able to catch their share. However, harvest has been and continues to be constrained dramatically by degraded habitat. As a direct result, treaty harvest has been diminished to levels not seen since before the Boldt decision.

Tribal co-management of harvest is governed by the tribes' commitment to support salmon rebuilding efforts. NMFS' own analysis of recovery plan implementation indicates that harvest is doing its share to support salmon recovery. NMFS also concedes that salmon populations in many watersheds cannot recover even if harvest were completely eliminated. Yet, while harvest is accountable for recovery, habitat degradation continues steadily, destroying the salmon resource and along with it, the cultures and communities of the treaty Indian tribes in western Washington.

NMFS is applying disparate conservation standards to harvest actions versus habitat actions, thereby threatening treaty rights and impeding salmon recovery.

NMFS holds the tribes to a different standard than all others by applying more stringent standards to tribal salmon harvest than to actions that degrade salmon habitat. In reviewing harvest decisions, NMFS expects tribal harvest plans to

contribute to salmon recovery over time. In contrast, when reviewing actions affecting Puget Sound habitat, NMFS seeks merely to maintain existing habitat productivity and quantity – regardless of whether it is adequate to support recovery.

NMFS' Biological Opinion and Reasonable and Prudent Alternative (RPA) for the Federal Emergency Management Agency (FEMA) National Flood Insurance Program is a key example of this disparate treatment. This flood insurance program sets the minimum requirements for floodplain management throughout most of Puget Sound. However, NMFS does not require an increase in habitat productivity and quantity, even in watersheds where NMFS concedes that habitat conditions are the key obstacle to salmon recovery. Another example of disparate treatment is NMFS' approach to southern resident killer whales (orca). NMFS claims orca are not recovering because there are too few large chinook salmon for them to eat. But instead of addressing all activities that affect chinook abundance, NMFS looks only to harvest reductions to address the problem.

This overemphasis on harvest restricts the tribes' treaty rights, while ignoring the science that indicates that habitat loss and degradation account for an even greater take of salmon and orca. These discriminatory actions contravene the federal government's trust responsibility to the western Washington treaty Indian tribes and undermine accomplishment of federal fish and wildlife management objectives.

The federal government is not fully implementing its obligation to protect treaty rights.

Salmon recovery is based on the crucial premise that we can protect what habitat remains while we restore previously degraded habitat conditions. Unfortunately, significant investments in recovery may not be realized because the rate of habitat loss continues to outpace restoration. The resulting net decline in habitat demonstrates the federal government's failure to protect the tribes' treaty-reserved rights.

The federal government has existing tools that it could employ to better protect habitat and support salmon recovery, but in many cases those tools are either misapplied or not being implemented adequately. For example, the U.S. Army Corps of Engineers' § 404 permitting authorizes the very same structures that salmon recovery actions seek to remove. Also, the federal government has approved and continues to fund state programs under the guise of coastal zone management that actually impede salmon recovery. For instance, the state's Shoreline Management Act also permits shoreline development for single-family residences, including bulkheads and docks that degrade habitat.

Instream flows also are under assault and need protection from excessive withdrawals. The tribes have pursued a number of approaches to define and

establish the instream flows necessary to protect and restore salmon resources. Unfortunately, each of these efforts has been undermined by flawed state policies that failed to institute a comprehensive effort to establish instream flows. Therefore, federal intervention is needed to adjudicate instream flows that are protective of fish habitat, and consistent with treaty-reserved rights.

Finally, federal agencies such as NMFS have failed to use their authority to prosecute those who degrade salmon habitat. In July 2000, NMFS formally published its policy governing enforcement of the Endangered Species Act (ESA) prohibition against take, and included a series of habitat impacts that would receive "heightened scrutiny." Although shoreline armoring and riparian vegetation removal were on NMFS' priority list, there appears to be only one instance of NMFS exercising its enforcement authority over these activities during the past decade.

Salmon recovery crosses many jurisdictions, and leadership is needed to implement recovery consistently across those jurisdictional lines.

The government's piecemeal approach to recovery has resulted in a lack of agency consistency and ultimately the implementation of federal programs that serve neither to recover salmon nor protect treaty rights. For example, many federally funded environmental and conservation grant programs are not required to protect salmon. Instead, in many cases those programs rely on a planning process that ultimately lets the landowner decide what is best for salmon, even if those choices are contrary to federally approved total maximum daily loads (TMDLs) or federally-approved salmon recovery plans.

Moreover, despite ESA listing, and declining harvest and habitat, basic federal obligations remain unfulfilled. For example, the National Oceanic and Atmospheric Administration (NOAA) and U.S. Environmental Protection Agency (EPA) have failed to use their authority under the Coastal Zone Management Act (CZMA) to protect salmon and treaty rights**.** The CZMA obligates EPA and NOAA to assure that state nonpoint source coastal protection plans are consistent with applicable federal law, including the Clean Water Act, ESA, and federally secured treaty rights. These plans were supposed to be developed by 1995, but 17 years later, the federal agencies have failed to obtain the state of Washington's compliance.

Given the critical importance of protecting habitat, it is essential that leadership is exercised to ensure that these basic federal obligations are met, including protection of treaty rights.

The federal government can remedy this erosion of treaty-reserved rights by taking action:

I. Stop the disparate treatment of Indian tribes when applying salmon conservation measures.

- Apply at least as stringent a conservation standard to actions affecting salmon habitat as is applied to salmon harvest.
- Assure that all federal actions affecting habitat contribute to recovery of salmon and orca.
- Develop a comprehensive and timely plan for addressing orca prey consumption needs that does not result in disparate treatment of treaty fishing and addresses all identified factors for decline.

II. Protect and restore western Washington treaty rights by better protecting habitat.

- Require federal funding that supports state programs and pass-through grants to be conditioned so that all funded efforts are designed to achieve consistency with state water quality standards and salmon recovery plan habitat objectives.
- Direct federal agencies to increase enforcement of federal obligations to protect habitat including the ESA and Clean Water Act.
- Direct NMFS and EPA to assure that state Shoreline Master Program updates are consistent with all federal obligations involving treaty rights.
- Direct the Department of Justice to initiate limited water rights adjudications to identify treaty-reserved rights for instream flows in selected watersheds.

III. Establish federal oversight and coordination to align environmental and conservation programs to achieve salmon recovery and protect treaty-reserved rights.

- Oversee and align funding programs to ensure achievement of recovery objectives.
- Unify federal agencies and resolve inter-agency conflicts to support salmon recovery.
- Hold federal agencies accountable for acts or omissions that lead to disparate treatment of tribes and failure to protect treaty-reserved rights.
- Harmonize federal actions to ensure consistency and compliance with federal obligations and treaty rights.

Introduction

> *"Through the treaties we reserved that which is most important to us as a people: The right to harvest salmon in our traditional fishing areas. But today the salmon is disappearing because the federal government is failing to protect salmon habitat. Without the salmon there is no treaty right. We kept our word when we ceded all of western Washington to the United States, and we expect the United States to keep its word."* – BILLY FRANK JR., CHAIRMAN OF THE NORTHWEST INDIAN FISHERIES COMMISSION

As sovereign nations, 20 treaty Indian tribes in western Washington signed treaties with the United States, ceding most of the land that is now western Washington, but reserving our rights to harvest salmon and other natural resources. For those rights to have meaning there must be salmon available for us to harvest.

Today our fishing rights have been rendered almost meaningless because the federal and state governments are allowing salmon habitat to be damaged and destroyed faster than it can be restored. Salmon populations have declined sharply because of the loss of spawning and rearing habitat. Tribal harvest levels have been reduced to levels not seen since before the 1974 *U.S. v. Washington* ruling that reaffirmed our treaty-reserved rights and status as co-managers with the right to half of the harvestable salmon returning to Washington waters.

As the salmon disappear, our tribal cultures, communities and economies are threatened as never before. Some tribes have lost even their most basic ceremonial and subsistence fisheries – the cornerstone of tribal life.

The Northwest tribes are heartened by millions of dollars and years of focused cooperative work that have been spent on salmon recovery in the region during the past two decades. We have been at the center of most of these efforts. While we have made progress in some areas, the overall quality and quantity of salmon habitat continues to decline. Four species of salmon in western Washington are listed as "threatened" under the Endangered Species Act, some for more than a decade.

Our considerable investment in habitat restoration has not been able to turn the powerful tide of loss and degradation. We are steadily losing habitat throughout the region, and that trend shows no sign of improvement.

The reason is not a lack of effort or a lack of desire to recover salmon. The reason is a lack of federal and state government leadership, policy, commitment and coordination toward a set of salmon recovery goals and objectives.

We know that we cannot stop the massive population growth anticipated in this region over the coming decades, but we can ensure that the associated development is designed and implemented in ways that will better protect salmon and its habitat.

Habitat loss and degradation are the biggest contributors to the decline of the salmon resource, yet the federal government's primary response is to restrict harvest. Tribes are required to prove that our fishing and hatchery plans will lead to increased salmon populations and will not harm ongoing wild salmon recovery efforts. But we have observed that those who damage and destroy salmon habitat aren't held to the same standard.

Instead, the U.S. government continues to approve federal actions and federally funded state actions that either do not contribute to, or actually impede recovery of salmon habitat. The result is the continued slow degradation of habitat that already has suffered from years of pollution, poor land use practices, and other factors. This situation sets the bar higher and higher for tribes to continue our way of life, while setting it lower and lower for those who would destroy the salmon's home. This uncoordinated approach solidifies habitat losses and ultimately fails to protect our huge investment of funding, time, and effort.

The federal government's over-reliance on restricting harvest as the primary means to protect salmon is unfair, ineffective, and contrary to established principles of Indian law. In the end, this policy undermines the recovery of salmon and other listed species in western Washington. Like harvest and hatchery operations, habitat quality and quantity must be calibrated across the spectrum of agencies and jurisdictions involved in salmon recovery.

Salmon recovery begins and ends with habitat. No amount of fishery restrictions can restore the resource unless salmon have good spawning and rearing habitat.

An example is the Nisqually River, with its headwaters in a national park and its mouth in a national wildlife refuge. It is one watershed in Puget Sound where we have made significant habitat gains in recent years. More than 85 percent of lower river estuary habitat has been reclaimed through cooperative federal, tribal, and state work to remove dikes; nearly 75 percent of mainstem river habitat is in permanent stewardship.

Despite this massive cooperative effort, research shows that young ESA-listed salmon and steelhead from the Nisqually River are dying before they can reach Seattle, just 30 miles away. The main cause is believed to be a lack of good nearshore habitat caused by ongoing development practices.

If salmon are to survive, we must begin to achieve real gains in habitat protection and restoration. The path we are on leads to the extinction of the salmon resource and our treaty-reserved rights.

The federal courts have recognized four basic values associated with the treaty-reserved rights of the tribes: (1) conservation value of the resource, (2) ceremonial, religious, and spiritual values, (3) subsistence, and (4) commercial value. The treaty right to fish is a property right of the tribes and is protected under the Fifth Amendment of the U.S. Constitution, our treaties and the U.S. Supreme Court affirmation of this right.

In failing to protect salmon habitat, the federal government is failing in its trust responsibility to honor its treaties with the tribes. We are left with few choices other than the courts to protect our treaty-reserved rights and the salmon that are so essential to our culture.

We are at a legal and biological crossroads in our efforts to recover the salmon and preserve our tribal cultures, subsistence, spirituality, and economies. Not since the darkest days of the fishing rights struggle before Judge Boldt's decision in *U.S. v. Washington* have we feared so deeply for the future of our treaty rights.

This document discusses specific federal government actions that are impeding salmon habitat recovery and restoration, including:

- The application of disparate standards to harvest and habitat.
- Failure to protect treaty rights and financial investments by fully implementing existing federal authority.
- A general lack of alignment by the federal government of its actions with salmon recovery efforts.

This document also recommends specific solutions that will help the federal government meet its trust responsibilities to the treaty Indian tribes in western Washington as we rebuild the salmon resource. Broadly, those actions encompass:

- An urgent call for the federal government to hold the degradation of habitat to the same standards applied to tribal harvest.
- A demand that federal government begin to protect treaty-reserved rights by better protecting habitat.
- Urging federal leadership to provide leadership and oversight to ensure alignment and harmonization of federal programs with salmon recovery efforts.

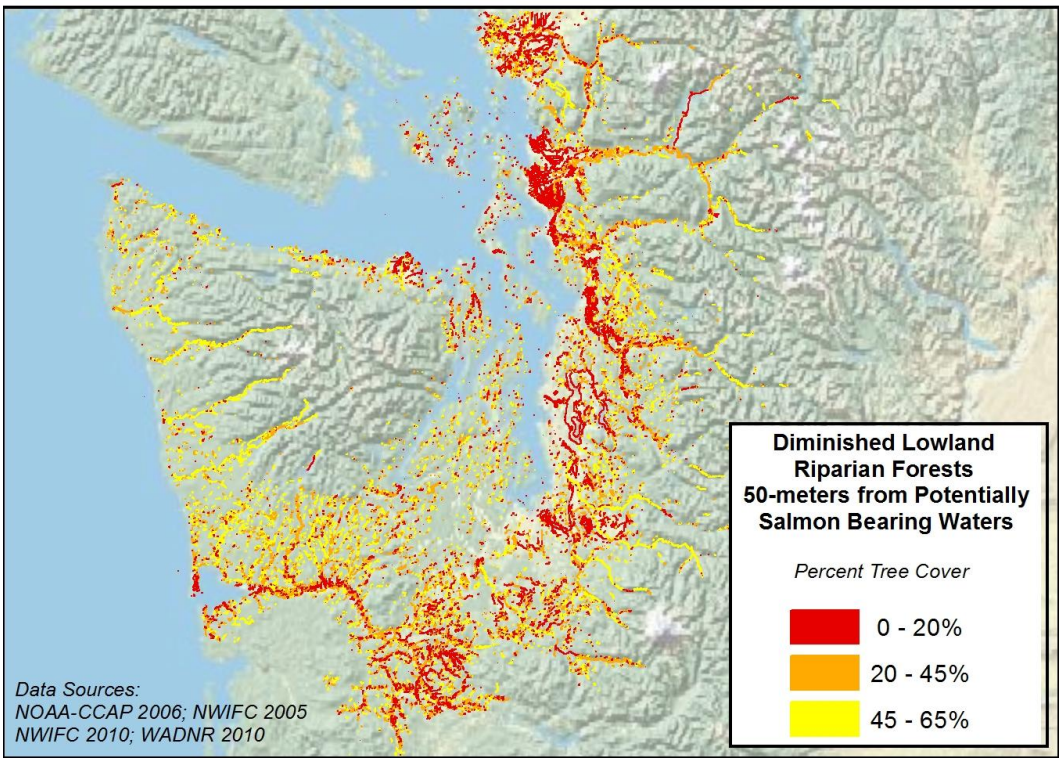
These actions are critical to reverse the trend toward extinction, and ultimately to recover salmon and restore treaty-reserved harvest rights.

Salmon Habitat Still Declining Despite Recovery Efforts

"We have worked for decades to restore habitat in the Elwha River system, and we are still not fishing on the salmon stocks we have been working to protect. We had to push for an act of Congress to remove two fish-blocking dams on the river, but the way it's going now, we still may never be able to fish for chinook again."

– RUSS HEPFER, LOWER ELWHA KLALLAM VICE CHAIRMAN

Diminished riparian forests in the lowlands of Western Washington continue to impair habitats critical to the recovery of the region's anadromous salmon.



Wild salmon are naturally productive and have just a few basic needs for their survival: access to and from the sea, good spawning and rearing habitat, and the opportunity to reproduce.

Salmon harvest already has been eliminated to the point that further cuts can no longer contribute significantly to the recovery of wild salmon stocks. Yet habitat loss and degradation continue steadily destroying the salmon resource and along with it, the cultures and communities of the treaty Indian tribes in western Washington.

Protecting existing salmon habitat from further decline is the key to recovering endangered salmon populations. According to the 2007 Puget Sound Chinook

Salmon Recovery Plan adopted by NOAA Fisheries and developed by the state and tribal salmon co-managers, and numerous watershed entities:

> Protecting existing habitat and the ecological processes that create it is *the most important action needed in the short term* to increase the certainty of achieving plan outcomes. Protection must occur in both urban and rural areas if we are to ensure the long-term persistence of salmon in Puget Sound.[1]

In the final supplement to the recovery plan, NMFS concurs with the imperative of immediate habitat protection, stating that "protecting functioning habitat is one of the top priorities and first steps for achieving a viable ESU (evolutionarily significant unit)."[2]

However, despite ESA listing of Puget Sound chinook in 1999 and the subsequent call for enhanced protections of remaining habitat, NMFS' 2010 assessment of the Puget Sound Chinook Salmon Recovery Plan declared:

- Habitat is still declining; and
- Habitat protection needs improvement.[3]

The status and trend data summarized in the NMFS report revealed extensive habitat losses across key indicators such as intertidal wetlands and forest cover. The report identified declining trends in habitat by comparing both historical data and trends since the ESA listing of Puget Sound chinook salmon.[4] For example:

- After ESA listing, from 2001 to 2006, about 10,700 acres of forest and 4,300 acres of agricultural land were converted to impervious surfaces.[5]
- Washington has lost an estimated 70 percent of its estuarine wetlands, and 90 percent of its old-growth forest. Together, these native habitat types have been considered among the most diverse and productive in the state.[6]

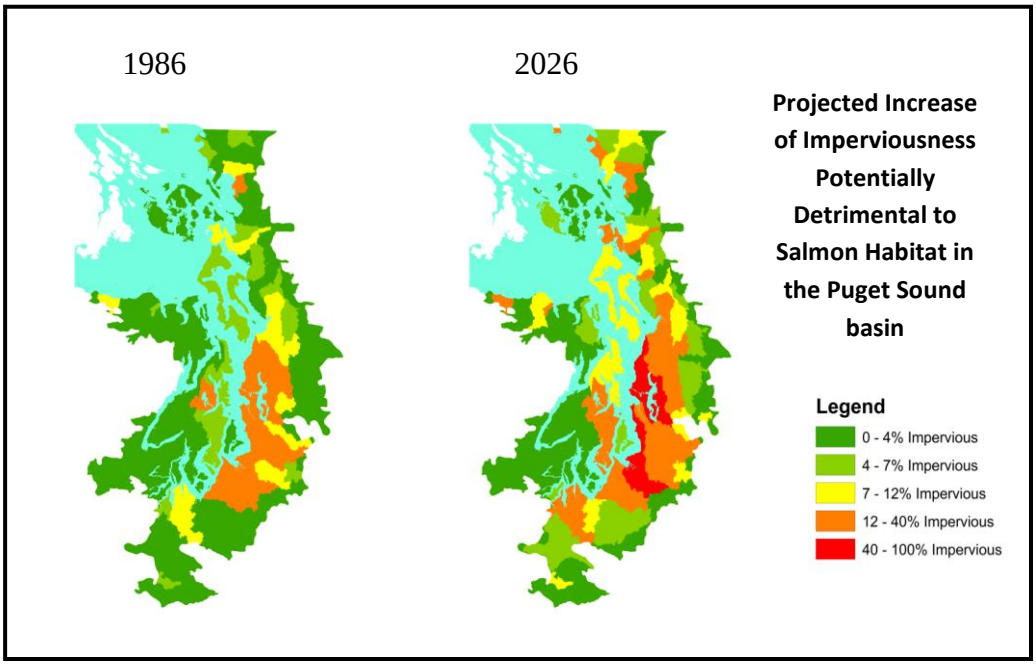
Other studies and analyses echo the NMFS report findings. Key indicators of a declining trend in salmon habitat include:

- Since the ESA listing of Puget Sound fall chinook in 1999, loss of shoreline habitat and function through shoreline armoring continues at a rate of 1.5 miles per year.[7]
- 83 percent of waters sampled to compile the state's 305(b) and 303(d) Clean Water Act lists violate state water quality standards and are polluted.[8]
- About half of critical low gradient riparian forest habitat has insufficient forest cover to support salmon.[9]

- A Puget Sound Nearshore Ecosystem Restoration Project study revealed dramatic losses of habitat in all but one place in the sound during the last 150 years.[10]

- Hood Canal is highly impaired by a lack of dissolved oxygen, and the resultant hypoxia causes fish kills.[11]

- Eelgrass beds, essential to the intricate food web for salmon, are in overall decline.[12]



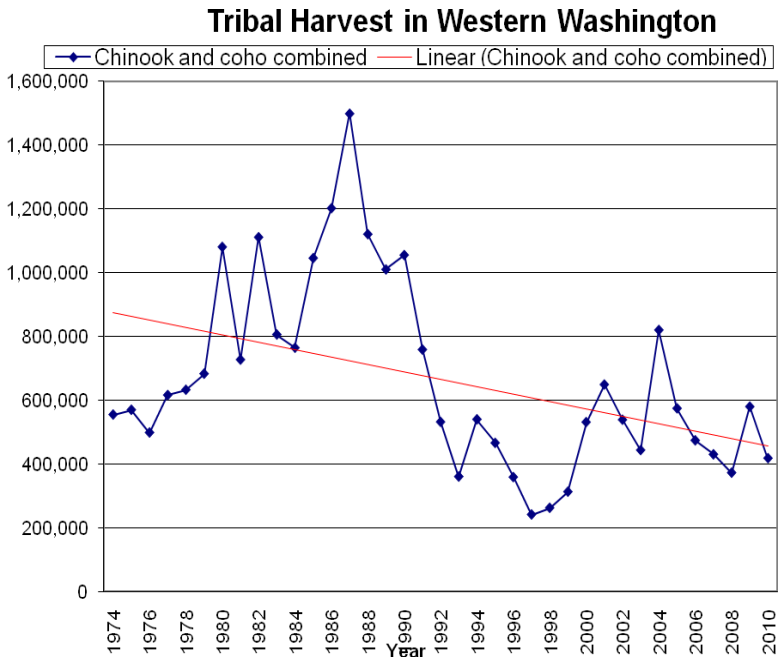
In a recent geographic information system (GIS) analysis of Puget Sound land cover data and population growth rates,[13] existing and projected trends demonstrate dramatic increases in the conversion of vegetated areas to concrete. These increases in impervious surfaces impact salmon habitat by removing essential vegetation and biota, increasing runoff, conveying pollutants, and altering hydrology. Without appropriate planning, placement, and mitigation, these actions will continue to imperil salmon.

Trends at the watershed scale in western Washington also provide a bleak outlook:

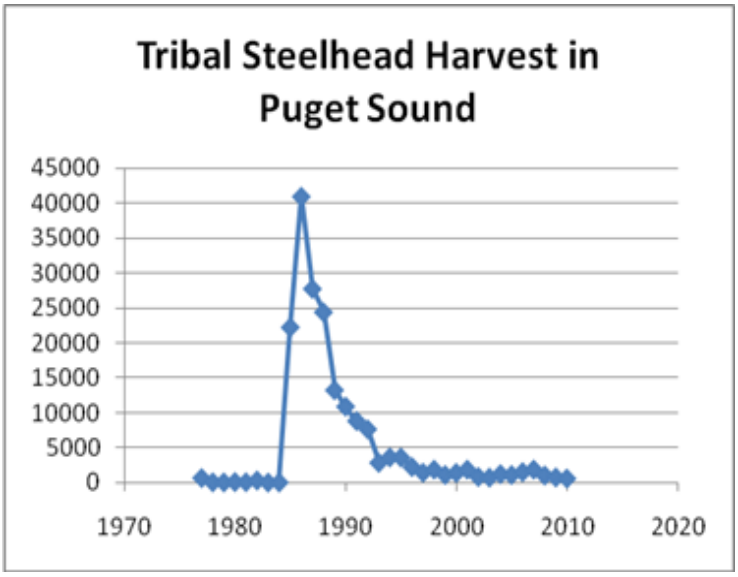
- Within the Stillaguamish watershed, during the time period of 1996 through 2006, there was a decrease of 41 percent in forest cover within the Urban Growth Area and a 22 percent decrease of forest cover inside rural residential areas. Now, only 23 percent of the 1,777 acres of riparian area within the floodplain have any forest cover.[14]
- In the Hoh watershed, approximately 31 percent of private forestlands were harvested between 1998-2010 (post ESA listing).[15]
- In the Snohomish watershed, dikes, levees, and flow devices have resulted in the loss of 55 percent of critical mainstem salmon habitat.[16]
- In the Port Gamble S'Klallam Tribe's usual and accustomed grounds, places such as Port Gamble Bay have had 74 percent of the shoreline armored or modified.[17]
- In the Skokomish basin, the watershed has experienced a 51 percent increase in impervious surfaces, with a third of that paving occurring just one mile from Hood Canal.[18]
- In the Muckleshoot Indian Tribe's area of concern, NOAA models predict that more than half of the stream miles of known coho salmon habitat will experience pre-spawn mortality rates greater than the average, and that 141 of those miles will experience mortality rates greater than 35 percent, when under normal conditions these rates are generally less than 1 percent.[19]

Loss of Harvest and Catch Opportunity

"We volunteered not to fish for chinook and to focus on the recovery of our salmon. But even with the nets out of the river, our fish numbers are not increasing. We work hard to restore habitat and recover Stillaguamish chinook, but in the meantime, our culture faces extinction. We are a living culture and we must have salmon to harvest." –SHAWN YANITY, STILLAGUAMISH CHAIRMAN



Western Washington tribes pursued recognition of their treaty-reserved salmon fishing rights in *U.S. v. Washington* 384 F. Supp. 312 (1974) because their fisheries were being pre-empted by the state of Washington. The state was allowing its ocean and Puget Sound fisheries to overharvest returning adult chinook and coho salmon, but was denying the tribes' their treaty rights to fish in their traditional waters. Tribes were left with little or no fishing opportunity.



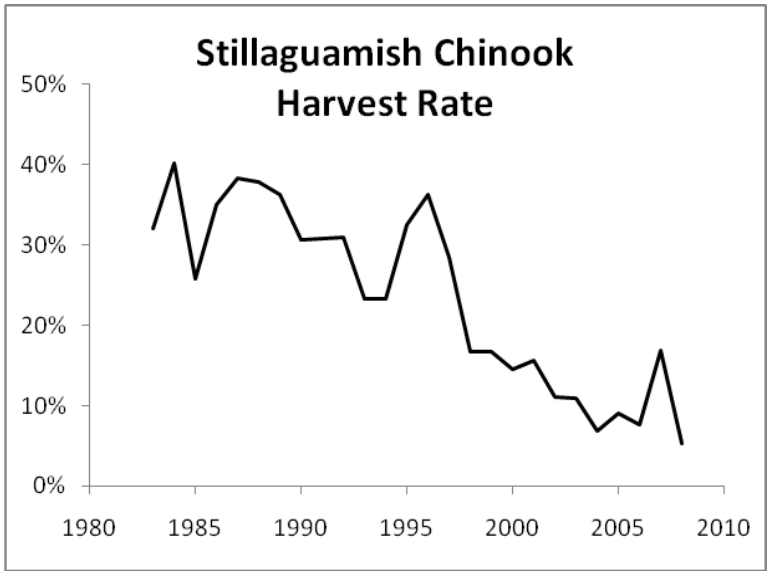
U.S. v. Washington – known as the Boldt decision – affirmed the tribes' treaty fishing rights and established the tribes as co-managers of the resource with the right to half of the harvestable salmon returning to Washington waters. [20]

The years following the 1974 ruling witnessed the growth of harvest opportunity and catch, as tribal fisheries accessed 50 percent of the harvestable run. A

joint management framework developed by the state of Washington and the treaty tribes led to better balancing of harvest opportunity across all salmon fisheries.

Despite highly conservative fisheries and the prudent use of hatcheries, ongoing salmon habitat loss and degradation have led to pre-*U.S. v. Washington* tribal harvest levels. This habitat loss has continued even after the establishment of Puget Sound coho as a species of concern (1995), and the listing of Puget Sound chinook (1999) and steelhead (2007) as threatened under the Endangered Species Act.

For more than two decades, harvest rates in all fisheries have been sharply reduced to compensate for the precipitous decline of salmon abundance in Washington state waters, but today harvest cuts can no longer compensate for losses in salmon spawning and rearing habitat.[21]



Analysis of total U.S. harvest rates and run sizes for North Fork Stillaguamish River chinook illustrates this point. Washington harvest rates have been sharply and steadily reduced in reaction to declining returns. While this harvest action maintained spawning at targeted levels, it did not result in more fish returning to spawn, clearly indicating that factors other than harvest are responsible for the stock's decline.[22]

As a result, the Stillaguamish Tribe's treaty-protected river fishery was effectively eliminated and with it, an essential element of tribal culture and source of traditional food. Although the action was not matched by other managers, the tribe gave up even its most basic treaty-reserved ceremonial and subsistence harvest for more than 25 years in an effort to ensure the conservation of this run. In recent years, the Stillaguamish people had to purchase fish from outside their river system to conduct the traditional first salmon ceremony that welcomes and honors the salmon that are the foundation of their culture.

Request for Federal Action

I. Stop the disparate treatment of Indian tribes when applying salmon conservation measures.

The Problem

Currently, NMFS holds the tribes to a different standard than all others by applying more stringent standards to tribal salmon harvest than to actions that degrade salmon habitat. NMFS requires salmon harvest to be managed to contribute to salmon recovery, but fails to apply a corresponding obligation to activities affecting salmon habitat. Similarly, NMFS claims that southern resident killer whales (orca) are not recovering because there are too few large chinook salmon for them to eat. But instead of addressing all activities that affect chinook abundance, NMFS looks only to harvest reductions to address the problem. The federal government continues to focus on restricting the tribes' treaty rights even though the science indicates that salmon will not recover or survive unless the government reduces the even greater take of salmon and orca caused by habitat loss and degradation. The federal government's disparate treatment contravenes its trust responsibility to the western Washington treaty Indian tribes and undermines accomplishment of federal fish and wildlife management objectives.

The Remedy

To eliminate these discriminatory practices, NMFS must hold habitat actions to no less a standard than harvest. Specifically**,** NMFS should be directed to:

- Apply at least as stringent a conservation standard to actions affecting salmon habitat as is applied to salmon harvest.[23]

- Ensure that all federal actions affecting habitat contribute to recovery of salmon and orca.

- Develop a comprehensive and timely plan for addressing orca prey consumption needs that does not result in disparate treatment of treaty fishing.

- In areas where NMFS has declined to designate critical habitat, adopt commensurate harvest management policies.

How the federal government is failing in its trust responsibility:

NMFS applies disparate standards under the ESA, by treating harvest management requirements differently than habitat management requirements.

The Endangered Species Act (ESA) created a responsibility for federal actions affecting listed species to provide an adequate potential for recovery, not just maintain the degraded status quo. For example, as a consequence of the Ninth Circuit's decision in *NWF v. NMFS*,[24] the federal operating agencies and NMFS now recognize that the dams comprising the Federal Columbia River Power System are obligated to contribute to the recovery of salmon. In response to the decision, NMFS and the federal action agencies (in consultation with state and tribal co-managers) assessed the proposed operation of the dams and determined that it would jeopardize ESA-listed salmon. They also determined what improvements were necessary to assure salmon survival and "provide an adequate potential for recovery." Generally, any level of population growth greater than 1 to 1 replacement meets NMFS' interpretation of providing an adequate potential for recovery with respect to the Columbia River dams.[25] While there are differences of opinion among states, tribes, and federal agencies as to whether this interpretation adequately addresses recovery, no one questions that there is a recovery obligation on the Columbia River.

The western Washington treaty tribes' harvest plans are designed to contribute to recovery. NMFS has developed an elaborate procedure for determining whether the impacts of tribal harvest will interfere with recovery of Puget Sound chinook. This includes modeling the likely effects of harvest on 22 individual populations that make up the Puget Sound chinook evolutionarily significant unit (ESU). This analysis looks at the current productivity of existing habitat and assesses the likelihood of a given population falling below a certain critical level or rising above a rebuilding level. Using this approach, harvest is managed to assure both survival *and* eventual recovery.[26]

In analyzing the tribes' harvest plan, NMFS also has stated that poor habitat productivity, not harvest, is the factor preventing chinook rebuilding in river systems such as the Nooksack, Puyallup, Sammamish, Skokomish, Dungeness, and Stillaguamish.[27] NMFS' own federal assessment of recovery plan implementation states that harvest has been managed consistently with this obligation to support recovery, while habitat continues to be the limiting factor to recovery.[28]

In stark contrast to the standards applied to the harvest of listed salmon, NMFS' review of the Federal Emergency Management Agency (FEMA) floodplain insurance program does not address Puget Sound salmon recovery. Instead NMFS applies a no net loss standard that attempts, at best, to maintain existing degraded

habitat conditions. In September 2008, NMFS determined that the continued implementation of the National Flood Insurance Program in Puget Sound (and the land use practices that go along with it) jeopardizes the continued existence of chinook, steelhead, summer chum, and orca. FEMA's flood insurance program subsidizes the alteration and destruction of salmon habitat by providing inexpensive insurance coverage for property and structures that are built in the floodplain.[29] As required by the ESA when it finds jeopardy, NMFS designed a "reasonable and prudent alternative" (RPA) as part of its biological opinion (BiOp), to allow the flood insurance program to go forward. NMFS' RPA is intended explicitly to result in no net loss of floodplain habitat and no adverse impact to "protected areas" (riparian areas, floodways, and channel migration zones).[30] In other words, NMFS' RPA is intended to maintain current degraded habitat conditions.

In crafting its RPA, NMFS did not identify management practices intended to address the gap between current productivity of salmon habitat, and what is needed to provide an "adequate potential for recovery," as it did in the Columbia basin. In contrast, NMFS' analysis of the tribes' Chinook Harvest Plan includes harvest rate ceilings which insure that populations will achieve escapement levels consistent with rebuilding abundance, as needed to foster recovery.[31] Essentially, NMFS fails to apply the same escapement and rebuilding levels required of tribes to its habitat protection decision in the FEMA BiOp.

The problem gets worse. Whereas the RPA calls for no adverse impacts in floodways, channel migration zones, and riparian areas, FEMA's response promises more habitat degradation and allows for local governments to permit development in these areas, with mitigation. NMFS is supporting this response.[32] However, the initial failure of mitigation to alleviate the impacts of development in these areas is one of the reasons why treaty rights aren't being met and salmon became subject to the ESA.[33] Moreover, this is bad flood policy because this development impairs watershed flood capacity and exacerbates flood damages.

Along with allowing more habitat degradation, FEMA and NMFS are delegating to local governments the responsibility for deciding what riparian/floodplain salmon habitat still retains value and what habitat can be written off as undeserving of protection.[34] The federal agencies provide no watershed and salmon population context for how these decisions ought to be made. Nor do NMFS and FEMA explain how writing off salmon habitat is consistent with their obligations to support salmon (and orca) recovery and comply with treaty rights. Moreover, local governments have neither the expertise nor the interest in meeting these obligations.

Despite NMFS' findings regarding the crucial need for increased habitat quantity and productivity to reverse declining population trends, the FEMA BiOp and RPA lack specific provisions for improving habitat to assure the survival and eventual

recovery of these populations. By failing to hold FEMA's flood insurance program to the same standard that it holds harvest, NMFS both applies disparate treatment of treaty harvest and fails to apply conservation measures necessary to assure the survival and recovery of salmon (and the orca that depend on them). If Columbia River dams and Puget Sound treaty fisheries had been managed this way, ESA compliance could have been achieved by simply freezing salmon mortality levels to those occurring at the time salmon were listed. Obviously, this has not occurred.[35] To the contrary, exercise of treaty rights has been restricted and millions of dollars have been spent changing both the configuration and the operation of the dams, as needed to assure an adequate potential for recovery.

In "protecting" orca, NMFS focuses on chinook harvest while ignoring other more damaging impacts.

Southern resident killer whales (orca) were listed as "endangered" under the ESA in November 2005. Prior to December 2010, NMFS indicated that harvest did not significantly affect the availability of prey for orca. Since then, NMFS has gathered additional information regarding orca prey requirements, and concluded that further reduction of chinook harvest may be necessary for orca recovery.

The treaty tribes and states of Alaska and Washington have significant concerns regarding the quality of the new data and the assumptions underlying NMFS' analysis. However, should the data withstand rigorous scientific review, they underscore the need to protect and increase overall chinook abundance, not simply reallocate harvest from humans to orcas. Unfortunately, NMFS's current focus on the reallocation of harvest does not address important factors causing orcas' decline, including toxic contaminants, vessel disturbance, noise, and the continued loss and fragmentation of salmon spawning and rearing habitat.

NMFS, in cooperation with the Canadian Department of Fisheries and Oceans, is convening an expert panel and a series of workshops to evaluate the effects of salmon fisheries on orca. The workshops are being focused narrowly on just one factor that affects chinook abundance – harvest. They will not address key factors such as habitat, even though habitat decline is the critical factor limiting chinook abundance.[36] NMFS has declared that it will start identifying alternative harvest regimes in response to the workshop before the process is even complete. Essentially, NMFS is proposing to preempt their scientific process by acting on conclusions yet to be established. By any standard, this is not an objective approach.

If prey availability (i.e. chinook abundance) is an important problem affecting orca, then the federal government needs to address all the key factors. Other actions and policies affecting chinook abundance include land management, such as FEMA's National Flood Insurance Program, pesticide management, evaluation of Puget Sound hatchery programs, and NMFS' recently issued "Population Recovery Approach."

For example, NMFS is consulting with the EPA about the impacts of a number of pesticides on ESA-listed salmon. Despite the evidence that orca are harmed by the toxic chemicals in the fish they eat[37], NMFS has yet to assess the impacts on orca from ingesting chinook exposed to pesticides and other toxic compounds. Given NMFS' findings that several of these chemicals pose jeopardy to Puget Sound chinook,[38] it would logically follow that NMFS should promptly assess the effects of these pesticides on orca, prior to altering harvest regimes and impacting treaty rights. However, NMFS continues to focus on harvest and ignore the impacts of pesticides on chinook, orca, and the tribes' treaty rights, even though action on toxic chemicals would provide benefits for chinook and orca, as well as improve the overall health of Puget Sound and all the people that reside within the region.

In the case of FEMA's flood insurance program, NMFS found that the program jeopardizes both chinook and orca. Since that 2008 finding was made, NMFS has modified its views regarding orca consumption of chinook. As a result, the impacts stemming from the flood insurance program pose even greater jeopardy to orca. Despite this, NMFS maintains its position that the flood insurance program is obligated only to preserve existing habitat conditions. Worse yet, as discussed above, FEMA's plan allows continued degradation of salmon habitat even though NMFS insists that more chinook are necessary for orca to survive and recover.

Again, the federal government imposes one standard on the treaty tribes and a less stringent standard on activities that jeopardize salmon. As a consequence, treaty rights are impaired and the species these rights depend upon will not recover. The federal government needs to address *all* the sources of the problem in a manner that is consistent with the salmon conservation necessity principles established in treaty case law.[39]

Request for Federal Action

II. Protect and restore western Washington treaty rights by better protecting habitat.

The Problem

Although the federal government makes significant investments in restoring degraded habitat, it does not fully exercise its authority to protect the essential habitat that remains. Without these protections, overall habitat will continue to decline. This progressive habitat degradation will make recovery impossible and threatens the ability of tribes to protect, restore and exercise their treaty-reserved rights to fish.

The lack of habitat protection does not stem from an absence of authority – it is caused by the federal agencies' inability to align environmental and conservation programs with recovery efforts, and to effectively implement and enforce existing laws. For example, federal funding from a number of agencies continues to support state environmental and conservation programs that are inconsistent with salmon recovery and do not achieve compliance with state water quality standards. Moreover, federal agencies have not enforced key environmental statutes such as the ESA, which could serve to protect salmon habitat.

The Remedy

Protecting salmon habitat is an essential element of the fiduciary duty to ensure that the tribes can exercise treaty-reserved rights. In implementing this duty, the federal government must employ *all* authorities and tools to leverage better habitat protection. Specifically, we ask the Administration to:

- Require federal funding supporting state programs and pass-through grants to be conditioned so that all funded efforts achieve consistency with state water quality standards and salmon recovery plan habitat objectives. Examples include:
    - Clean Water Act funds, National Estuary Program funds and Coastal Zone Management Act funds should implement actions designed to achieve state water quality standards, total maximum daily loads (TMDLs), and salmon recovery plan habitat objectives.
    - USDA funds, including Farm Service Agency (FSA) and National Resource Conservation Services (NRCS) programs should implement riparian buffers comparable to those that NMFS has called for in its RPA for FEMA's National Flood Insurance

Program, and implement all other practices consistent with TMDLs, water quality standards, and salmon recovery objectives.

- Direct federal agencies to increase enforcement of their obligations to protect habitat, including the Endangered Species Act and Clean Water Act.
- Direct NOAA and EPA to ensure that state shoreline master program updates are consistent with all federal obligations, including treaty rights.
- Direct the Department of Justice to initiate limited water rights adjudication to identify treaty-reserved rights for instream flows in selected watersheds.

How the federal government is failing in its trust responsibility:

Habitat continues to decline despite investments in habitat enhancement.

Salmon recovery is based on the crucial premise that we can protect what habitat remains while we restore degraded habitat conditions. In the effort to restore salmon, many millions have been spent to protect and restore salmon habitat:

- The Salmon Funding Recovery Board has administered approximately **$788 million** in federal, state, and local funds since 1999.[40]
- The USDA's Farm Service Agency Conservation Reserve and Enhancement Program – developed to rebuild salmon habitat on agricultural lands – has allocated approximately **$71 million** since 1998 (80 percent is federal).[41]
- Since 1987, the Department of Ecology has administered approximately **$60 million** in federal clean water funds to protect beneficial uses – namely salmon.[42]

Unfortunately, these and other significant investments in recovery may not be realized because the rate of habitat loss continues to outpace restoration.[43] This decline can be attributed to the fact that current habitat protection is contingent upon the same programs that existed prior to the ESA listing of Puget Sound salmon. Moreover, since ESA listing, these programs have yet to be recalibrated to protect salmon habitat. The result, as the NMFS report explains, is that the current habitat protection system is based on the very same programs that failed to prevent ESA listing.[44] Nonetheless, many of these outmoded tools continue to be funded by federal dollars and authorized by federal agencies without conditions to require recalibration and alignment with recovery objectives.

The federal government approves funding for state programs that should protect salmon habitat, but do not.

The federal government financially supports the development and implementation of Washington's Shoreline Management Act (SMA), because it is the cornerstone of the state's Coastal Zone Management Program (CZMP).[45] As a result, extensive coastal zone management funds have been given to local governments to develop local plans for their shorelines, and to the state government to subsequently approve them. Since these programs relate to the shorelines, they also govern a large portion of critical salmon habitat.

The SMA was adopted prior to the ESA listing of salmon and has never been calibrated to protect the species, habitat, or the financial investments to rebuild habitat. In fact, in some instances, the SMA has been used to undermine it. For example, Washington state's highest court struck down the City of Bainbridge Island's moratorium on shoreline development, passed in part to prevent potential impacts to endangered salmon.[46] The court rejected the city's protective efforts because its moratorium prohibited what the SMA permits – shoreline development for single family residences, including bulkheads, and docks.[47]

Essentially, although the SMA is funded under the guise of coastal protection, it does not serve to protect coastal species such as ESA-listed chinook salmon and its habitat. In fact, as determined by the programmatic biological assessment for the Shoreline Master Program Guidelines:

> Many project types specifically regulated by *and allowed* under the guidelines are likely to adversely affect proposed critical habitat for Puget Sound chinook salmon.[48]

Another problem with the federally funded SMA program is that it employs a standard that is neither quantifiable nor specific enough to provide concrete performance standards to protect salmon habitat. For example, development of new SMA rules, which amended the state's CZMP, prompted NMFS to declare that the rules were so broad that they could not assess the effects of the rules on salmon.[49] Moreover, even the implementing state agency agreed that the SMA contains an incalculable performance standard, which the state then defers to local governments to quantify. [50]

The nationwide permit system is streamlining habitat modification and inhibiting treaty rights.

The U.S. Army Corps of Engineers is responsible for permitting actions that discharge dredge and fill material into waters of the state. These actions commonly include shoreline armoring, stream modifications, and the attending maintenance of those structures. The Corps' nationwide permit process provides a streamlined system for this work. In the Seattle District, approximately 1,000 permits are obtained each year.[51] The resulting cumulative armoring of waterways is a key cause for Puget Sound decline and habitat loss, in part because it affects nearshore fish abundance, distribution, and behavior patterns.[52] Ironically, the Corps' streamlined system helps build the very structures in which we are investing federal funds to remove as part of habitat improvement projects.

State policies are not protecting instream flows necessary for salmon, and federal protection is needed.

For more than four decades, the western Washington treaty Indian tribes have pursued a number of administrative, cooperative, voluntary, and inter-governmental approaches to define and establish the instream flows necessary to protect and restore salmon resources. Unfortunately, each of these efforts has failed to institute a comprehensive effort to establish instream flows to protect and restore fish habitat consistent with the treaty-reserved rights of the tribes.

Tribes are left with few options, because of a combination of the state-based priority date for instream flows (which is junior to most appropriations); municipal water purveyors' ability to dewater streams; the state's broad use of a vague "public interest" exception to override habitat protection; and the unwillingness of the state to enforce its own laws or control the cumulative impacts from permit-exempt wells. Based on the policies of state law, it will be impossible to truly restore or, at best, protect instream flows. The federal government needs to aggressively secure the protection of tribal rights to instream flows and resources through initiation of litigation or limited adjudications.

Enforcement is necessary to implement salmon recovery, yet federal agencies fail to take action.

On July 10, 2000, NMFS published its take guidance for Puget Sound. It listed a range of activities most likely to cause harm to endangered salmon habitat, which therefore violate the ESA. Implementing this guidance is critical to supporting salmon recovery. There appears to be only one instance of NMFS exercising its enforcement authority over these activities during the past decade. [53] Aside from this anomaly, we know of no further instances of NMFS exercising its enforcement authority to protect habitat.

The first item on NMFS' list of harmful activities is constructing or maintaining barriers to fish passage, e.g., fish-blocking culverts.[54] The Washington Department of Fish and Wildlife recently disclosed that 30 percent of randomly sampled culverts, despite receiving a state permit in the last 10 years, still resulted in blocked fish passage.[55] A state report also noted that increased regulatory presence and subsequent enforcement were necessary to ensure that landowners complied with the ESA. However, NMFS has not instituted ESA enforcement to help remedy this.

Another example of an action known to harm salmon is shoreline armoring. Washington's Shoreline Management Act provides an exemption from state regulation for shoreline homeowners who armor their shoreline.[56] Between 2004 and 2008 alone, the Washington Department of Fish and Wildlife granted 456 permits for new bulkheads in Puget Sound. This doesn't include replacement of old bulkheads.[57] However, NMFS has not used its authority to address any of these harmful habitat modifications.

Request for Federal Action

III. Establish federal oversight and coordination to align environmental and conservation programs to achieve salmon recovery and protect treaty-reserved rights.

The Problem

The federal government has a fiduciary responsibility to exercise its authority so that the tribes receive the benefit of the rights they reserved in their treaties. In western Washington, the government's fiduciary responsibility includes the protection and restoration of salmon and the habitat needed to ensure their survival and recovery. However, the process of salmon recovery crosses many jurisdictions, and there is a lack of leadership to ensure that programs are implemented consistently across those jurisdictional lines. This piecemeal approach to recovery has resulted in a lack of agency consistency and the implementation of federal programs that serve neither to recover salmon nor protect treaty rights. For example, NMFS threatens significant changes in approaches to salmon harvest because of orca concerns. However, EPA and NOAA remain complacent about the state of Washington's 17 years of non-compliance with the Coastal Zone Management Act – a key salmon and orca recovery component. In the meantime, federally funded salmon restoration actions are undermined by state and federal permitting processes that degrade salmon habitat.

The Remedy

The tribes seek stronger federal leadership to oversee the salmon recovery process and ensure successful implementation of recovery actions across jurisdictional lines. This leadership must serve to:

- Align funding programs to ensure achievement of recovery objectives.
- Unify federal agencies and resolve inter-agency conflicts to support salmon recovery.
- Hold federal agencies accountable for acts or omissions that lead to disparate treatment of treaty tribes or failing to protect treaty-reserved rights.
- Harmonize federal actions to ensure consistency and compliance with federal obligations and treaty rights.

How the federal government is failing in its trust responsibility:

Federal funding lacks alignment with salmon recovery efforts.

Many state and federal grant programs, while intending to make improvements, lack mechanisms to ensure that projects are consistent with recovery and protect treaty-reserved rights. For example, water temperature is a limiting factor for salmon survival, and many western Washington watersheds are temperature-impaired. To address this type of water pollution, the state, with significant federal funding, follows the federal Clean Water Act process and develops temperature total maximum daily loads, or TMDLs. Temperature TMDLs develop site-specific prescriptions to reduce stream temperatures, which ultimately are approved by EPA.

However, there are no assurances or accountability mechanisms that ensure that these pollution control prescriptions get implemented through relevant federal programs. For example, despite the fact that grants are the only tool used to implement TMDLs, neither the state nor EPA require that grant recipients actually follow the specific requirements of the TMDL. Instead, in an effort to provide assurances of implementation efficacy, the state requires riparian buffers be a mere 35 feet wide, which under most circumstances does not satisfy the requirements of their own TMDLs,[58] let alone the needs of salmon.[59]

Other state and federal conservation programs, such as the Natural Resources Conservation Service and Washington State Conservation Commission grants, also do not require their grant programs to implement these Clean Water Act prescriptions. Instead those programs rely on a planning process that ultimately lets the landowner decide what is best for salmon and water quality, even if those choices are contrary to federally approved TMDLs or salmon recovery plans.

Federal funding is not conditioned to ensure protection of treaty rights.

The tribes have called for state and federal action to better prevent pervasive pollution problems impacting treaty-reserved rights,[60] with little response or change. However, when non-Indian commercial shellfish interests recently cried for relief from fecal pollution problems, the EPA promptly provided $1 million to a local county for a pollution identification and correction program.

Unfortunately, the granting of funds did not include conditions that required the program to be consistent with water quality standards. After funds were turned over to the county, a governor-led inquiry into the process revealed that even the most basic of pollution controls, such as keeping cows out of streams, were not implemented.[61] Despite the EPA funding, a recent downgrading of 4,000 acres of shellfish beds occurred in this area, impairing treaty-reserved rights and prompting the governor to declare the overall effort a "failure."[62]

Federal approval of coastal protection plans has been unlawfully delayed for 17 years.

The Coastal Zone Act Reauthorization Amendments (CZARA), a component of the Coastal Zone Management Act, requires coastal states to develop and implement nonpoint pollution control programs that "restore and protect coastal waters."[63] To receive approval, a state program must meet both statutory and administrative criteria. If a state fails to submit an approvable program, up to 30 percent of coastal management assistance and 30 percent of the Clean Water Act nonpoint source pollution funding is to be withheld.

These programs were supposed to be developed by 1995, but 17 years later, the federal agencies have failed to approve the state's program. Final approval was withheld because of numerous deficiencies in the state's program, including a lack of communication between the involved agencies.[64]

With ESA listing of salmon and orca, the need for coastal protection is now more pressing than ever. Nonetheless, NOAA and EPA continue their complacency with the state's noncompliance, and have failed to rescind funding in accordance with the law. In Oregon, this institutional lethargy resulted in a recent lawsuit filed against NOAA and EPA to compel final agency action under the Administrative Procedure Act. The subsequent settlement ought to result in enforcement of TMDLs along the Oregon coast. Given the critical importance of protecting habitat, it is essential that leadership is exercised to ensure that basic federal obligations in Washington are met, and in a way that better protects salmon and treaty rights.

Leadership and oversight are needed to align salmon protection programs.

The tribes have worked hard to foster salmon recovery while other federally supported programs undermine this progress. Examples include:

- The federal government significantly invests in habitat enhancement, while federally supported programs such as the state Shoreline Management Act and Corps of Engineers permitting processes continue to degrade habitat.

- NMFS requires tribal harvest to foster salmon and orca recovery, while FEMA is allowed to administer its flood insurance program in a manner that results in continued degradation of salmon habitat and fewer orca.

- The federal government prepares to alter treaty harvest requirements because of orca prey needs, but continues a 17-year streak of not

pressuring the state to finalize its coastal nonpoint pollution plan – a key salmon and orca recovery component.

- Funding secured for conservation and environmental protections are handed out without basic conditions and assurances to require that those actions be consistent with recovery efforts.

Leadership and oversight of salmon recovery is critical to ensure that the myriad federal programs relied upon to implement salmon recovery are in fact working together to accomplish this fundamental goal. Federal leadership must be provided to synchronize actions and ensure protection of the tribes' treaty-reserved rights.

Afterword

This paper is an immediate request for action. Faced with waning salmon populations and declining habitat, the tribes fear for the loss of their cultures and treaty rights. For the tribes, fish and fishing are as essential to life as water and air.

Our requests are simple: Stop the disparate treatment of tribes. Start protecting our treaty rights. Provide leadership to ensure that this is done.

We ask you to act now, before it is too late for the salmon and the treaty Indian tribes in western Washington.

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[1] Puget Sound Chinook Salmon Recovery Plan at p. 354

[2] NFMS Northwest Region, Final Supplement to the Shared Strategy's Puget Sound Salmon Recovery Plan, November 17, 2006.

[3] NMFS, Puget Sound Chinook Salmon Recovery Plan – 2011 Implementation Status Assessment Final Report, 2011, at p. 6.

[4] Id at 20.

[5] Id at 15

[6] NMFS, Puget Sound Chinook Salmon Recovery Plan – 2011 Implementation Status Assessment Final Report, 2011, at 6.

[7] Carman, Taylor, and Skowlund, 2010, Regulating Shoreline Armoring in Puget Sound, in Shipman, Dethier, Gelfenbaum, Fresh and Dinicola eds, 2010 Puget Sound Shorelines and the impacts of Armoring – proceedings of a state of the science workshop, May 2009: U.S. Geological Survey Scientific Investigations Report 2010-5254. P. 49-54.

[8] SSHIAP analysis of Washington's 2008 Water Quality Assessment Data.

[9] SSHIAP analysis of data sources: *NOAA-CCAP 2006; NWIFC 2005; NWIFC 2010; WADNR 2010* . Conservatively, riparian forest cover with less than 65% cover has been determined to be insufficient for anadromous salmon and corroborated. However, NOAA has indicated in guidance that 80% cover was properly functioning, and <70% as not functioning. See National Oceanic and Atmospheric Administration, Coastal Salmon Conservation: Working Guidance for Comprehensive Salmon Restoration Initiatives on the Pacific Coast. Washington, D.C., (1996).

[10] Puget Sound Partnership, State of the Sound Report, Ecosystem Status and Trends at pp 80-82 (2009).

[11] Further information about Hood canal D.O. is available at http://www.hoodcanal.washington.edu/

[12] Further information is available in the annual monitoring report: http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr_nrsh_eelgrass_monitoring.aspx

[13] The following datasets were used to generate the Impervious Surface analysis and forecast for the Puget Sound region: Washington State Department of Natural Resources (DNR) Watershed Administrative Unit (WAU); NOAA CCAP. Coastal Change Analysis Project: Washington State Impervious Surface Polygons 1986 and 2006. NOAA Coastal Services Center. Charleston, S.C.; WA OFM. 2007. Projections of the Total Resident Population for the Growth Management Act (2000 to 2030, Low to High) Washington State Office of Financial Management. Olympia, WA; WA OFM. 2010. April 1 Population Determinations Official Change from April 1, 2000 to April 1, 2010. Washington State Office of Financial Management. Olympia, WA. WA OFM. 2011. WA OFM web site search to determine 1986 population by county. Using ArcGIS Desktop 9.3.1 Zonal Mean

function, the mean impervious surface value was calculated for each WAU draining to Puget Sound for both the 1986 and 2006 years. The 1986 and 2006 population totals were calculated for the counties containing the WAUs. The 2026 low, medium and high population estimates were also totaled for the same counties. Change values were calculated for population (2006-1986 & 2026 forecast - 2006) and impervious surface (2006-1986). A ratio analysis was performed comparing the change in population to the change in impervious surface to forecast the 2026 impervious surface change. The regional percentage increase in impervious surface was calculated for each WAU to generate the final thematic map using OFM's "High" 2026 county population estimate. The impervious surface categories are based upon the analysis by Tyson Waldo in the 2010/2011 Tulalip State of the Watershed report.

[14] SSHIAP, State of Our Watersheds Report - Principle Findings, 2011, p. 1.

[15] Id at p. 1

[16] Haas, A and Collins B., A Historical Analysis of Habitat Alterations in the Snohomish River Valley, Washington since the Mid-19th Century: Implications for Chinook and Coho Salmon. Report Funded by the Tulalip Tribes with some additional funding from Snohomish County, 2001.

[17] SSHIAP, State of Our Watersheds Report - Principle Findings, 2011, p. 3.

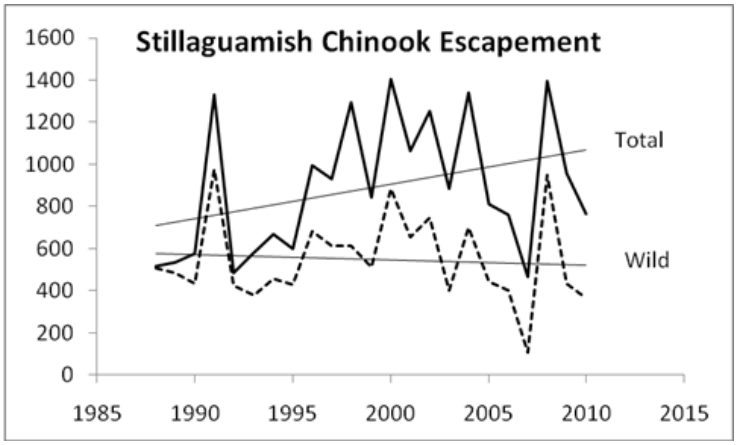
[18] Id. at p. 4.

[19] Id at 5.

[20] The Boldt decision was largely affirmed by the United States Supreme Court in *Washington V. Fishing Vessel Assn.***,** 443 U.S. 658 (1979)

[21] Harvest Rates and Graphs in this section are based upon the following: NWIFC, Analysis of Harvest Data from Tribal Online Catch Accounting System (TOCAS), 2011

[22] Despite dramatic reduction in the harvest rate of Stillaguamish Chinook, which has resulted in an increasing trend in the total number of spawners (escapement), the number of wild fish returning has not increased. Wild productivity is constrained by degraded habitat.



[23] To the extent that conservation-based restrictions on treaty fisheries are necessary, these are governed by the conservation necessity principles established in federal case law and reflected in Secretarial Order 3206.

[24] *See National Wildlife Federation v. NMFS*, 524 F.3d 917, 931 (9th Cir. 2008) (amended opinion) where the court held that NMFS read the species recovery requirement out of the ESA.

[25] *See* NMFS, Supplemental Comprehensive Analysis (May 5, 2008) at 7-5.

[26] *See* NMFS, Proposed Evaluation and Determination on Chinook Plan (12/14/10) (E&D) at 38-39.

[27] *Id*. at 69.

[28] *See* NMFS, Puget Sound Chinook Salmon Recovery Plan – 2011 Implementation Status Assessment Final Report, 2011, at 45 (Harvest plans have been implemented as anticipated. Harvest being managed to meet or exceed established thresholds); *see id*. at 43 (Habitat quality continuing to decline. Current habitat protection tools generally the same as those that failed to forestall ESA listing).

[29] *See* NMFS, ESA Section 7 Consultation Final Biological Opinion: Implementation of the National Flood Insurance Program in the State of Washington, Phase One Document – Puget Sound Region, NMFS Tracking No. 2006-00472) (September 22, 2008) at 3. *See also National Wildlife Federation v. FEMA*, 345 F. Supp. 2d 1151, 1163-65 (W.D. Wash. 2004).

[30] *See* NMFS, ESA Section 7 Consultation Final Biological Opinion: Implementation of the National Flood Insurance Program in the State of Washington, Phase One Document – Puget Sound Region, NMFS Tracking No. 2006-00472) (September 22, 2008) Appendix 4 at 222-223.

[31] NMFS requires that harvest management contribute to recovery by assuring that sufficient escapement occurs to make optimal use of current habitat conditions. Further harvest constraint, to produce higher escapement, would not result in higher productivity beyond the capacity of habitat. In concluding this is sufficient constraint of harvest NMFS, has stated that rebuilding to higher abundance, en route to recovery goals, is contingent on alleviating the habitat constraints, but federal consultations on actions affecting habitat are failing to require that habitat conditions improve.

[32] Public statements by NMFS staff at May 2, 2011 workshop instructing local governments how to comply with the RPA and flood insurance requirements. *See also* Letter from Dan Siemann, National Wildlife Federation, to Will Stelle, NMFS, and Ken Murphy, FEMA (May 17, 2011).

[33] As recently conceded by the Washington Department of Ecology: "Estimates of mitigation success vary, but local, regional, and national studies show that most mitigation projects fail to fully achieve their intended goals and are not effectively replacing lost or damaged resources, habitats, and functions. We are not even close to achieving the goal of no net loss for wetlands and other aquatic habitats." *See* WDOE, Making Mitigation Work: Report of the Mitigation that Works Forum (December 2008) at 1. This report is available at: www.ecy.wa.gov/biblio/0806018.html

[34] FEMA's Model Ordinance, and apparently NMFS' interpretation of its RPA, allows local governments to decide (regardless of expertise): (a) whether a given piece of floodplain or riparian habitat retains any fish habitat functions (*See* FEMA Revised Model Ordinance at 46 (commentary)); (b) whether a proposed action may affect any of these habitat functions (*Id*. at 52, §7.7(d)); and (c) how those impacts should be mitigated (*Id*. at 52-53, §7.8).

[35] While it is not yet fully recognized in the land management realm, harvest managers have long understood that they have a duty to manage salmon as needed to perpetuate harvestable runs. *See e.g., Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658, 684 (1979).

[36] See NMFS, Puget Sound Chinook Salmon Recovery Plan – 2011 Implementation Status Assessment Final Report, 2011

[37] *See* NMFS, Recovery Plan for Southern Resident Killer Whales (Orca) (2008) at II-87-96.

[38] *See e.g*., NMFS, ESA Section 7 Biological Opinion on the Effects of EPA Registration of Pesticides Containing Carbaryl, Carbofuran, and Methomyl (April 20, 2009) (finding that registration of such pesticides would result in both jeopardy and adverse habitat modification to Puget Sound Chinook); *see also* NMFS, DRAFT ESA Section 7 Biological Opinion on the Effects of EPA Registration of Pesticides Containing 2,4-D, Triclopyr BEE, Diuron, Linuron, Captan, and Chlorothalonil (May 2011 DRAFT) (finding that registration of pesticides containing 2,4-D jeopardizes Puget Sound Chinook and that adverse modification of habitat results from use of pesticides containing diuron, and chlorothalonil).

[39] The Departments of the Interior and Commerce have some familiarity with the conservation necessity principles. They are referenced in Principle 3 of Department of the Interior Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act (June 5, 1997).

[40] Governors Salmon Recovery Office, State of Salmon in the Watersheds Report, 2010, at p. 20.

[41] Based upon correspondence with Washington State's CREP coordinator

[42] Based upon correspondence with Department of Ecology's nonpoint source pollution (CWA § 319) coordinator

[43] NMFS, Puget Sound Chinook Salmon Recovery Plan – 2011 Implementation Status Assessment Final Report, 2011, at 43.

[44] *Id*.

[45] Department of Ecology, *Managing Washington's Coast, Washington's Coastal Zone Management Program*, Publication 00-06-029, February 2001, at p. 98.

[46] *Biggers v. City of Bainbridge Island*, 162 Wash.2d 683 (2007).

[47] *Id* at 698.

[48] National Oceanic and Atmospheric Administration - Ocean and Coastal Resource Management, Washington State Shoreline Master Program Guidelines Programmatic Biological Assessment, March 15, 2005.Page 7-12, emphasis added

[49] Letter From Steven W. Landino, Washington State Director for Habitat Conservation Division of the National Marine Fisheries Service to John King, Chief Coastal Programs Division NOAA Office of Ocean and Coastal Resource Management, re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for NOAA's proposed approval of the Washington State Shoreline Master Program guidelines promulgated by the Washington State Department of Ecology, April 23, 2009.

[50] In Washington State Department of Ecology's response to comments on Coastal Zone Management Section 309 Program Assessment and Strategy 2011-2015, the agency stated the following: "The [shoreline master program] SMP process involves conducting a cumulative impact analysis to determine whether or not the SMP will result in no net loss of ecological functions…However, at this time there are no broad tools available to quantitatively measure cumulative impacts, and jurisdictions are responsible for developing their own analysis."

[51] According to a recent meeting with the Corps in the Seattle district regarding renewal of nationwide permits

[52] Toft, J.D., Cordell, J.R. Simenstad, C.A. and stamatiou, L.A. 2007 fish distribution, abundance, and behavior along city shoreline types in Puget Sound: North American Journal of Fisheries Management, v. 27, p 465-480.

[53] On June 15, 2011, Darigold, Inc., pleaded guilty to dumping ammonia from its milk-processing plant into an adjacent creek, which resulted in the death of several ESA-listed Puget Sound chinook salmon. The corporation signed an agreement to pay a $10,000 fine and to donate $60,000 to a non-profit foundation to pay for habitat restoration work. In addition, the corporation committed to develop an environmental compliance plan to address risks at the half dozen plants it operates in five western states. EPA agents involved in the enforcement action noted that Darigold has a history of spills over the last decade in Washington streams. Seattle Times, Darigold Pleads Guilty to Federal Polluting Charges (June 16, 2011), http://seattletimes.nwsource.com/html/localnews/2015331678_darigold16m.html (accessed June 16, 2011).

[54] 65 Fed Reg 42472 (July 10, 2000) (NMFS Take Guidance).

[55] *See* Price, D., Quinn, T., and Barnard, J. Fish Passage Effectiveness of Recently Constructed Road Crossing Culverts in the Puget Sound Region of Washington State, North American Journal of Fisheries Management 30:1110–1125 (2010).

[56] *See* RCW 90.58.030(3)(e)(ii) (Shoreline Management Act exempts from regulation "construction of the normal protective bulkhead common to single family residences").

[57] *See* Seattle Times "Beaches Suffer as Walls Go Up" by Warren Cornwall and Justin Mayo (May 13, 2008) found at http://seattletimes.nwsource.com/html/localnews/2004409777_growth_shorelines15m1.html.

[58] *See e.g.* Washington State Department of Ecology, Stillaguamish River Watershed Temperature Total Maximum Daily Load Study, March 2004, Publication No. 04-03-010, at p. 71 *stating* that the load allocation for effective shade for all perennial streams in the Stillaguamish River watershed is the maximum potential effective shade that would occur from mature riparian vegetation.

[59] Washington State Department of Ecology, SFY 2012-2013 Water Quality Financial Assistance Guidelines, August 2010.

[60] *See e.g.* Lummi Nation letter to EPA, or Upper Skagit Tribe letter to Governor Gregoire.

[61]Government Management Accountability & Performance regarding Puget Sound, April 06, 2011 8:30am available at

http://www.tvw.org/media/mediaplayer.cfm?EvID=2011041010&CFID=4788631&CFTOKEN=15725173&bhcp=1

[62] *Id.*

[63] 16 USC § 1455b (a)(1)

[64] NOAA and EPA's Findings For The Washington Coastal Nonpoint Program

CHRISTINE O. GREGOIRE
Governor

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 ◆ Olympia, Washington 98504-0002 ◆ (360) 753-6780 ◆TTY/TDD (360) 753-6466

Greetings from the Governor

July 28, 2011

I am pleased to extend warm greetings to all of those attending today's Puget Sound Salmon Recovery Council meeting.

Salmon recovery continues to be a high priority for me and is important for all Washington citizens, as well as for future generations. Likewise, the recovery and restoration of Puget Sound is of great importance, and its recovery depends on the recovery of salmon—the two go hand in hand.

Now is the time to be real in our reflection on what we've accomplished thus far and ambitious in our work for the future. We have taken an All-H approach to salmon recovery—one that addresses harvest, hatchery reform, and habitat protection and restoration. We have integrated the federally-approved Puget Sound Chinook Recovery Plan and the Hood Canal Summer Chum Recovery Plan into the Puget Sound Action Agenda. We have made impressive progress in our efforts to improve the health of Puget Sound, including protecting and restoring habitat for salmon. We have invested more than $189 million since 2000 in 699 salmon recovery projects in the Puget Sound basin alone. But there is still a lot of work to do, and the next seventeen months are a time to continue to improve how we do business and to make strides in recovering Puget Sound and our local salmon stocks.

The conclusions of recent reports on the status of implementation of the Puget Sound Chinook Recovery Plan and the concerns of our tribal partners in this effort are real and important. The outstanding habitat issues are some of the toughest and addressing them will require political will and financial resources. During this meeting and beyond, we must work together to strengthen partnerships and improve our effectiveness in restoring salmon in Puget Sound.

We will only be successful if we continue to work together, the Washington Way.

Sincerely,

Christine O. Gregoire
Governor

Salmon Recovery Funding Board
Briefing Memo
Item 4

Meeting Date: August 2011

Title: Funding Renewal for WDFW Fish-in / Fish-out Monitoring

Prepared By: Megan Duffy, Governor's Salmon Recovery Office
Mara Zimmerman, Washington Department of Fish and Wildlife

Approved by the Director: Kaleen Cottingham

Proposed Action: Decision

Summary

The Washington Department of Fish and Wildlife (WDFW) is seeking continued support from the Salmon Recovery Funding Board (board) for monitoring adult and juvenile salmonid abundance at selected high-priority sites.

WDFW is requesting $208,000 for annual fish-in/fish-out monitoring beginning in October 2011. This funding would come from the fiscal year 2011 Pacific Coastal Salmon Recovery Fund (PCSRF) grant award. If approved, this funding will help fill remaining gaps in the statewide fish-in/fish-out framework. That is, it will provide enough monitoring of adults and juveniles to estimate productivity for at least one major population group[1] per Evolutionarily Significant Unit.

Staff Recommendation

RCO staff recommends that the board approve continued funding for WDFW fish-in/fish-out monitoring at the requested level. The contract period will run from October 2011 through September 2013 to allow for completion of seasonal sampling, data analysis, and reporting of results (since 2008, annual grants have been written with overlapping, two-year timeframes).

Proposed Motion Language

Move to approve $208,000 for WDFW fish-in/fish-out monitoring from October 2011 through September 2013.

[1] Major population group is defined as one primary population per sub-geographic area

Background

The National Oceanic and Atmospheric Administration (NOAA) and its technical review teams identified 28 Major Population Groups (MPGs) and found that a minimum of 86 primary populations may require monitoring to effectively assess delisting criteria in Washington State.

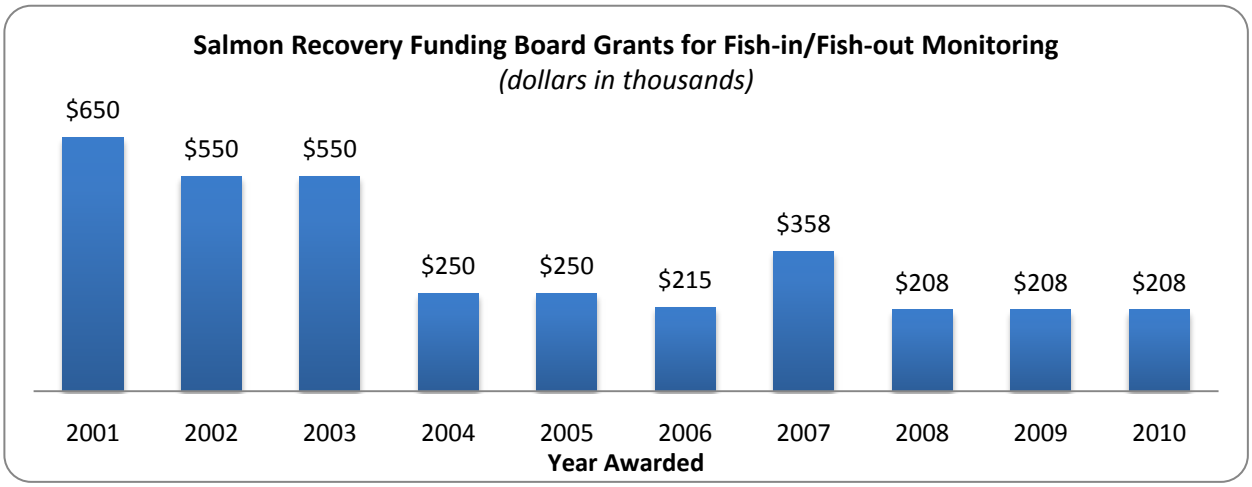
The Washington Forum on Monitoring (Forum) adopted a strategy in 2007 called the "Washington State Framework for Monitoring Salmon Populations Listed under the Federal Endangered Species Act and Associated Freshwater Habitats" (Framework). The Framework describes an approach to (1) track salmon abundance and productivity and (2) relate changes in freshwater productivity to habitat conditions.

The Framework recognized that it is unlikely that funding would be available to monitor all 86 salmon populations and their habitats at the level of intensity suggested by NOAA. Thus, the Forum focused on the most important populations and proposed monitoring juvenile migrants at the mouths of 34 rivers. With this approach, the state can gather information on 70 of the primary populations. WDFW will provide a list of all major population groups, primary populations, species, smolt, and adult abundance monitoring being conducted, the entity conducting the monitoring, and fund sources to the board at the August meeting.

Funding for Fish-in/Fish-out Monitoring

WDFW combines funding from several sources to support the highest-priority monitoring for adult and juvenile abundance (fish-in/fish-out), including state general fund, BPA grants, Pacific Salmon Fund Southern Funds, PUD contracts, and Salmon Recovery Funding Board grants. The program depends on funds collected from a variety of sources, none of which has the capacity to support the entire program.

As shown in the following chart, the board has awarded funds to WDFW for adult and juvenile salmonid abundance monitoring since 2001. The board contributes about 7 percent of the total funding for WDFW fish-in/fish-out monitoring.



The board funding comes from the federal Pacific Coastal Salmon Recovery Fund (PCSRF) grant award. This annual grant to Washington State requires that a minimum of 10 percent of the awarded funds be allocated to monitoring activities. In previous years, the board's monitoring program has included implementation monitoring, effectiveness monitoring, Intensively Monitored Watersheds, and status and trends (fish-in/fish-out) monitoring. This mix of activities, and the funding associated with them, was reviewed and reaffirmed by the Monitoring Forum in 2009 (http://www.rco.wa.gov/documents/salmon/agendas/2009/2009-10/item7.pdf).

Analysis

If approved, this funding will help provide enough monitoring of adults and juveniles to estimate productivity for at least one major population group per Evolutionarily Significant Unit. These populations are published in the "Washington State Framework for Monitoring Salmon Populations Listed under the Federal Endangered Species Act and Associated Freshwater Habitats."

The Governor's Salmon Recovery Office recommends that the board continue its contribution to this program for three reasons:

- The data obtained through this program are fundamental to salmon recovery;
- Participating in the funding of this program is consistent with the Comprehensive Monitoring Strategy; and
- The data support the Forum's Framework and high-level indicators for salmon recovery.

Next Steps

If approved, GSRO will enter into an agreement with WDFW to complete the work.

Additional Materials

The following will be provided at the meeting:

A. Attachment A: Table showing all current fish-in/fish-out monitoring sites needed for evaluating key populations identified for ESA recovery, including funding sources.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board Briefing Memo
Item 5

Meeting Date:	August 2011
Title:	Leque Island Estuary Restoration (RCO #04-1651), Request for Project Changes: Type, Scope, and Cost
Prepared By:	Brian Abbott, Section Manager Kay Caromile, Grant Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Decision

Summary

Ducks Unlimited received two grants to design and construct a levee setback project at Leque Island in Snohomish County. They are now seeking permission to change the project type from a construction project to a planning project so that they can complete required monitoring that will determine the project's potential to affect the groundwater drinking supply of Camano Island. The project type change would result in a cost reduction of about $282,000 and a time extension from September 1, 2011 until December 31, 2012. The sponsor's full request is included as Attachment A.

Staff Recommendation

The Salmon Recovery Funding Board (board) subcommittee reviewed the sponsor's requests in June 2011, per the policies in Manual 18, Appendix B (see discussion below). Given the complexity of the situation, however, the subcommittee deferred the decision to the full board.

Staff recommends approval of the proposed project type, cost change, and time extension amendments.

Background

Ducks Unlimited was awarded a Salmon Recovery Funding Board (board) grant of $569,356 in 2004 to design and construct a levee setback project on the Department of Fish and Wildlife's Leque Island Wildlife Area between the mouth of the West and South Forks of the Stillaguamish River in Snohomish County (Attachment B). In 2007, they were awarded a $97,750 cost increase with Puget Sound Acquisition and Restoration (PSAR) funds to complete the project. The cost increase was intended to cover additional construction costs, based on the final design. The project began on January 1, 2005 and was originally scheduled to end on June 1, 2009. The

project has received three time extensions, and is currently scheduled to end on September 1, 2011.

Project Design

As designed (Attachment C), the Leque Island Estuary Restoration Project would restore about 115 acres of estuarine intertidal vegetated wetlands on the Leque Island Wildlife Area. The project site was diked, ditched, and drained in the 1930s. Restoration activities include removing the dikes and restoring tidal inundation to 115 acres south of State Route (SR) 532. Spoils from dike removal, along with soils borrowed from the area between the setback levee and SR 532, would be used to construct the setback levee. The borrow areas are designed to provide 72 acres of freshwater wetland habitat when the project is completed.

The setback levee was originally intended to protect Eide Road and a private residence. Both are now owned by the Department of Fish and Wildlife (WDFW), but the setback levee is still necessary to protect SR 532 until the Washington State Department of Transportation (WSDOT) takes other action. The position of the setback levee and design of the freshwater wetland and related public access features were developed in consultation with stakeholders, principally the Washington Waterfowl Association.

Originally, Ducks Unlimited and WDFW proposed to construct setback levees on the north and south ends of the Leque Island Wildlife Area (that is, on either side of SR 532). However, the north side levee failed, flooding the portion of the island north of SR 532, so that portion of the project was eliminated. The existing south side levee has failed multiple times in three separate locations since 2007, but is being held together by temporary measures until a determination is made on how this project will proceed.

Benefits to Fish

Leque Island is one of the highest priority estuarine restoration areas due to its value as rearing habitat for juvenile salmonids. About 82 percent of intertidal wetlands have been lost in the Puget Sound[1]. Additionally, 78 percent of historic wetlands have been impacted or lost in the Stillaguamish watershed. This project will restore 115 acres of estuarine habitat in the Stillaguamish watershed and provide juvenile rearing and refuge habitat for many of the anadromous fish stocks present in the Puget Sound. WDFW has identified eight different listed Chinook stocks from the Skagit and Stillaguamish Rivers that have the potential to use this restored habitat in the early stages of their life. In addition, juvenile coho, chum, sockeye and pink salmon depend on estuarine marsh. The Skagit and Stillaguamish Rivers also support five sub-populations of native char. One of these stocks is federally listed as threatened. Sub-adult char wintering in the lower reaches of these systems have been documented near the project site.

[1] Collins, B. D., and A. J. Sheikh. 2005. Historical reconstruction, classification, and change analysis of Puget Sound tidal marshes. University of Washington (Seattle, WA) and the Nearshore Habitat Program, Washington State Dept. of Natural Resources, Olympia, WA.

The Stillaguamish Watershed Chinook Recovery Plan identified the restoration of the 115 acres of salt marsh estuarine habitat on Leque Island as the number one priority for the following reasons: 1) it is adjacent to areas subject to frequent tidal and seasonal flooding, 2) it borders known Chinook migration routes, 3) there is historic evidence of blind tidal channels and salt marsh habitat, and 4) it is a large parcel in public ownership with little infrastructure.

Project Delays

The project began in 2005 with design work. The sponsor had planned to begin construction in 2008, but met permitting delays at the county level. Ducks Unlimited then pursued the use of WDFW's streamlined Hydraulic Project Approval (HPA) process, which exempts eligible projects from local permits.

The Farm Bureau contested the use of the streamlined HPA, based on the quantity of material that would be moved to construct the setback levee. They believed the amount exceeded the scale of project that the Legislature intended to be eligible for streamlined permitting. Mediation failed to come to a suitable solution. The appeal filed by the Farm Bureau was presented to the Hydraulic Appeals Board (HAB), which issued a stay, meaning the Leque project could not move forward as a "streamlined" project and would require full county permitting. Ducks Unlimited submitted a full permit package and fees to Snohomish County in May 2009, and expected to begin construction that summer.

In fall 2009, the Camano Water Systems Association (CWSA) and the Juniper Beach Water District (JBWD) submitted comments to Snohomish County Planning and Development Services, asserting that the removal of the existing dikes would result in increased saltwater intrusion into freshwater aquifers on Camano Island, affecting their water supplies[2]. Ducks Unlimited hired Dr. Anthony Burgess to investigate this possibility and address the concern. Dr. Burgess determined that the project would not harm the aquifer. Snohomish County Planning & Development Services required that the Burgess report be independently reviewed by a consultant approved by the county; this consultant (GeoEngineers) concurred with the Burgess report. Independent reviews by groundwater geologists from the Washington State Departments of Ecology and Health also supported the report's conclusions.

CWSA then contacted the federal Environmental Protection Agency (EPA), which exercised their right to intervene[3]. Martha Lentz, an EPA hydrogeologist, hosted a meeting of all concerned parties at the WDFW Region 4 offices in Mill Creek in summer 2010. They believed that they could not determine possible detrimental impacts to the groundwater system without further groundwater investigation. A technical committee was formed to develop a monitoring program that would determine (a) the direction of groundwater flow between Leque Island and Camano

[2] Mr. Ralph Ferguson, representing the Camano Water Systems Association, made public comment to this effect at the February 2010 Salmon Recovery Funding Board meeting.

[3] The project also uses federal National Coastal Wetlands grant funds; the EPA is required by law to review federally-funded projects to determine if the project would contaminate the aquifer. The Camano Island aquifer is a sole source of drinking water to the customers of Camano Island.

Island, and (b) whether the proposed project would risk contaminating the Camano Island aquifer. The technical committee included the following individuals:

Name	Representing
Dale Tyler	Camano Water Systems Association
Ralph Ferguson	Camano Water Systems Association
Jerry Liszak	Department of Ecology
Dave Brittell	Department of Fish and Wildlife
David Brock	Department of Fish and Wildlife
Kye Iris	Department of Fish and Wildlife
Doug Kelly	Ducks Unlimited, Pacific Groundwater Group
Tony Burgess	Ducks Unlimited, ABC Consulting
Martha Lentz	Environmental Protection Agency
Chuck Lindsay	Juniper Beach Water District, Associated Earth Sciences
Mark Savoca	U.S. Geological Survey

All members of the technical committee met in September 2010 and developed a 6 to 12 month groundwater monitoring plan to fully address the concern, as described below. However, since that time, the CWSA stopped using the services of their hydrogeologist (Mr. Lindsay) and prepared its own plan for monitoring groundwater in the area; they are no longer in agreement with the technical committee's proposal.

Technical Committee Proposal

The technical committee's proposed monitoring/modeling study includes:

- Installing a series of wells on three transects on the eastern edge of Camano Island.
- Monitoring water level, temperature, and salinity to (a) determine the direction of groundwater flow between Camano Island and Leque Island, (b) estimate the rate at which groundwater flows through the aquifer. The monitoring period would be about one year, including the time to place the wells.
- Developing a groundwater flow model using data collected from the monitoring wells and then using that model to simulate breaching/removal of the levees in order to predict the likely impacts of the proposed project (a) on water level and flow directions within the aquifer underlying Leque Island and (b) to wells on Camano Island.

The plan is described in further detail in Attachments D and E (preliminary plan and revisions, respectively). Review comments from the technical committee are summarized in Attachment F.

WDFW will use the results of the study to determine the future course of action for Leque Island. If the study demonstrates that breaching or removing levees on Leque Island will harm groundwater resources, WDFW will have to reevaluate their management goals and capabilities

for the Leque Island Wildlife Area. If the study shows breaching or removing levees on Leque Island will not harm groundwater resources, then WDFW plans to move forward with the project. Both WDFW and the Stillaguamish Watershed Council (the local lead entity) support the monitoring effort (Attachment G).

Analysis

Effect on the RCO Grant Agreement

Project Type Change

The sponsor is asking the board to approve a change from a construction project to a planning project. Board policy[4] states that the project type change decisions are made by the board or its subcommittee.

If approved, all construction would be removed from the scope of work. If the EPA monitoring plan demonstrates the project will not harm the aquifer, WDFW will apply for future grants to construct the project.

Cost Change

The reduction in scope would decrease the grant funds needed. That reduction would be partially offset by the cost for implementing the study. About $225,000 in grant funds already have been expended. Board policy does not currently address cost decreases in active projects, so it is appropriate for the board to make this decision[4].

The unused SRFB state funds ($171,532) would be returned to the statewide "pool" of available funds; it would be reallocated to cost increases or future grant rounds as needed. The PSAR funds ($97,750) would be returned to the pool of funds available for Puget Sound wide cost increases for PSAR projects.

Source	Current	Proposed	Difference
SRFB State	$569,356	$397,824	-$171,532
PSAR	$97,750	0	-$97,750
Total RCO	**$667,106**	**$397,824**	**-$269,282**
Match	$132,250 *(16.5%)*	$119,218 *(23%)*	-$13,031
Total Project	**$799,356**	**$517,042**	**$-282,313**

[4] Manual 18, Appendix B, SRFB Amendment Request Authority Matrix

Time Extension

To prevent damaging pastures and fields and to obtain access permission, the wells need to be installed during the dry season, roughly mid-June through early September. To capture essential data in the groundwater, the EPA requires monitoring during both a wet season and dry season. While this could theoretically be achieved in a six-month period, as a practical matter relative to the timing of funding and well placement, it is wiser to assume a year-long monitoring period to ensure a full span of data. The private landowners whose land would host the shallow wells have given their tentative access permission.

The proposed time extension, through December 31, 2012, would enable the sponsor to complete the monitoring, modeling, and associated report necessary to determine how the project can proceed. This grant would end at that point. Policy requires board approval for projects to continue longer than five years[5].

Board Subcommittee Review

The board subcommittee reviewed the sponsor's requests in June 2011. Given the complexity of the situation, the subcommittee deferred the decision to the full board.

Staff Recommendation

Staff recommends approval of the proposed amendments. The sponsor worked diligently to complete designs and address public, stakeholder, and permitting concerns in a timely manner. A valid concern has been raised by the local water district and association over the possibility of drinking water well contamination, which cannot be addressed without further study. Because of the necessary duration of the study and the uncertainty of its outcome on the direction of the project, staff does not support leaving this project a restoration project with no end in sight. They instead recommend re-scoping the project as a planning project.

Completing the groundwater monitoring/modeling study is necessary before the project can assume any direction in order to move forward.

Next Steps

If the board approves the contract amendments, staff will proceed with the changes immediately. The sponsor would need to complete all monitoring, modeling, and reporting by December 31, 2012.

This monitoring effort is part of the ongoing Snohomish County permitting process, so WDFW has obtained an extension on their permit applications. If the EPA monitoring plan demonstrates the project will not harm the aquifer, WDFW expects to receive permits, and will apply for grants

[5] Manual 7, Funded Projects, Section 2, Subsection 3: "Grant Time Limits and Extensions", Page 6, May 2010

to construct the project. Ducks Unlimited and WDFW believe the course of action outlined in the EPA monitoring plan and the proposed response to it fully incorporates the necessary scientific investigation and thoroughly incorporates and responds to valid public concerns.

Attachments

A. Sponsor Amendment Request

B. Project Vicinity Map

C. Proposed Project Design Site Plan

D. Proposed Monitoring Plan

E. Proposed Modeling Plan

F. Comment Summary Concerning EPA Revised Monitoring/Modeling Plan

G. Letters of Support

A: Sponsor Amendment Request on March 6, 2011

Dear Salmon Recovery Funding Board,

We are writing to inform the Salmon Recovery Funding Board of the need to amend our Leque Island grant due to changes in scope and challenges that have delayed proceeding to construction. Comments received during the Snohomish County permit review process have now led to involvement by the EPA and Island County, and resulted in the need to conduct an additional groundwater study to confirm restoration activities will not affect the Camano Island aquifer.

BACKGROUND:

Originally Ducks Unlimited (DU) and Washington Department of Fish and Wildlife (WDFW) proposed to construct setback levees on the north and south ends of the Leque Island Wildlife Area (on either side of SR 532), allowing breaching of existing levees and the restoration of approximately 115 acres of estuarine intertidal wetlands. During design, we found ways to add approximately 72 acres of freshwater wetland habitat on the south side, utilizing the borrow area needed for setback levee construction. Additionally, the existing north side levee failed, flooding the site; that portion of the project was then removed from the design.

This project was identified by WDFW as a high-priority restoration project. DU and WDFW have partnered on several habitat restoration projects and recognize estuarine wetland restoration as an important conservation strategy for the recovery of listed salmon stocks, and other estuarine dependent species. This project complements several proposed acquisition and habitat restoration projects, including the Nature Conservancy's project across Port Susan Bay from Leque Island, and is supported by The Skagit River Systems Cooperative, Stillaguamish Tribe, and Stillaguamish Salmon Recovery Plan.

The primary objective of this project remains unchanged: to restore 115 acres of native estuarine marsh, including the reconnection of several tidal channels to full tidal exchange. The removal of dikes will restore natural tidal functions and processes, including tidal flushing and sediment transport. Material removed from the existing levee will be incorporated into the setback levee to help protect the proposed fresh water marshes located to the north.

ACCOMPLISHMENTS:

To date, the project design has been completed and permitting is approximately 95% complete. These efforts included the topographic survey, geotechnical studies, hydrodynamic modeling of Port Susan and Skagit Bays, public meetings cohosted with WDFW, meetings with WDFW's Citizen's Advisory Groups and other stakeholders, and, during permitting, a literature-based review study of the groundwater.

The permitting process was first conducted as a fish-friendly "streamlined" JARPA, which resulted in the needed Hydraulic Project Approval (HPA) permit, clearing the path to construction in 2008, at which time bids were obtained for the first year's construction effort. However, the Washington Farm Bureau successfully appealed the HPA, resulting in a change that eliminated streamlining as a permitting option for projects of this size. This change required the project to apply to Snohomish County's Planning and Development Services (PDS) department for Grading, Flood Hazard, and Shoreline permits, with an additional comment opportunity provided to the Snohomish County Agricultural Advisory Board. These permits were applied for in May 2009, and the review process began.

CURRENT OBSTACLES:

During the PDS review, the Camano Water Systems Association (CWSA) and the Juniper Beach Water District (JBWD), both based in Island County, commented on the permit application, alleging the project would damage their aquifer. A study was immediately conducted by Dr. Anthony Burgess which stated the project would *not* harm the aquifer (Burgess 2009). PDS required an independent review of the Burgess report, which supported their conclusions. Groundwater geologists from WDOE and WDOH also supported the report's conclusions (Lindsay 2010 and Purdy 2010).

The CWSA contacted the EPA, which exercised its right to intervene based on the Camano Island aquifer being the sole source of drinking water to the customers of the CWSA and JBWD. If the EPA determines the project might harm the aquifer, no Federal funds can be spent on the project.

To address the CWSA, JBWD, and EPA concerns, several meetings were held in summer and fall of 2010 involving Snohomish County PDS observers, the EPA, WDFW and DU staff, and groundwater geologists representing the CWSA, JBWD, WDFW, WDOE, and USGS. It was conservatively decided to conduct six to twelve months of groundwater monitoring via a series of wells to be installed for that purpose. A draft study design was developed and then summarized in a letter from the EPA, which now forms the basis for the study (Marie 2010). Groundwater geologists representing JBWD/CWSA and WDFW concurred with the study approach, and DU and WDFW are moving forward with implementation.

The CWSA and JBWD, now also working with the Farm Bureau (FB) attorney and a representative from the Washington Waterfowl Association (WWA), have asked the Island County Board of Commission to intervene on their behalf with the Snohomish County Board of Commission. In a public meeting with the Island County BOC February 16, 2011, the CWSA, JBWD, and FB stated the State Environmental Policy Act (SEPA) checklist, which resulted in a Determination of Non-significance (DNS) was falsified in that it stated the project did not harm groundwater. This is, of course, the subject currently being evaluated under the leadership of the EPA.

Based on this alleged falsification, the CWSA asked the Island County BOC to write to Snohomish County and request them to step in as the lead entity for SEPA, and require a complete Environmental Impact Study. That EIS, according to the CWSA, would have to include a groundwater study that significantly expands upon the study with which their consultant previously concurred. They have estimated their proposed study would cost $1,500,000.

WDFW is committed to following through on the groundwater study, and DU is committed to providing the assistance they need, both with the study and with responding to public statements by project opponents.

When the study is complete in approximately July 2012, the results will be used by WDFW to determine their future management of Leque Island. If the study confirms the project does not harm groundwater, WDFW currently intends to construct the project as designed; we are asking Snohomish County to consider this study part of the on-going permitting process, so the existing permit applications do not have to be re-submitted (they normally would expire in May 2011, two years after submittal, and thereafter have to be resubmitted – starting this entire process over again). This would require re-application for new funding to finalize permitting and construction of the project.

If the study shows the project would harm groundwater, WDFW would have to re-evaluate their management of Leque Island. This would be a considerable challenge, due to the expense of rebuilding the existing levees (which are in a state of collapse, already), and also due to the permanent loss of estuarine habitat represented by making permanent the levee repairs that are, so far, only temporary.

Project opponents have requested meetings with the SRF Board, elected officials, and the Olympia leadership of WDFW. Their comments and statements often conflict with the facts of the project and with the understanding of groundwater geology provided by numerous private and governmental hydrogeologists. Additionally, questions regarding groundwater were not raised by the JBWD when they attended a public forum on the project in 2005, nor were they raised by the Farm Bureau during their HPA appeal, nor were they raised by the WWA, when they were involved in negotiating the project design as it now exists. In spite of numerous public meetings and opportunities to comment on the design, these groundwater issues literally were not raised until just prior to the final County permit being issued, and after considerable time and effort were expended incorporating public concerns into the design.

CURRENT STATUS:

As of February 24, the private landowners, on whose land the monitoring wells must be installed, tentatively agreed to allow access to drill rigs and monitoring technicians, and a field trip was conducted February 16 to "field fit" the well layout to wet field conditions. The adjusted well locations are now being mapped and will be sent to the reviewing geologists for their concurrence with the minor changes. Once that concurrence is gained, we will proceed with bidding the drilling effort. A consultant, Pacific Groundwater Services, has been involved on behalf of WDFW in the planning stages, and will be retained to participate in the drilling, install the monitoring instruments, and conduct the monitoring.

SCOPE OF STUDY:

The study consists of installing a series of wells on three transects in the bottomlands on the eastern edge of Camano Island, with two transects south of SR 532 and one north, as shown in the attached map (Monitoring Plan Layout). Wells will be fitted with instruments monitoring groundwater levels, temperature, and salinity.

TIMELINE:

Original plans called for monitoring the wells from March to September of 2011, a six-month period encompassing the spring rains and summer irrigation seasons; however, field conditions will prevent installing wells until approximately July 2011, and a one-year monitoring period is therefore recommended. This would end in approximately July 2012, with the resulting study available for review and use by August 2012.

RESULTS OF THE STUDY:

WDFW remains committed to the completion of the original project, as designed, but also is committed to conducting a thorough and open public process to resolve the groundwater issues scientifically. If the groundwater study supports the project, WDFW plans to re-apply for SRF Board funding for project construction, and has asked Snohomish County to extend the timeline on the May 2009 permit application to allow that construction. Should the study results not support the project, WDFW will have to re-evaluate the long-term management goals for the Leque Island Unit.

BUDGET:

Cost Estimate – Leque Island Groundwater Monitoring Plan 4/28/11

Description	**Unit Price**	**Quantity**	**Item Cost**
Lump sum for instruments based on Pine Environmental's quote	$40,000	1	$40,000
Lump sum for well drilling based on Cascade Drilling's quote	$42,420	1	$42,420
Pacific Groundwater Services (PGS) – monitoring per 6 month period	$5,700	2	$11,400
PGS – Plan development	$120	30	$3,600
PGS – Public, Stakeholder, and Regulatory meetings and support	$120	60	$7,200
PGS – Executive review	$150	4	$600
PGS – Hydraulic modeling	$20,000	1	$20,000
DU – Plan development and implementation	$97	120	$11,640
DU - Public, Stakeholder, and Regulatory meetings and support	$97	160	$15,520
DU – Surveying per EPA requirements	$77	40	$3,080
Ducks Unlimited – administration support	$77	24	$1,848
	Sub-total		***$157,308***
	15% Contingency		$23,596
	Total Estimate		**$180,904**

In conclusion, Ducks Unlimited and WDFW are very appreciative of the Salmon Recovery Funding Board's past and continued support of this crucial habitat project, including not only the funding, but SRF Board staff attendance at meetings with commissioners, project opponents, and other project supporters.

The level of opposition to this project is unusual for habitat projects, and while currently focused on groundwater issues, the opposition includes representatives more usually involved in farmland preservation and public-access waterfowl hunting issues. Because Leque Island's opposition seems rooted in land-use issues likely to arise on other salmon projects, SRF Board support in addressing and resolving those issues in a scientific, open, and public process is crucial to setting a standard for salmon restoration throughout Puget Sound.

LITERATURE CITED:

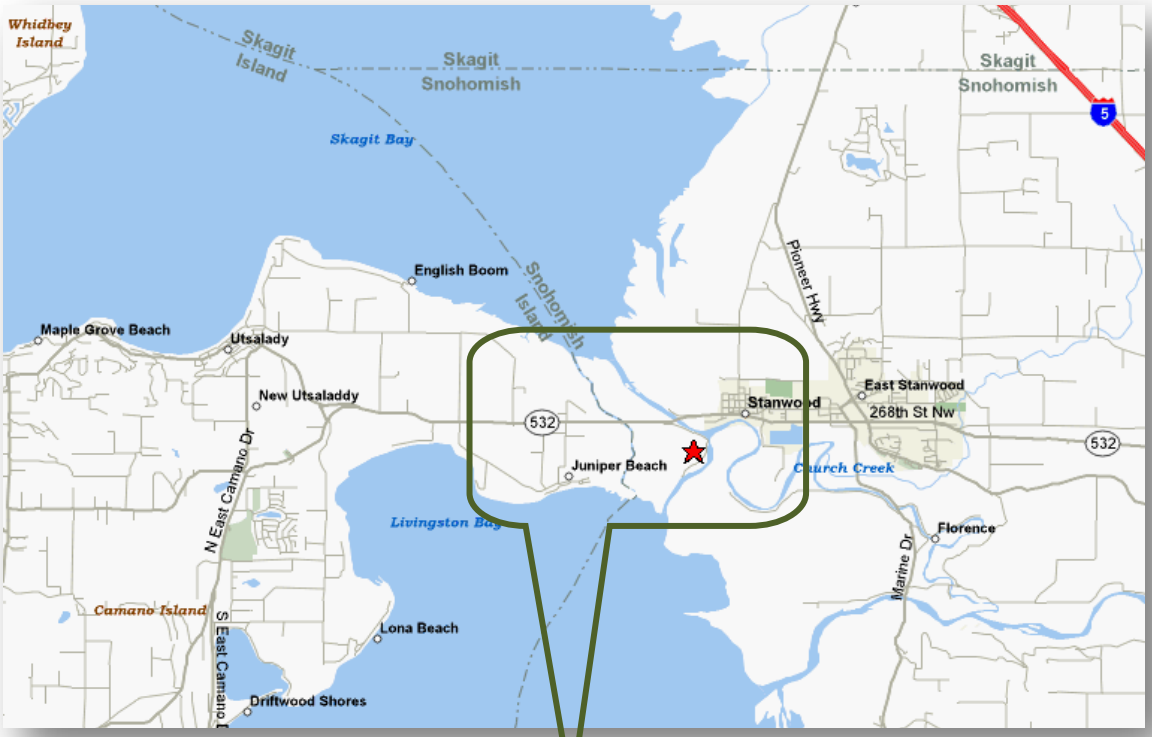
Burgess, Anthony. 15 December 2009. Hydrodynamic Modeling Assessment, Leque Island Restoration Project, Snohomish County. Anthony Burgess Consulting Inc.

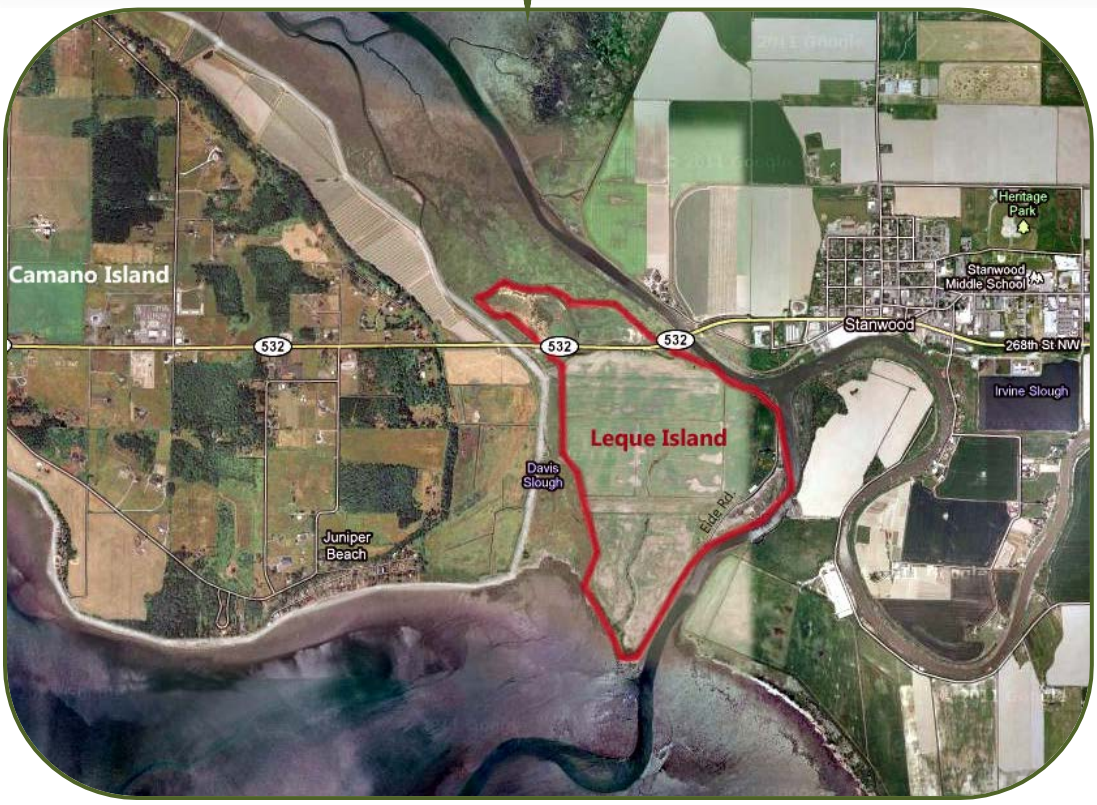
Jennings, Marie. 20 October 2010. Camano Island Sole Source Aquifer Project Review (Leque Island Project). US Environmental Protection Agency.

Lindsay, Charles. 4 May 2010. Potential Ground Water Quality Impacts, Leque Island Restoration Project. Associated Earth Sciences, Inc.

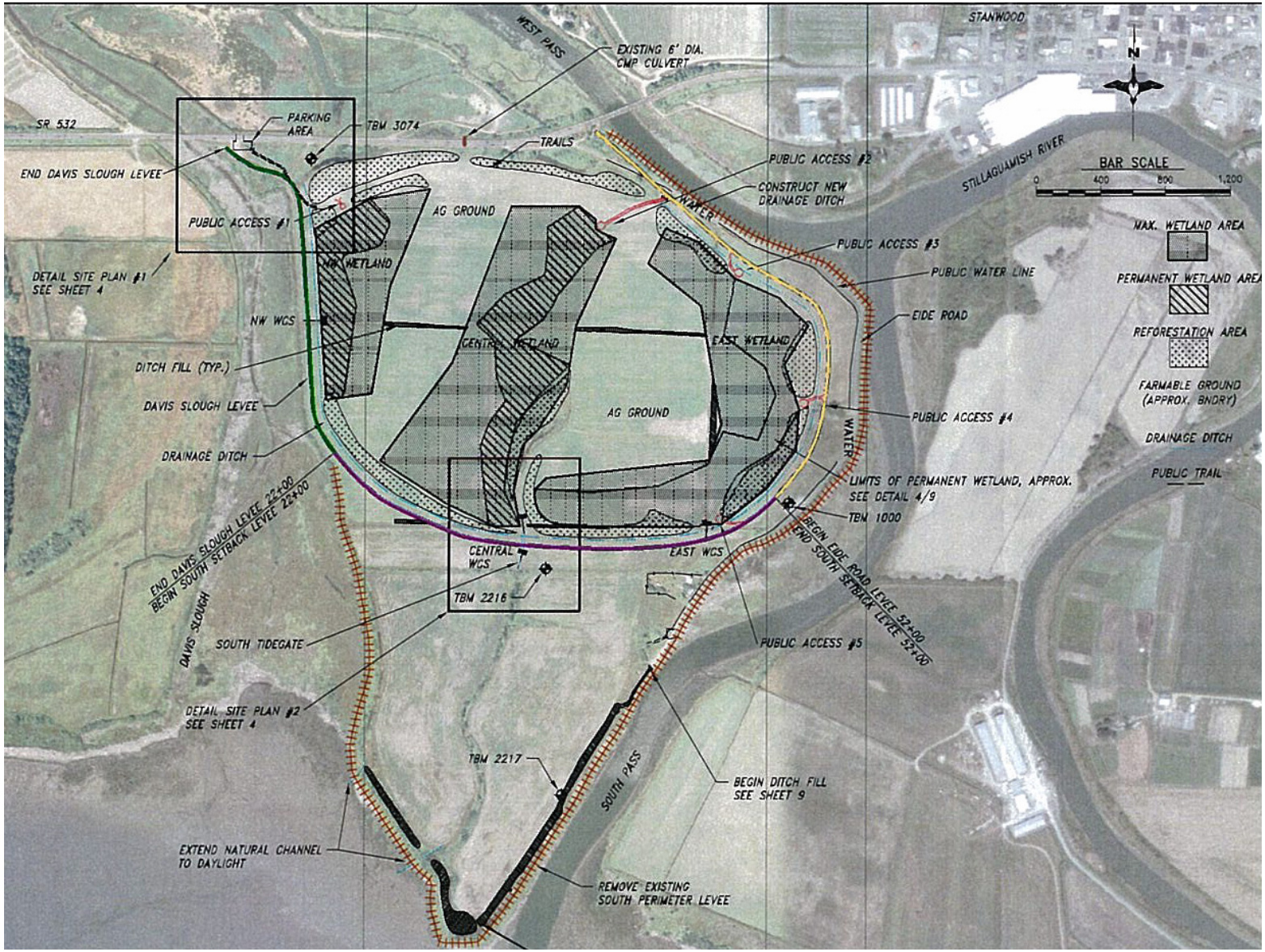
Purdy, Joel. 12 February 2010. Third-Party Review of Anthony Burgess Consulting Inc. Hydrogeologic Report. GeoEngineers.

Attachment B: Project Vicinity Map





Attachment C: Proposed Project Design Site Plan



DESIGN NOTES:

The design depicted above was developed after the purchase of the last private in-holding, while anticipating Snohomish County Public Work's vacation of the Eide Road ROW in favor of WDFW. It therefore shows the project design with full WDFW ownership of the island, except for the SR 532 and utility corridors.

The SR 532 bridge has been completed since the above design was finished. With built conditions in the NE corner of the site now finalized, some improvements to public access features in the NE corner of the site may be possible. Further, WDOT is evaluating their own options regarding SR 532 protections. Their deliberations and results should be factored into the Leque Island Wildlife Area Management Plan at the completion of the EPA Monitoring effort, to ensure efficient protection of the public interest.

In the drawing above, "max wetland area" is the area covered by water within each wetland when water is at the maximum depth – at this depth, water is being automatically released from the wetland via adjustable weirs and drained from the site via tide gates.

The "permanent wetland areas" are expected to be permanently wet, due to depths that prevent effective drainage.

"Ag Ground" is reserved for farming, and will be well-drained and suitable either for leasing to area farmers, or for raising crops suitable for wildlife use, or some combination of the two. It should be noted that the land between the maximum and permanent wetland elevation area may be farmed, depending on how the site is managed, and depending on weather conditions.

Restoration outside the levee is limited to filling excavated borrow channels created during original levee construction, and connecting remnant channels to full tidal exchange. Adjoining natural areas recruit and retain large amounts of large woody debris, and the restored Leque Island estuary is expected to do the same.

Attachment D: Proposed Monitoring Plan

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

October 20, 2010

Mr. Russell Link
Wildlife Program Manager
WA Dept of Fish and Wildlife
16018 Mill Creek Blvd
Mill Creek, WA 98012

RE: Camano Island Sole Source Aquifer Project Review (Leque Island Project)

Dear Russell,

As you know, Martha Lentz of EPA has been working on the proposed Leque Island project and has met with you and several stakeholders and technical staff regarding the concern of saltwater intrusion into the Camano Island Federally Designated Sole Source Aquifer. EPA is required by law to review projects that are federally funded to determine if that project would "contaminate the aquifer through a recharge zone so as to create a significant hazard to public health". After considerable deliberation, EPA has the following comments regarding the need for additional data. Specifically, additional information on the direction of ground water flow between Camano Island and Leque Island needs to be gathered in order for us to approve the expenditure of the federal funds for removing dikes on Leque Island. We are requiring the following data gathering efforts:

1. At a minimum, install 2 sets (transects) of monitoring wells that run in an east-west direction on the west side of Davis Slough, and one well site on the east side of Davis Slough. Two of the wells sites should be located close to Davis Slough and contain a pair of monitoring wells at appropriate depths to obtain vertical gradients. All transects should be south of Highway 532. The main purpose of these wells is to determine the direction of ground water flow between Davis Slough and Camano Island. The wells should be located so as to avoid the impacts of drainage ditches on the ground water system. The pair of wells on the east side of the slough will help determine whether the slough is a discharge point for ground water on the Leque Island side.

2. Data loggers should be installed in the wells to collect water levels and the following water quality parameters: Water Level, Temperature, Conductivity (More water quality parameters could be added depending on the price and need)

3. A tide gauge should be installed at an appropriate location.

4. We recommend that data be collected for a 6 month period, from March through September, in order to catch high and low ground water levels.

5. All wells should be surveyed and tied into any other wells that are located in the area.

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We realize that the installation of any monitoring devices and data collection is dependent upon access to the subject properties. If you are aware of better methods of determining the risk of removing the dikes to the Camano Island Sole Source Aquifer and want to share them with EPA, please feel free to do so. If you have questions about this letter, please call Susan Ennes at (206) 553-6249 or Martha Lentz at (206) 553-1593.

Sincerely,

Marie Jennings, Manager
Drinking Water Unit

2

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BAR SCALE

LEGEND:

- EXISTING GRAVEL-SURFACED ROAD
- FIELD ROAD – SEE NOTES
- WELL ACCESS ROUTE
- GAS LINE – APPROXIMATE – SEE NOTE 1

NOTES:

1. A MARKED GAS UTILITY CORRIDOR EXISTS IN THE VICINITY OF THE NORTH TRANSECT. THE CONTRACTOR SHALL ENSURE A ONE-CALL LOCATE HAS BEEN PERFORMED PRIOR TO DRILLING. WELL LOCATIONS SHALL BE A MINIMUM OF 100' FROM MARKED PIPELINE POSITIONS.

2 WELL LAYOUT REPRESENTS THE "FIELD-FIT" DESIGN OF THE MONITORING WELL LAYOUT SUMMARIZED IN THE EPA LETTER OF OCTOBER 2010.

3. ON-SITE GRAVEL-SURFACED ROADS SHALL BE RESTORED TO AS-FOUND CONDITIONS AT THE CONCLUSION OF WELL INSTALLATIONS. IF WELL DECOMMISIONING REQUIRES VEHICLE OR EQUIPMENT ACCESS, ROAD SURFACES WILL AGAIN BE INSPECTED AND RESTORED WHERE NECESSARY.

4. FIELD ROADS ARE GRASS OR BARE SOIL, SOME WITH EXISTING EVIDENCE OF TRAFFIC, AND SOME WITHOUT. IF CONDITIONS AT THE TIME OF WELL INSTALLATION SUGGEST RUTTING DAMAGE IS LIKELY, AREAS LIKELY TO BE DAMAGED SHALL BE PROTECTED WITH A 1' DEEP LAYER OF HOG FUEL, WIDE ENOUGH FOR EQUIPMENT PASSAGE.

5. WELL ACCESS ROADS SHALL BE LIMITED IN LENGTH AND POSITIONED ALONG FIELD EDGES (DITCH BANKS AND FENCELINES) TO THE MAXIMUM EXTENT POSSIBLE. WHERE FIELDS MUST BE CROSSED, THE ROUTE SHALL BE PROTECTED WITH A 1' DEEP LAYER OF HOG FUEL, WIDE ENOUGH FOR EQUIPMENT PASSAGE.

6. ALL WELLS TO BE INSTALLED USING A DIRECT-PUSH RIG

PRELIMINARY – REVIEW AND APPROVAL PENDING

Utility Notification Center
CALL BEFORE YOU DIG

UNAUTHORIZED CHANGES & USES
THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS.

SURVEY DATUM	
SURVEY DATE:	X
HORIZONTAL DATUM:	X
VERTICAL DATUM:	X
GEOID MODEL:	X
CONTOUR INTERVAL:	X
AERIAL PHOTO:	X

REVISIONS			
REV. NO.	DESCRIPTION	DATE	APPROVED
0			
0			
0			
0			
0			

DUCKS UNLIMITED INC.
Pacific Field Office
(360) 893-2011

PROJECT NO. WA-62-2

SKAGIT-SNOQUALMIE W.A.
LEQUE UNIT
MONITORING WELL LAYOUT

DATE: MARCH 1, 2011
SHEET NO. 1 OF 1
APPROVED BY:

GENERAL INFORMATION	
DESIGNED BY:	JBM
DRAWN BY:	BC
SUPERVISED BY:	N/A
CHECKED BY:	VARIES

Attachment E: Proposed Modeling Plan

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL ASSESSMENT

May 16, 2011

Leque Island Groundwater Technical Team

Ref: Request for Additional Leque Island Groundwater Study Review

Dear Colleagues:

While mapping the well transect locations for the groundwater study in February 2011 it was discovered that during the September 2010 Technical Team meeting at least some team members understood the failed levee on Leque Island south of SR 532 would remain open for the duration of the monitoring period. This meant the study would have been monitoring essentially post-project conditions. However, in December 2010, WDFW (Washington Department of Fish and Wildlife) repaired the levee. Barring additional levee breaches during the study period, the proposed groundwater study will now be monitoring groundwater with Leque Island protected against tidal inundation south of SR 532 but open north of SR 532. It has been proposed that the groundwater monitoring study developed last September be completed as planned, including the third transect north of SR 532 due to permit requirements pertaining to highway armoring and as field-fit during the February 16 field meeting with the private landowners. However, it is also proposed that modeling be conducted using study data to predict the impacts of any future tidal inundations of south Leque Island. This has been deemed an acceptable methodology by hydrogeologists for evaluation of potential impacts to groundwater resulting from the proposed project.

We would like to solicit the Technical Team members' concurrence with these revisions. Attached please find the October 23 outline of the original monitoring plan, a map of the field-located transects from February 16, 2011, and an outline of the planned modeling. We request your comments be returned via e-mail to Martha Lentz by May 26, 2011. Also, Dale Tyler of the Camano Water Systems Association has developed an alternative study and provided copies to Ducks Unlimited and the Washington Department of Fish and Wildlife. We would appreciate your comments on this proposal, as well. A response date of May 26, 2011 is also needed for this review.

Thank you very much for your continued involvement and expertise.

Sincerely,

Martha Lentz
Hydrogeologist

Attachments

1. CWSA Study Proposal, dated February 3, 2011
2. List of September 23, 2010 meeting attendees
3. EPA letter of October 23, 2010 outlining study
4. Modeling scope of work
5. Map of selected transects and well locations

cc: Dale Tyler, CWSA
Ralph Ferguson, CWSA
Chuck Lindsay, Associated Earth Sciences, Incorporated
Tony Burgess, ABC Consulting, Inc.
Doug Kelly, Pacific Groundwater Group
Jerry Liszak, WDOE
Mark Savosa, USGS
Dave Brittell, WDFW
David Brock, WDFW
Kye Iris, WDFW
Russell Link, WDFW
Bob Everitt, WDFW
Doug Hennick, WDFW
Steve Sumioka, USGS
John Axford, PE, Ducks Unlimited
Graham Peters, Ducks Unlimited
Chuck Lobdell, Ducks Unlimited

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PACIFIC groundwater GROUP

Memorandum

To: Leque Island Groundwater Technical Team

From: Doug Kelly, Pacific Groundwater Group

Re: Additional Groundwater Study Scope

Date: May 3, 2011

The original groundwater monitoring plan developed by the technical team in September of last year envisioned collection of groundwater data that represented the 'post-project' conditions. However, the levees on Leque Island have now been repaired, and the data collected from the network will reflect that fact. The purpose of the proposed additional hydrogeologic investigation is to evaluate the likely impacts of the proposed levee breach on water level and flow directions in the aquifer underlying Leque Island (and the similar aquifer / stratigraphy on the west side of Davis Slough). The evaluation will utilize data collected from the newly installed monitoring network to evaluate current (repaired levees) groundwater conditions. The monitoring wells will be utilized to conduct testing to estimate aquifer transmissivity. This testing will consist of constant-rate aquifer testing, tidal influence analysis, and possibly slug testing.

Data collected will then be utilized to develop a steady-state groundwater flow model to be used for evaluation of post-project changes to the groundwater flow system. The model will be three-dimensional in order to provide an assessment of changes to vertical gradients, which we believe are fundamental to our understanding of the flow system. The model will be calibrated to existing conditions, and then the boundary conditions will be modified to simulate breaching of the levees. Levee breaching will be simulated by introducing the estimated average quantity of additional recharge that will occur due to the breaching of the levees. The post-project model will be used to evaluate changes in water level and flow direction (vertical and horizontal) within the aquifer. Path / flow line analysis will be conducted to evaluate the fate of the induced saline recharge water. Deliverables will be a letter-report of our findings including data collection and analysis (aquifer parameters), model development, and model predictive analysis. The report will also include our conclusions and recommendations.

Attachment F: Comment Summary -- EPA Revised Monitoring/Modeling Plan

EPA Monitoring Plan Revisions of May 2011 – COMMENT SUMMARY

Ducks Unlimited assisted Martha Lentz of the EPA in compiling responses to her request for additional review and comments or concurrence from the Technical Team members. Her letter requesting comments was sent May 23, 2011. The following list outlines responses. Please note most comments were received verbally. All available written comments are attached.

Technical Team members:

Dale Tyler & Ralph Ferguson, CWSA – asked a series of questions regarding the intent of the study, which were answered by Russell Link of WDFW. No subsequent comments received.

Chuck Lindsay, Associated Earth Sciences, Inc. - No response. Mr. Lindsay was retained by CWSA during the preparation of the EPA Monitoring plan, but was not subsequently retained. The request was sent as a courtesy.

Tony Burgess, ABC Consulting, Inc. – generally concurs, minor additions to be incorporated. Dr. Burgess's comments are attached.

Doug Kelly, Pacific Groundwater Group – concurs; Mr. Kelly is a consultant retained by WDFW and DU to assist with study implementation, and authored the subject revisions.

Jerry Liszak, WDOE – concurs, per conversations

Mark Savosa and Steve Sumioka, USGS – in conversation with Graham Peters of DU, indicated USGS cannot officially comment on projects in which they are not directly involved, but that the methodology was generally appropriate.

WDFW & DU: The following WDFW and DU staff have been involved with the project's design and management, and with related budgetary and regulatory matters. While not on the Technical Team (which was limited to those with groundwater expertise), they were given the opportunity to comment. No comments were received, but concurrence can safely be inferred.

WDFW:

Dave Brittell
David Brock
Bob Everitt
Kye Iris
Russell Link
Doug Hennick

Ducks Unlimited:

John Axford
Graham Peters
Charles Lobdell.

Attachment G: Letters of Support

State of Washington
Department of Fish and Wildlife

16018 Mill Creek Boulevard • Mill Creek, Washington 98012 • (425) 775-1311 FAX (425) 338-1066

March 9, 2011

Kay Caromile, SRFB Grant Manager
RCO/Salmon Recovery Funding Board
1111 Washington Street
Olympia WA 98504-0917

Dear Ms. Caromile:

This letter outlines Washington Department of Fish & Wildlife's (WDFW) expected course of action in regards to the results of the proposed groundwater study being undertaken as part of the Leque Island restoration project.

WDFW is committed to following through promptly with the groundwater monitoring plan summarized in the Environmental Protection Agency's (EPA) October 2010 letter, and approved by Martha Lentz in her e-mail of March 2, 2011(copies of both enclosed). This study is scheduled for completion in early 2012, and will then be used by WDFW to evaluate two competing courses of action:

1. If the study shows breaching or removing levees on Leque Island will harm groundwater resources used by the Camano Water Systems Association (CWSA), WDFW will have to re-evaluate the Leque Island Management Plan. As part of that re-evaluation, WDFW will further evaluate the cost/benefit of the process of funding a design, permitting, and re-construction of replacement levees on one or both of the north and south sides of Leque Island. This process would require substantial funding for design, permitting, and construction, without relying on habitat restoration monies. Additionally, as the replacement levee design would differ substantially from the setback levee design, it would have to restart the same permitting process as the restoration project has gone through, including public review and comment.

2. If the study shows breaching or removing levees on Leque Island will not harm groundwater resources, then WDFW will evaluate which path to take to move the project forward. This could include increasing the number of breaches in the levees north of SR 532, constructing the setback levee and removal of the existing levee south of SR 532, or some other combination of actions. This will require WDFW to apply for and obtain new habitat restoration grants. It also may require repeating part or all of the permitting process; Snohomish County has been asked to consider this study part of the County permitting process, as it results from comments received by PDS. Whether they will provide that extension, or require re-applications, remains unknown at this time.

It should be noted the CWSA recently proposed a much larger and more costly study of groundwater impacts. This study was put forth by CWSA board members without the support of a qualified geohydrologist, and goes far beyond the requirements put forth by the EPA. Because the EPA study has been designed and vetted by qualified private and governmental hydrogeologists, WDFW feels it is the best approach to resolving any outstanding questions about the restoration projects impact on groundwater. WDFW does not intend to fund, seek funding for, or participate in implementing the CWSA proposal.

Sincerely,

Bob Everitt
Regional Director

Enclosures

Cc: Russell Link
John Axford

Stillaguamish Watershed Council (SWC)

SWC Members
Cascade Land Conservancy
Nick Harper

City of Arlington
Bill Blake, Co-Chair

City of Stanwood
Vacant

Clean Water District Advisory Board
Dave Ridgeway

Evergreen Fly Fishing Club
Jesse Scott

Mainstem Stillaguamish
Eric Hanson

North Fork Stillaguamish
Bill Best

Pilchuck Audubon Society
Jan van Niel

Pilchuck Tree Farm
Allen Staringer

Snohomish Conservation District
Bobbi Lindemulder

Snohomish County Council
John Koster

Snohomish County Noxious Weed Board
Sonny Gohrman

Snohomish County Planning & Development Services
Randy Middaugh

South Fork Stillaguamish
Vacant

Stillaguamish Flood Control District
Chuck Hazleton

Stillaguamish Grange
Vacant

Stillaguamish Tribe
Pat Stevenson, Co-Chair

Stilly-Snohomish Fisheries Enhancement Task Force
Ben Lubbers

The Nature Conservancy
Kat Morgan

Twin City Foods
Mick Lovgreen

Tulalip Tribes
Kurt Nelson

US Forest Service
Peter Forbes

Warm Beach Christian Camp
Kelly Wynn

Washington Dairy Federation
Vacant

Washington Dept. of Ecology
Ralph Svrjcek

Washington Dept. of Fish & Wildlife
Doug Hennick

Washington Dept. of Natural Resources
Calvin Ohlson-Klehn

Washington Farm Forestry Association
Duane Weston

Wild Fish Conservancy
Nick Gayeski

WSU Extension/Snohomish County
Kevin Zobrist

March 23, 2011

Kay Caromile, SRFB Grant Manager
RCO/Salmon Recovery Funding Board

Subject: Amendment request for Project #04-1651R, Leque Island Restoration Project sponsored by Ducks Unlimited.

Dear Kay,

The Stillaguamish Watershed Council (SWC) supports the implementation of the *Stillaguamish Watershed Chinook Salmon Recovery Plan* (2005). As part of the implementation of the Plan the SWC identified several necessary actions including estuary restoration through dike setback and channel reconfiguration, estuary creation by placing large wood in tidal areas, and increasing blind tidal and distributary channels for Chinook salmon. The Plan specifically identified the need to restore 115 acres of salt marsh estuarine habitat including blind channel habitat on WDFW property at Leque Island as a high priority.

The Ducks Unlimited amendment request for the Leque Island restoration project is the result of changes in scope and challenges that have delayed proceeding to construction. The amendments involve changing the scope from a restoration project to a feasibility study that would include completing a groundwater study to address concerns of impact to the groundwater aquifer. The outcome of this study will determine the feasibility of restoration at this site as designed. The amendment would also extend the contract end date in order to complete the groundwater study. The amendment would reduce the total cost of the project and the remaining funds would be returned and made available for other projects. The primary objective of the project has not changed. The SWC supports the Ducks Unlimited request for an amendment to the Leque Island Project.

Sincerely,

Pat Stevenson

Pat Stevenson, Co-chair

Snohomish County Surface Water Management
3000 Rockefeller Avenue, Everett, WA 98201
425-388-3024

Stillaguamish Tribe
PO Box 277, Arlington, WA 98223
(360) 631-0946

Camano Water Systems Association
P. O. Box 2554 Stanwood, WA 98292

"Helping Small Water Systems To Help Them Selves"
E-mail: tee1258@wavecable.com

www.camanoh2osystems.com

Kaleen Cottingham, Director
Recreation and Conservation Office
P.O. Box 40917
Olympia, WA 98504-0917

RE: The contamination of drinking water, ground water source supply by Salmon Recovery projects in cretin areas.

Dear Ms. Cottingham,

Your expressed interest in maintaining the integrity of the Salmon Recovery grant process through oversight of both grant recipients and project implementation as set forth in your letter of August 16th to Curtis Johnson, President of Western Washington Agriculture Association is sincerely appreciated . Such oversight should help provide some well needed structure in evaluating the shortcomings of a project and completing the projects cost benefit analysis.

However in considering that the purpose of the agreed-to design and construction audit is to in part ascertain the reason for the Seawater contamination of the previously productive adjacent farmland, it is suggested that rather than utilizing one of the currently retained engineers it might be more appropriate to retain the services of an experienced hydrogeologist knowledgeable of both surface and ground water flows and the resultant contamination accruing from such flows.

This alternative is being suggested as it is clear in reviewing Mr. Johnson's comments in his August 2nd letter to the SRFB that the contamination of the adjacent farmland groundwater is a direct result of the redirected Seawater flows into channels and areas previously protected from such contaminating flows. It is this new contaminating Seawater interface that needs to be thoroughly investigated.

As you know the contamination of freshwater aquifers by redirected Seawater overflows has been of extreme concern to Camano Water Systems Association (CWSA) since 2003 when members were informed that WDFW had received SRF grant monies in 2002 to contaminate the federally and state protected sole source aquifer by destroying Camano's farmland protective Davis Slough dikes and redirecting the overflow of contaminating Seawater onto the fresh drinking water supply source serving northeast Camano Island.

Informed that such redirected Seawater overflow would contaminate Camano's protected aquifer WDFW stated that they didn't believe such overflow would contaminate our aquifer and they would accordingly proceed with the English Boom-Leque Island Land Acquisition and Restoration dike removal projects.

When WDFW was told that it wasn't a belief but the irrefutable laws of physics that dictated and confirmed such contamination and that the Island County WRAC would oppose such project WDFW agreed to the withdrawal of the already funded Camano phase of the English-Boom Leque Island project. WDFW agreed further that before they would proceed with such dike removal project, although they still believed they would not contaminate the northeast Camano aquifer, WDFW would undertake and complete an extensive thorough on-site in depth study of the areas unique multiple aquifer interfacing hydrology proving beyond any shadow of doubt that such WDFW proposed dike removal would not adversely impact the aquifer serving northeast Camano Island.

Two very important events have occurred since that commitment was made in 2003.

I. First: WDFW had Ducks Unlimited on their behalf proceed with the proposed dike removal projects without having completed the WDFW promised extensive thorough on-sight hydrogeologic study.

II. Second: The contamination of adjacent groundwater supplies by redirected Seawater flows has been confirmed in the two areas reflected in the two RCO agreed to audits.

In considering this confirmed groundwater contamination from projects funded by Salmon Recovery Fund grant monies it is important to understand that the protection of drinking water supply is far more critical than the protection of farmland groundwaters. This is reflected in numerous county state and federal laws and regulations.

Accordingly as the apparently unanticipated Seawater contamination of previously protected groundwater has as a result of implemented projects funded by Salmon Recovery monies now been confirmed, you are encouraged to extend a moratorium on further expenditures of SRFB monies even though authorized but unused pending first the completion of the RCO audits of the Fornsby/Smokehorse and Wiley Slough projects and second the completion of

an extensive CWSA and Juniper Beach Water District approved hydrgeologic study that will prove no contamination of the adjacent groundwater supply as a result of the redirected seawater overflow of Leque Island.

Further on behalf of the hundreds of residents and property owners being served by the federal and state protected northeast Camano sole source drinking water supply, I would ask that RCO undertake an in-depth financial audit of all SRFB monies approved and/or used for Salmon Recovery projects in the Leque – Camano Island area since the English-Boom Leque Island Land Acquisition and Restoration project was initially considered in the early 2000's and approved for funding in about 2002.

Yours for safe drinking water,

Dale Tyler, President

Camano Water Systems Association

From: Jason Griffith
To: Connolly, Rebecca (RCO); Pat Stevenson
Subject: Written Comments from Stillaguamish Tribe, RE: Leque
Date: Thursday, August 25, 2011 3:58:36 PM

Hi Rebecca- Below are our comments to the SRFB regarding the Leque amendments

The Stillaguamish Tribe, Natural Resources Department, would like to express their support for the Leque island project amendments before the SRFB. As the SRFB is aware, restoring Leque to tidal influence is a top priority in the Stillaguamish and was specially called for by name in the 2005 Stillaguamish Chinook Recovery Plan. Since Ducks Unlimited first proposed the project years ago, several changes have occurred on the ground and in the community that have necessitated the amendments proposed by the project sponsor. This project is complex, and critical enough to our local salmon recovery efforts that it is imperative that the details and community concerns are addressed correctly the first time. The proposed amendments will provide the information necessary for WDFW to assess what, if any, restoration can occur at Leque.

Data collected by our department, paired with work done by the Skagit River System Cooperative in the Skagit has shown a high degree of juvenile Chinook salmon use in the tidal channels immediately surrounding Leque. During the brief period when the dikes were breached last year, Tulalip tribal biologists observed many thousand juvenile salmon (mostly pink and chum) in the interior ditches on Leque. Based on some crude modeling, we estimate that a restored Leque would help sustain more than 12,000 juvenile Chinook, ultimately increasing the Stillaguamish run size by about 60 adults. This is approximately 10% of the current wild run size in the Stillaguamish. Unpublished data collected by our department has confirmed hatchery fish from three different systems (Skagit, Snohomish, and Stillaguamish) using the tidal channels around Leque. Wild fish from these river systems are also thought to use the area around Leque extensively.

In short, Leque is a prime location to construct an estuarine restoration project, and every effort must be made to address the community concerns and move the project forward. Since the initial application was submitted to the SRFB 5+ years ago, WDFW has purchased several in holdings and removed structures. Pending the outcome of the groundwater study, there is now the opportunity to restore the entirety of Leque to tidal influence. This is an important and exciting development from our perspective, and we look forward to providing input into the Leque restoration planning effort in the coming months.

Sincerely,

Jason Griffith

Fisheries Biologist
Stillaguamish Tribe, Natural Resources Department
P.O. Box 277 Arlington, WA 98223
(360) 631-0868
FAX: (360) 435-3605
www.stillaguamish.nsn.us

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 6

Meeting Date: August 2011

Title: Follow-up on Bear River Estuary Project

Prepared By: Brian Abbott, Salmon Section Manager
Megan Duffy, GSRO Executive Coordinator
Lloyd Moody, Lead Entity Program Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Decision

Summary

At its regular meeting in May 2011, the Salmon Recovery Funding Board (board) received a staff briefing and heard public comment on project #10-1652, Restoration of the Bear River Estuary. Based on the concerns about public involvement in the process, the board voted to terminate the contract, but hold the funds for potential use for the project in the future. The board also directed staff to audit the public engagement process and to report back in August 2011. This memo and the staff report respond to that direction from the board.

Background

The board has awarded two separate grants related to the Bear River Estuary Restoration project, located in the southern reaches of Willapa Bay in Pacific County. The key objective for the project is to re-establish estuary functions for juvenile salmon in Willapa Bay. In 2009, the board approved funding for the Willapa Bay Regional Fisheries Enhancement Group to develop a design for the estuary restoration and to apply for the necessary permits to implement the project. In 2010, the board approved a construction grant to complete the estuary restoration based on the design developed with the 2009 grant.

The landowner associated with the Bear River project is the U.S. Fish and Wildlife Service (USFWS), which is currently considering alternatives for its Comprehensive Conservation Plan for long term management of the Willapa National Wildlife Refuge. The board-funded project is just one part of the larger Willapa National Wildlife Refuge Comprehensive Conservation Plan Environmental Impact Statement (EIS).

USFWS has conducted its public review process, including a public comment period, for three alternatives. As of the date that this memo is being written, the USFWS has not yet selected its final alternative, nor have the necessary permits been issued by the Army Corps of Engineers.

The USFWS expects to make a final decision by late August or early September, which is also the approximate time permit decisions are expected.

At the May 2011 board meeting, several members of the public commented that they were opposed to the Bear River Estuary project and indicated that there was a lack of public outreach by the lead entity as the project went through its review process. Additionally, the board received written correspondence from the public and elected officials questioning the project and the public review. The project also was the subject of an active editorial conversation in the local newspaper. Based upon the public comment, the board voted to cancel the existing project grant agreement with the Willapa Bay Regional Fisheries Enhancement Group and directed staff to audit the lead entity's public outreach process.

Update on Staff Actions

At the direction of the board, staff terminated the contract with the Willapa Bay Regional Fisheries Enhancement Group to implement the Bear River Estuary restoration project.

In addition, the board directed staff to audit the lead entity's public engagement process. Staff took the following steps to evaluate the lead entity's process:

- Prepared an audit checklist to guide the audit process (Attachment A)
- Assessed compliance of the Pacific County lead entity process and structure with statutory direction. (RCW 77.85.050)
- Assessed compliance of Pacific County lead entity with its lead entity contract obligations (including bylaws).
- Assessed compliance of Pacific County lead entity community outreach for the Bear River Estuary project with the board's policy guidance (A Guide to Lead Entity Strategy Development).
- Reviewed the project application.
- Met with Pacific County Commissioners and lead entity coordinator to review staff audit process and approach.

Findings from Audit of the Lead Entity's Public Engagement Process

The Pacific County Board of County Commissioners is the designated lead entity. The County subcontracts to the Pacific County Conservation District to implement and complete the scope of work as identified in the lead entity contract and to provide billing oversight.

Based upon staff review, it appears the Pacific County Lead Entity was not in compliance with statutory direction, its own bylaws, or the board's policy guidance when it submitted the Bear

River Estuary project to the board in August 2010. These deficiencies occurred in two key areas – lead entity structure and public outreach. Basic findings for each are below.

Pacific County acknowledges that its lead entity process was not in compliance in 2010 and, over the past two months, has taken significant steps to correct the issues and improve its citizen committee, technical advisory group, and governing bylaws.

Lead Entity Structure

When the Pacific County Lead Entity was created in 1999 under RCW 77.85.050, it identified the existing Willapa Bay Water Resources Coordinating Council (Council) as its lead entity citizen committee. The Council originally had a diverse group of 17 participating representatives, thereby meeting the intent of the citizen committee as identified in RCW 77.85.050 1(b), which states:

> *The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat.*

Council participation decreased over time however. As a result, only four participating members voted on the proposed habitat project list submitted to the board in 2010. This list included the Bear River project.

As identified above, RCW 77.85.050 requires representatives from a minimum of ten interest groups; the four representatives present when the Bear River Estuary project was approved did not represent the range of interest groups identified in the statute. Based on the lack of representation on the Council, it appears that the Pacific County Lead Entity was not in compliance with statutory direction when it submitted the 2010 project list that included the Bear River Estuary Project. Additionally, the Council bylaws identified a necessary quorum as nine Council members. The Council did not have nine members present on August 3, 2010 when it voted to include the proposed Bear River Estuary project as part of its habitat project list, thus violating its own bylaws.

Public Engagement

The board's policy direction[1] strongly encourages a public outreach effort that is adequate to gauge public support and/or opposition for proposed habitat projects before they are submit-

[1] *A Guide to Lead Entity Strategy Development*

ted to the board. The Pacific County lead entity has acknowledged that such outreach did not occur for the Bear River Estuary project.

In the past, the lead entity relied on the Council members to reach out to their associated constituents. In this case, representation was inadequate, and members were not given specific direction to contact constituents or stakeholders. Additionally, there was some reliance upon the outreach conducted by the U.S. Fish and Wildlife Service regarding the Willapa National Wildlife Refuge Draft Comprehensive Conservation Plan /Environmental Impact Statement because the Bear River Estuary project was part of one alternative being considered. Such reliance does not meet the intent of the board policy.

Lead Entity Response to Staff Audit

Throughout the staff audit process, the lead entity has taken several significant steps to address the issues identified. Specifically, it has recently created a new citizen committee with 12 newly appointed members. Additionally, the Commissioners have appointed new members to the technical advisory group, which now numbers nine individuals. The lead entity also has written a new set of bylaws for the citizen committee; the bylaws clearly identify a quorum as half of the citizen committee members.

Mike Johnson, the Pacific County Lead Entity Coordinator, is working with the new appointees in both groups to complete the lead entity's 2011 proposed habitat list for submittal to the RCO on August 26, 2011.

Next Steps and Board Decision

The board's assessment was correct in terminating the existing contract and directing staff to review the process used for selecting and approving the Bear River Estuary project. In response, the lead entity has made significant improvements that will benefit the future salmon recovery process in Pacific County.

The board now needs to determine how to address the project funds currently being held in abeyance for the Bear River Estuary project. The funds total $402,402.

Existing board policy would allow the lead entity to reassign the funds to an alternate on its 2010 project list within a year of the original funding date. This would require the Pacific County Lead Entity to determine whether or not the funds should be used for an alternate project before December 2011[2]. If the alternate were not funded, the funds would go back to the overall board funding for distribution in the 2011 grant round.

[2] The 2010 Pacific County project list identified one alternate – the Ellsworth Creek Restoration project. The total funding request for the Ellsworth Creek Restoration is $110,500. The project also is being proposed for funding in the current grant cycle.

The board also could elect to waive its existing policy and consider several additional options. The range of options for the board to consider is:

1. Allow the Pacific County lead entity to use the Bear River Estuary project funds for other salmon recovery projects in its lead entity area. This could be done in one of two ways:
   a. Within existing policy, the lead entity could choose to fund the 2010 grant round alternate – the Ellsworth Creek Restoration. This option would need to occur before December 2011. If the full $402,402 is not required to fund Ellsworth Creek, the remainder of the funds would return to the SRFB funding pot.
   — or —
   b. By waiving existing policy, the board could allow the lead entity to fund a new project identified in the 2011 grant round process;

2. Waive policy to allow the Washington Coast Sustainable Salmon Partnership region to allocate the funds from the Bear River Estuary project to other high-priority projects within the region. These projects would be identified and prioritized by one of the region's four lead entities in the 2011 grant round process;

3. Return the funds to the board's total funding that will be allocated in the 2011 grant round; or

4. Hold the Bear River Estuary project funds in abeyance until the December 2012 board funding meeting. These funds would be held specifically for the Bear River Estuary project in the event that the project is once again submitted by the Pacific County Lead Entity. Doing so allows time for a new sponsor to come forward and gives the new lead entity citizen committee time to evaluate the project. If the lead entity approves the project and submits it for board funding, the $402,402 would be allocated to that project, subject to board approval in December of 2012.

The Pacific County Commissioners cannot attend the board meeting on August 31, but have indicated they will send a letter with their lead entity coordinator, Mike Johnson, that will include a request to the board about how to address the funds.

Attachments

A. Audit Checklist

Pacific County Lead Entity
Local Public Engagement Process
Staff Audit Checklist

At its May 25th Meeting, the Salmon Recovery Funding Board voted to terminate the contract with the Willapa Bay Regional Fisheries Enhancement Group for the Bear River Estuary Project (Grant #10-1652), but to hold the project money in abeyance and allow the project to be resubmitted after again going through the local review process and demonstrating that public notice and involvement was appropriate and sufficient. The SRFB asked the staff to audit the Pacific County Lead Entity local public engagement process as well.

The staff audit will be based on statutory requirements, SRFB policy, and lead entity contractual obligations including the bylaws for the Pacific County Citizen Committee.

Statutory Requirements

RCW 77.85.050 provides statutory direction for the creation of a lead entity and directs each lead entity to establish a citizen committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the proposed projects. The committee is directed to compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list to the SRFB in accordance with procedures adopted by the board.

Statutory Checklist Question:

- Did the Pacific County Lead Entity have a citizen committee in place that meets the statutory requirements when it submitted its project list in 2010 to the SRFB? If not, explain.

SRFB Policy Guidance and Process Direction

SRFB policy guidance to lead entities on understanding and including local community values in their project prioritization process is embodied in "A Guide to Lead Entity Strategy Development" (5-03-05). This document provides clear policy direction to lead entities in assessing community values as they relate to salmon recovery projects through various forms of public outreach (i.e.; development of diverse citizens committee, circulating drafts of your strategy for public comment, town meetings, and personal interaction with interest groups and representatives of affected sectors).

The SRFB, through the Recreation and Conservation Office's Manual 18 (March 2010), provided process direction to project sponsors, lead entities and regional salmon recovery organizations in their collaborative process to develop their ranked project list for submission to the SRFB. The 2010 Manual 18 provided a lead entity strategy summary format with questions relating to how the lead entity assessed community support (see Section 4, page 30). The manual also asked if members of the community, recreational user groups, adjacent landowners, or others have been contacted about this project (see Section 7, page 45).

Policy and Process Checklist Questions:

- In keeping with SRFB policy guidance and process direction, what actions did the Pacific County Lead Entity take to assess the level of community support for the Bear River Estuary Project? Explain.

Lead Entity Contractual Obligations

As part of its grant agreement with the Recreation and Conservation Office, the Pacific County lead entity committed to a scope of work that includes several tasks. In task 2.01, the lead entity commits to conducting community outreach to ensure diverse membership of its citizen committee. In task 2.04, the lead entity commits to maintaining and updating a set of bylaws to be approved by the citizen committee that include membership criteria, attendance requirements, roles of all participants including chairs, voting structure and process, standing supporting committees and a decision-making process. In task 3.01, the lead entity agrees to develop an annual work plan which will include its community outreach plan. In task 4.02, the lead entity agrees to update and refine its habitat restoration and protection strategy, as needed.

Contractual Obligations Checklist Questions:

- Did the lead entity ensure diverse membership in its citizen committee and adequately encourage the members to interact with representative segments of the community? Explain.
- Has the lead entity updated its strategy as needed? Explain
- Did the lead entity maintain a set of bylaws that meet its contractual obligations and did it abide by them? Explain

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Chairman Hover and Board Members
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RE: CCP/EIS Final selection Alternate #2, Bear River Estuary Project 10-1652,

Dear Chairman and Board Members,

I would like to clarify my position and desire to go forward with this project. First let me say I have the greatest admiration for the staff of RCO and the work they have done over the years. I believe the concept to develop and implement a "bottom up approach and a willing landowner" has worked over all very well for this state.

Effective August 4, 2011, I retired as Manager and Vice-President of the Willapa Bay RFEG, after the Board withdrew the matching funds for this project. Additionally, after consolation with our auditor there is a conflict of interest with two Board members that is inconsistent with the IRS rules for non-profit groups,

I and the Landowner were considering re-applying for these funds through the Pacific County Lead Entity, but after reviewing the members added by the Pacific County Commissioners to the Citizens Group and Technical Advisory Group, many of persons are the leaders in opposing this project, I don't expect any different results, just more political theater. Pacific County leadership has and will remain opposed to conservation and salmon restoration, and the Commissioners selection of the new member reflects their bias. Pacific County leadership is broke, your process is not broke, don't fix it.

I will be working with the Willapa National Wildlife Refuge to seek other funding to accomplish this important and cost effective project. Before retiring I also withdrew two other projects I had for Lead Entity evaluation, both in the Bear River watershed.

Thank you, for all the projects you have funded for me in the past.

Sincerely,

Ronald D. Craig
August, 18 2011

Mixed feelings on new refuge plan

By CATE GABLE
Observer correspondent | Posted: Tuesday, August 23, 2011 6:00 pm

WILLAPA BAY — Despite the final approval of the 15-year comprehensive plan for the Willapa National Wildlife Refuge (WNWR), closely following alternative two, plenty of controversy remains. The plan was approved in early August and according to WNWR Director Charlie Stenvall, “The plan is over 1,000 pages long, but I think probably the most critical section is Appendix E — this is where we include and have responded to comments from the public.” (The final plan is available online at www.tinyurl.com/3p2w7o6)

The Executive Summary of the plan indicates, “We identified Alternative 2 as our Preferred Alternative, because it will best achieve these benchmarks and allow for public uses as defined by the National Wildlife Refuge System Administration Act.”

On the controversial issues of the Bear River dike removal, Stenvall indicated, “We’ve considered the issues and included all the citations: the science is absolutely crystal clear — tidal restoration is better for water fowl, for geese, for shore birds, and anadromous fish.”

The original Bear River dike removal and tidal restoration called for an increase of 749 acres of intertidal flats and salt marsh; instead 621 acres will be restored by removing dikes in the Lewis and Porter Point units. Additionally, to mitigate some concerns about wildlife in the cranberry bogs, the Riekkola Unit will now include 93 acres of short-grass fields to be managed for Canada geese and Roosevelt elk.

Pros and cons

Comments indicate that there are still many who feel the included changes do not adequately take into consideration the public concerns raised. Fred Cook, Long Beach resident, said, “I certainly have some strong opinions about the fact that very little was changed. Obviously no message got across to the powers that be, particularly Mr. Stenvall.”

“It’s a little bit of window dressing and a little bit of divide and conquer. The cranberry growers will be satisfied, and the plan also answers somewhat, the dusky Canada geese concerns.”

“But it mostly looks like ‘Damn the torpedoes and full speed ahead’ to me. The whole plan is beyond my scope of understanding,” he added.

Ron Craig, South Bend engineer, said, “The final decision by U.S. Fish and Wildlife Services provides about 98 percent of the benefits of estuary restoration for salmon that we were hoping for. Removing the dikes, roads, fish ladders, tide gates, and restoring the 38 tidal channels; and returning the area to its historic conditions.”

Commenting on the eventual move of the visitors center to the south bay area, Craig said, “The visitors center will provide an economic boost to the area, which U.S. Fish and Wildlife estimates at 200,000 visitors a year. The nature trail will provide handicap access to an overview of the historic estuary. I’m pleased.”

When asked about the timing for the refuge HQ relocation, Stenvall said, “The move will take some time — that would require an appropriation of sufficient size and with the budget cycles that we’re talking about now, it’s unlikely.”

“We’re number 18 on the list of wildlife centers for replacement. My prediction on how I see it working — we will work to move forward on things we have identified in the plan. Things will be funding dependent and some we can do without additional funding. Down the line we may say we know a little bit more about it and there might be things we may change as we go forward — the plan is a general guide line about what is the best thing for the resource at this point in time.”

Pacific County Commissioner Jon Kaino offered these remarks. “While I have not had the opportunity to read the plan thoroughly as yet, it appears they did make some minor changes to the Riekkola portion of Alternative 2 so that it no longer impacts the county road and neighboring properties, as well as providing for some residual pasture land for geese and elk.”

“That said, it seems clear that the overriding public sentiment that the Lewis and Porter dikes should be left in place fell on deaf ears,” he continued. “I am extremely disappointed (but not surprised) that the refuge didn’t respond to the overwhelming public comments to leave these dikes in place.”

Salmon and ducks

Stenvall knows the going could be rough in these weeks following the release of the final plan. “I suspect that the changes that we will make will not really mollify many of the folks who were opposed to parts of the plan.”

“But when you look at salt marshes historically around the bay, there used to be over 14,000 acres and now there’s less than 6,000 acres — that’s a reduction of 60 percent.”

“Salt marsh is critical rearing habitat for salmonids, especially chum, which are really having trouble. If you look up and down the West Coast there are 45 restoration and dike removal projects going on — no one is putting in dikes,” he said.

“The bottom line for the hunters is that they have a huge expansion in what they’re able to hunt — we’re expanding the water fowl hunting dramatically to seven days a week. We’re opening areas to elk and deer hunting. There’s a lot here that waterfowl hunters get. We averaged 4.5 hunters a day and we have doubled that capacity — for those who duck hunt, there will be two blinds in a tidal situation that have never existed before.”

Comments from Appendix E

The WNWR staff solicited comments on the draft plan during a 45-day period starting on Jan. 21. In response to requests from the public for additional time to review the details, the comment period was extended 60 days, ending in March.

The appendix includes more than 150 pages of selected comments from the 213 letters and emails received by the Wildlife Refuge. These are addressed in detail, many with citations and scientific references that either affirm or counter the comments, grouped categorically.

A few selected comments from the "Bear River Duck Hunters" section includes this citizen response. "If this project is approved, I believe the U.S. Fish & Wildlife Service should be responsible to develop a like amount of public land that has the access and quality for hunting waterfowl within the boundary of the Willapa NWR."

The WNWR response indicated, "In 2010, the goose hunting program had approximately 18 percent occupancy by approximately 44 individual hunters (119 hunter visits) in the eight blinds in the Riekkola and Tarlatt Units. The waterfowl hunting program had a similar amount of hunters. The final plan has been modified to include three blinds for goose hunting (including one ADA-accessible blind). This should accommodate the users of the blinds and provide a quality hunting experience. Furthermore, two blinds for waterfowl hunting (including one ADA-accessible blind) will create opportunities for those who want to hunt the tides but may not have access to a boat. Boat access to the bay will be through the new car-top boat launch at Dohman Creek, replacing the car-top ramp at Porter Point. The refuge's current boat launch facilities off of Highway 101 will also remain."

"In addition, as new areas are added within the expanded refuge boundary, hunting opportunities will increase. Additional improvements/facilities will be created as needed and as funding opportunities arise."

There were also comments that ran the gamut from "Ban driving on the beach north of Oysterville Rd year round! (Exceptions could be made for clam digs, if necessary)" to "Camping sites on Long Island would be desirable if measures are taken to prevent damage to old-growth forest and other natural areas of greatest importance (those least disturbed by people)."

Many of the comments supported the restoration of tidal marshes. "We likewise support improving of salmon breeding habitat by the restoration of intertidal salt marsh due to the proposed, carefully researched and controlled breaching of existing dikes." And, "Restoring natural processes to the maximum amount of currently diked habitat at the refuge will increase the bay's and ecosystem's resilience to potential sea level rise by allowing the natural processes to transport sediment into subsided areas, allowing full nutrient exchange between various marine and terrestrial systems, and provide improved food web connectivity between bay/salt

marsh/freshwater wetland/upland interfaces."

"Dike removal, restoration of wetlands, intertidal zones, and salt marsh is imperative to maintaining clean water in Willapa Bay and providing resting and feeding habitat to the millions of shorebirds that migrate through the region annually."

And finally, one comment squarely addressing one of the mandates of the refuge — support of salmon recovery: "The potential gains to salmonid populations, particularly chum, which are critically endangered, from the preferred alternative cannot be understated. The current exclusion of these populations from near shore areas has led to dramatic declines in a culturally and economically important fishery. With the restoration of these near shore and estuarine areas, habitat for these fish is greatly expanded, making recovery of these populations possible. Without restoration of these areas, there is serious risk of losing these populations entirely from future development and other human impacts. I encourage you move forward with the preferred alternative for the betterment of all in the region."

Public process found inadequate

After the loud public outcry about the tidal restoration included in the WNWR plan, the primary funding source for the Bear River dike removal, the Salmon Recovery Funding Board (SRF Board, commonly pronounced "surfboard") called for an audit of the public engagement process.

The results of the audit — conducted by Brian Abbott, Salmon Section manager; Megan Duffy, GSRO executive coordinator; and Lloyd Moody, lead entity program manager — are included in a "Briefing Memo" to the SRF board signed by director Kaleen Cottingham.

The audit showed deficiencies in two areas: the lead entity and the citizens committee. According to the report "The council originally had a diverse group of 17 participating representatives, thereby meeting the intent of the citizen committee as identified in RCW 77.85.050 1(b) … Council participation decreased over time however. As a result, only four participating members voted on the proposed habitat project list submitted to the board in 2010. This list included the Bear River project."

On the public engagement issues the report stated, "The board's policy direction strongly encourages a public outreach effort that is adequate to gauge public support and/or opposition for proposed habitat projects before they are submitted. In the past, the lead entity relied on the council members to reach out to their associated constituents. In this case, representation was inadequate, and members were not given specific direction to contact constituents or stakeholders. Additionally, there was some reliance upon the outreach conducted by the U.S. Fish and Wildlife Service regarding the Willapa National Wildlife Refuge Draft Comprehensive Conservation Plan /Environmental Impact Statement because the Bear River Estuary project was part of one alternative being considered. Such reliance does not meet the intent of the board policy."

Mooty said, “Frankly the Pacific County folks were very straight forward in recognizing that they had taken their eye off the ball a little bit and they have been working hard to make needed corrections in the public process.” The county officials’ responses to the audit report were swift. As Mooty indicated, “They’re working hard to clean up their lead entity process and make it compliant.”

“In smaller areas it’s difficult to put together these kinds of groups when it’s a volunteer effort and it grinds on — it’s time consuming and it takes a lot of focus and attention and coming up to speed on a lot of issues.”

Corrective action

In response to these inadequacies, Mike Johnson, lead entity coordinator for Water Resource Inventory Area #24 (the Willapa Bay region), admits that the engagement with the citizens’ committee fell dormant over time. “Most of the projects were culvert work — mostly no-brainers — so the importance of the committee dwindled.”

“We see this [audit] as a wake-up call to create a more full and robust public engagement process. This gave us an opportunity to invigorate our community process,” Johnson said.

Kaino also commented, “regarding the SRF Board audit, they made some recommendations regarding our process that we have implemented. First, the original citizens committee (enacted about 12 years ago) was the Willapa Bay Water Resources Coordinating Council, which was already in place at the time but was not initially formed for the purpose of salmon enhancement.”

“While it had a wide variety of members representing many different industries and interest groups,” he continued, “membership and participation had declined significantly over the years. Barely half the positions were actually filled and only three or four members were truly active. It was recommended that a citizens committee specific to SRF Board projects be formed and with the public interest created from the Refuge proposal we had more than enough applicants. We have appointed that group and they are participating in the current ranking process.”

“The audit also suggested that our practice of requiring county commissioner approval of the citizen committee’s rankings was not preferred and that the committee’s rankings should go directly to the SRF Board,” Kaino added. “We amended the process to include this recommendation as well, but will still require a ‘letter of no objection’ from the county commissioners on those projects that include property acquisition as those proposals have impacts on county tax revenues. Several other regions including the Lower Columbia Fish Recovery Board include this requirement on acquisition projects.”

Johnson indicated that announcements were put in the newspaper and sent out by email to enlist representatives from a broader base of community organizations. A list of current serving members of the citizens committee is available from the Pacific County Commissioners’ office.

Next steps

The SRF Board takes up the funding issue at there next regularly scheduled meeting in Ellensburg on Aug. 31. (Johnson noted that these meetings are pre-scheduled and rotate around the state in response to the idea that this meeting was deliberately schedule far from our region.)

Craig indicated that many of the new members “are the same leaders who are against this project which has effectively blocked us from re-submitting this project again or others in Bear River.” Johnson said there was a tacit understanding that if the Bear River project needed to go back through the public process, it would probably not make it. All members on all sides of the intertidal marshes issue seemed to be discouraged and worn down by the arguments.

Cottingham, the SRF Board director, indicated that the funds had been set-aside pending the results of the audit. When reached by phone last Friday she said, “I understand that the U.S. Department of Fish and Wildlife is going to pull this project.”

However, Johnson indicated that is not necessarily the case. “We are waiting to see what the SRF Board will decide at the next meeting.”

The Bear River Estuary project held in abeyance a total of $402,402. According to their brief, “Existing board policy would allow the lead entity to reassign the funds to an alternate on its 2010 project list within a year of the original funding date. This would require the Pacific County Lead Entity to determine whether or not the funds should be used for an alternate project before December 2011. If the alternate were not funded, the funds would go back to the overall board funding for distribution in the 2011 grant round.”

The 2010 Pacific County project list identified one alternate, the Ellsworth Creek Restoration project, with a funding request for around $100,000. Johnson said that this project, “is not controversial. It’s a good project. It’s a Nature Conservancy (TNC) Project to take out a culvert in the Ellsworth Creek restoration area.”

“TNC has taken out all adjacent stream roadways and put them on ridge tops and this culvert removal will open up one mile of salmon habitat.”

Johnson indicated that he and the commissioners will be preparing a letter to send to the SRF Board prior to the next meeting to indicate the Pacific County preference on what to do with the set-aside funds, “but the decision is still theirs. The original funds could get set aside for this Ellsworth project, or for something else in our region or anywhere on the coast. Or the money could go back into the state’s general fund.”

“We can ask for what we want, but they make the decision,” he said.

As Mooty, staff in the governor’s salmon recovery office, note, “Land Acquisition or dike breeching can be controversial sometimes because people have to understand what the

implications are. Salmon recovery is a long-term process and nobody said it would be easy.”

“It took us a long time to get into the problem we’re in with salmon recovery and it’s going to take a long time to turn it around,” he added.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 7

Meeting Date: August 2011

Title: Certainty of Landowner Commitments on Restoration Projects

Prepared By: Brian Abbott, Section Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

At a recent meeting of the Salmon Recovery Funding Board (board) subcommittee, a question was raised regarding the number of projects that fail due to a landowner's decision not to proceed with a project. The subcommittee requested a staff analysis to determine whether the board needs to consider revising its policies.

This memo and the staff presentation will highlight the complexities that arise in board-funded restoration and design-only projects that require a commitment from a private landowner. Despite potential complexities, less than 1 percent of the board's 963 restoration and design-only projects have failed because of a landowner decision not to allow a project to proceed on their property.

Background

Manual 18, Salmon Recovery Grants, includes two policies that specifically address commitments from private landowners: Landowner Acknowledgement and Required Control and Tenure of the Project Site.

Landowner Acknowledgement

Board policy requires sponsors to provide signed landowner acknowledgement form(s) when the sponsor applies for grant funds. The application must include a signed *Landowner Acknowledgement Form*[1] from each landowner involved, acknowledging that he or she is aware that their property is proposed for a project being considered for board funding (Attachment A). This requirement helps ensure that the sponsor has opened a line of communication with the landowner and that the landowner is willing to consider having a project on their property. It is expected that the sponsor will involve the landowner throughout the design and permitting

[1] Manual 18 Appendix K

process. The acknowledgement by the landowner is not a commitment to proceed with the final implementation of the project.

Board policy currently requires the landowner acknowledgement form for both design-only and restoration projects.

Required Control and Tenure of the Project Site

Board-funded projects should maintain their habitat value, integrity, and functionality over time. To help ensure this, sponsors must show that they have sufficient control and tenure of the project site through one of the following mechanisms: sponsor ownership, conservation easement or other similar property interest, or landowner agreement.

Board policy requires a signed agreement between the sponsor and the landowner for restoration projects that will take place on land that a sponsor does not own. At a minimum, the agreement allows access to the site by the sponsor and RCO staff for project implementation, inspection, maintenance, and monitoring. It also clearly describes and assigns all project monitoring and maintenance responsibilities. A landowner agreement must remain in effect for at least 10 years after the project agreement completion date. The agreement must be signed before construction starts. The agreement template[2] is included as Attachment B.

Board policy does not currently require a signed landowner agreement for design-only projects.

Analysis

Design Only Projects

There are many restoration opportunities on private land that could be highly beneficial to salmonids. The success of the board grant program depends on sponsors being able to take the time to build long-term trust and respect with local landowners.

Design-only projects are effective in developing landowner commitment, in part because they involve affected landowners from the beginning.

During the last few years, the board has offered "design only" grants with no match requirement to give an incentive for sponsors to develop complete (or near-complete) design work before they seek construction dollars. Splitting the design and construction phases of a project eliminates the need for the Recreation and Conservation Office (RCO) to hold construction funding, thus freeing the funds for other projects and reducing agency reappropriations.

Design-only projects also help sponsor address many of the challenges they face when pursuing restoration on private land, including landowner willingness. Often, sponsors cannot explicitly state the scope of the restoration work when they first contact the landowner. The design

[2] The template is in the board's policy manual (Manual 18) as Appendix L.

process allows the sponsor and landowner to scope different alternatives together, and arrive at a final design that can be permitted and achieve the desired fish benefits. Ultimately, the landowner makes the decision to move forward with the restoration work; generally, this happens only after he or she is fully aware of the design and alterations proposed to their property. The sponsor has an obligation to maintain clear communications with the landowner and to respect the rights of the property owner.

Frequency of Problems

Requiring acknowledgement, but not commitment, from landowners at the start of a design-only project does create a risk that funds will be spent on the design, but that the landowner will ultimately decide not to proceed. However, it appears that this has been a fairly infrequent occurrence over the last eleven years of board funding.

Since 2000, the board has funded over 786 restoration projects worth $163 million. In the same time period, the board has funded 167 design-only projects worth $20.5 million. Staff conducted an initial assessment, and believes that fewer than 10 of these projects were not implemented due to a landowner's decision to end the project once design work was complete. There may be additional situations in which the landowner chose not to participate after reviewing preliminary design concepts or permit requirements, but staff cannot identify those projects without an exhaustive search of the files.

Examples and Resolutions

At the August board meeting, staff will share three examples of projects in which the landowner did not want to proceed following the design work. The examples will demonstrate some of the difficulties and complexities of implementing projects on private land.

Staff also will present an example of a particular type of design/feasibility project that has been highly effective for landowner engagement and project commitment. These projects use the following basic approach:

1. Identify high priority projects (3 year work plan, current assessments, and field reconnaissance).
2. Acquire landowner approval for project development and produce a 30 percent engineering design.
3. Present projects for funding consideration to the lead entity and other grant programs.

Attachments

A. Landowner Acknowledgment Form

B. Landowner Agreement

Landowner Acknowledgement Form

Landowner Information

Name of Landowner:

Landowner Contact Information:

☐ Mr. ☐ Ms. Title:

First Name: Last Name:

Contact Mailing Address:

Contact E-Mail Address:

Property Address or Location:

1. (Landowner or Organization) is the legal owner of property described in this grant application.
2. I am aware that the project is being proposed on my property.
3. If the grant is successfully awarded, I will be contacted and asked to engage in negotiations.
4. My signature does not represent authorization of project implementation.

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Landowner Signature Date

Project Sponsor Information

Project Name:

Project Applicant Contact Information:

☐ Mr. ☐ Ms. Title

First Name: Last Name:

Mailing Address:

E-Mail Address:

Landowner Agreement

This Agreement, dated and effective beginning the day of , 20 , is made and entered into by and between the Landowner and Grantee identified herein. The parties intend that all terms of this Agreement shall remain in effect for a period of ten years from the date of project completion, and the agreement shall be binding on all successors in interest during this time.

Landowner Name (Landowner):

Street Address:

City, State, Zip Code:

Salmon Recovery Funding Board Project Sponsor (Grantee):

Grantee Name:

Street Address:

City, State, Zip Code:

Purpose of Landowner Agreement

The purpose of this Agreement is to identify and confirm the terms, conditions and obligations agreed upon between the Grantee, who is undertaking a project (Project) funded by the Salmon Recovery Funding Board (SRFB), and the Landowner, who owns the property on which the Project will take place.

The Grantee and Landowner mutually agree to participate in conducting the salmon habitat improvement activities described below on lands owned by Landowner in Watershed (Water Resource Inventory Area), County, State of Washington, Tax Parcel No. . The activities are also described in, and in accordance with, the Salmon Recovery Funding Board's Project Agreement No. dated , into which this agreement, once signed by both parties, becomes incorporated herein.

The Grantee Agrees to:

1. Be responsible for the design and installation of the project, and the conduct and activities of its staff, agents and representatives.

2. Provide the Landowner with a timeline of estimated dates of Project activities, including start and completion dates, and to keep the Landowner informed of progress.

3. Conduct the project-related activities described in the Project Description, as appended to this agreement.

4. Leave all remaining portions of the property in as near pre-project condition as reasonable, or as otherwise agreed upon in writing with Landowner.

5. Inform Landowner of project completion and the dates for this Agreement.

6. Hold harmless the landowner from any liability associated from injuries or damages occurring to workers implementing the project.

7. Identify the specific maintenance and/or monitoring activities that will be provided by grantee in an Attachment (Include frequency and duration).

The Landowner Agrees to:

8. Provide reasonable property access to the Grantee to plan, implement, and complete the project, and to conduct the long-term maintenance and monitoring activities, as described in the Project Description attached to this agreement.

9. Provide the Grantee and SRFB, or their employees, agents, representatives, or assignees, the right to enter the land, at reasonable times, and upon reasonable notice. Entry is solely for project implementation and management purposes, to inspect completed work, and to monitor long-term success of the completed project. Except in case of emergency, reasonable notice shall be given at least 48 hours prior to entry.

10. Not intentionally compromise the integrity of the project;

11. Inform Grantee of all known safety hazards on the property;

12. Identify the specific maintenance and/or monitoring activities that will be provided by landowner in an Attachment (Include frequency and duration).

Landowner has no obligation to provide access to parties other than the Grantee or SRFB. For the purposes of viewing the Project for information or educational purposes, Landowner and Grantee must mutually agree before such third-party access is offered.

General Terms

The Landowner shall notify the Grantee of changes in ownership of the property on which the Project is located within thirty (30) days of transfer. In the event of such transfer of ownership, the Landowner shall provide a copy of this Agreement to the succeeding owner prior to such transfer.

To comply with Executive Order 05-05, Archaeological and Cultural Resources.' Grantees may have to complete a cultural resources survey in response to any cultural resources concerns that might arise. Grantees will notify the landowner if a consultation is required. If required, consultations must be completed before construction begins.

This agreement may be terminated by the Grantee, if in its discretion, it determines that circumstances have rendered the Purpose of this agreement impractical to achieve. Termination also may be sought by either party by providing written notice to the other party. Such termination shall be effective only after authorized representatives of both parties have agreed in writing to such termination and SRFB has been provided a thirty (30) day advance written notice of such termination. If, in the event the project is intentionally removed, destroyed, or otherwise compromised in function, the SRFB reserves the right to seek reimbursement for the project costs incurred by, and paid to the Grantee with funding under the aforementioned SRFB Project Agreement.

This Agreement does not authorize the Grantee or SRFB to assume jurisdiction over, or any ownership interest in, the premises. The Landowner retains sole responsibility for taxes, assessments, damage claims, and controlling trespass. The Landowner also retains all benefits and enjoyment of the rights of ownership except as are specifically provided in this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

_____

Grantee Date

_____

Landowner Date

Provide a copy of this Agreement, and any amendments to this Agreement, to the SRFB: Washington State Salmon Recovery Funding Board, PO BOX 40917 Olympia, WA 98504-0917

Project Description and Maintenance Responsibilities

13. Written description of the project-related activities that will occur on Landowner's Property (consistent with project cost elements): (Include restoration/enhancement activities and any long-term maintenance needs and effectiveness monitoring activities that will occur in future years.)

14. Describe the maintenance and monitoring responsibilities of both the Landowner and Grantee for the term of this agreement. Include the activities, frequency and duration of work to be performed.

WASHINGTON STATE RECREATION AND CONSERVATION OFFICE
Salmon Recovery Funding Board

Salmon Recovery Funding Board
Briefing Memo
Item 8

Meeting Date: August 2011

Title: Overview of the Family Forest Fish Passage Program

Prepared By: Brian Abbott, Section Manager
Dave Caudill, Grant Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

This memo and the staff presentation will highlight the purpose, funding, and accomplishments of the Family Forest Fish Passage Program (FFFPP), which is jointly managed by Washington Department of Natural Resources, Washington Department of Fish and Wildlife, and Recreation and Conservation Office.

Private forest road crossings that are barriers to fish passage are a factor that limits natural fish production in every watershed in the state. This program's efforts to work with private small forest landowners to restore fish passage directly complement other salmon recovery efforts across the state. The FFFPP represents a great example of how interagency cooperation has worked well to implement a program, and illustrates the need for a more coordinated statewide fish passage program.

Background

Small forest landowners own about 3 million acres of forestland in Washington—about half the private forestland in the state. These family-owned forests are home to thousands of miles of fish-bearing streams and play a key role in helping Washington restore its once thriving fish populations. A single barrier on a stream can keep fish from reaching many miles of upstream spawning and rearing habitat.

As part of Washington's salmon recovery efforts, all private forest owners are required to fix artificial, in-stream fish barriers. In May 2003, the state Legislature committed to helping small forest landowners pay for these repairs by creating the Family Forest Fish Passage Program. Landowners enrolled in the program will not be required to correct their fish passage barriers until the state can provide financial assistance. Landowners not enrolled in the program, must correct the barrier at their own expense and any future Forest Practices Application for timber harvest could be denied until the barrier is corrected.

Program Details

The Family Forest Fish Passage Program provides funding to repair or remove fish passage barriers for small forest landowners. Funding comes from the Legislature through the sale of general obligation bonds. The program is implemented by three state agencies; each provides different program services:

- The Small Forest Landowner Office at the Department of Natural Resources (DNR) is the main point of contact for program information. The office assists landowners, provides outreach, and coordinates additional funding sources.
- The Washington Department of Fish and Wildlife (WDFW) evaluates and ranks projects, and also provides information on fish barriers, fish species, habitat, Lead Entities, and watershed groups.
- The Recreation and Conservation Office (RCO) administers program funding and manages program contracts, billing and reimbursement.

Under the program, the state provides 75 to 100 percent of the cost of correcting small forest landowners' fish barriers, along with technical assistance. The projects can be sponsored by the landowner or by another organization (e.g., a conservation district, Regional Fisheries Enhancement Group, local fish-related non-profit organization, tribe, etc.)

Project Selection

Once an application is received, a field technician evaluates the barrier[1] and determines if it meets the criteria as set forth in the Department of Fish and Wildlife's *Fish Passage Barrier and Surface Water Diversion Screening Assessment and Prioritization Manual*. A team from the three partner agencies, with input from local salmon recovery lead entities, ranks the projects in each watershed based on other barriers, the habitat opened, the number of salmon and trout species that will benefit, and the cost. After all projects are prioritized, a steering committee finalizes a list of funded projects. Those projects providing greatest benefit are funded for construction in July each year. Lower priority projects remain in the program to be funded once they become a high priority and money is available.

RCO staff will provide a brief PowerPoint at the board meeting highlighting some recent projects.

Analysis

The program has funded more than 200 projects in 27 of the state's 39 counties. The projects are estimated to have opened more than 420 miles of habitat to salmon and trout.

[1] RCW 76.09.020 (13) provides the following definition of a barrier: "Fish passage barrier" means *any artificial instream structure that impedes the free passage of fish*.

Although this program has been very successful in assisting small forest landowners, there are thousands of barriers remaining on county, state, federal and private lands that block critical fish habitat. Many of the known barriers have been identified through numerous inventories (many of which were funded by the board), but we believe that many barriers have yet to be identified; estimates vary, but the number is in the thousands.

At a the December board meeting, RCO staff will provide more information about the status of fish passage, possibly including a panel discussion by the various agencies that play a role in identifying and addressing barriers.

Attachments

A. Family Forest Fish Passage Program, 2010 Implementation Report

Bridge at Seitz Creek, Grays Harbor County, replaces culvert allowing fish to pass freely.

Family Forest Fish Passage Program

2010 Implementation Report

A Cost-Share Program for Small Forest Landowners to Improve Fish Passage

Washington Department of FISH and WILDLIFE

WASHINGTON STATE Recreation and Conservation Office

WASHINGTON STATE DEPARTMENT OF **Natural Resources**

Peter Goldmark - Commissioner of Public Lands

WISHKAH PROJECT
Grays Harbor Conservation District and local contractors completed the Wishkah barrier correction (landowners at left). The new bridge will help reduce erosion and allow for fish passage.

"I am absolutely tickled with the quality of the project and to have fish returning to our creek this fall. When the road was put in 50 years ago we had no idea the impact it would have on generations of salmon. We are very thankful for the Family Forest Fish Passage Program and to have fish returning and a new bridge to access our tree farm."

HERB AND DELORES WELCH
SMALL FOREST LANDOWNERS
[WISHKAH PROJECT]

It is estimated that for every $100,000 invested in fish passage projects, 1.57 local jobs are created during the construction season. This estimate does not include the additional indirect jobs like culvert and bridge manufacturing.

Investment in Removal of Fish Barriers Pays Many Dividends

With the passage of the 1999 Forest and Fish rules, new regulations were established that required all forest landowners to replace fish barriers on streams associated with their forest road crossings. To a small landowner this cost ($50,000 to $150,000) can be substantial and raise the risk that they might sell their lands to developers. Recognizing these potential impacts, the 2003 Washington State Legislature created the Family Forest Fish Passage Program to help reduce the regulatory and monetary burdens on small family forest landowners and reconnect critical fish habitat.

A legislative investment of $17 million during the last seven years has paid dividends: 500 miles of fish habitat are reconnected and 232 fish barriers corrected.

The job is not done however. Currently, there is a backlog of more than 400 landowners who have applied to the program to have barriers corrected and fish habitat reconnected.

The average cost to correct a fish barrier in 2008-2009 was $88,000. Current funding allows for about 30 projects a year, which creates about 50 jobs during the construction season.

The Wishkah project featured in this report was completed in 2010 for Herb and Dolores Welch. The United States Fish & Wildlife Service (USFWS) shared funding via a restoration grant.

The Welch family has managed its tree farm since the late 1930s. Herb remembers scores of salmon returning to the creek each fall until the culvert became a barrier.

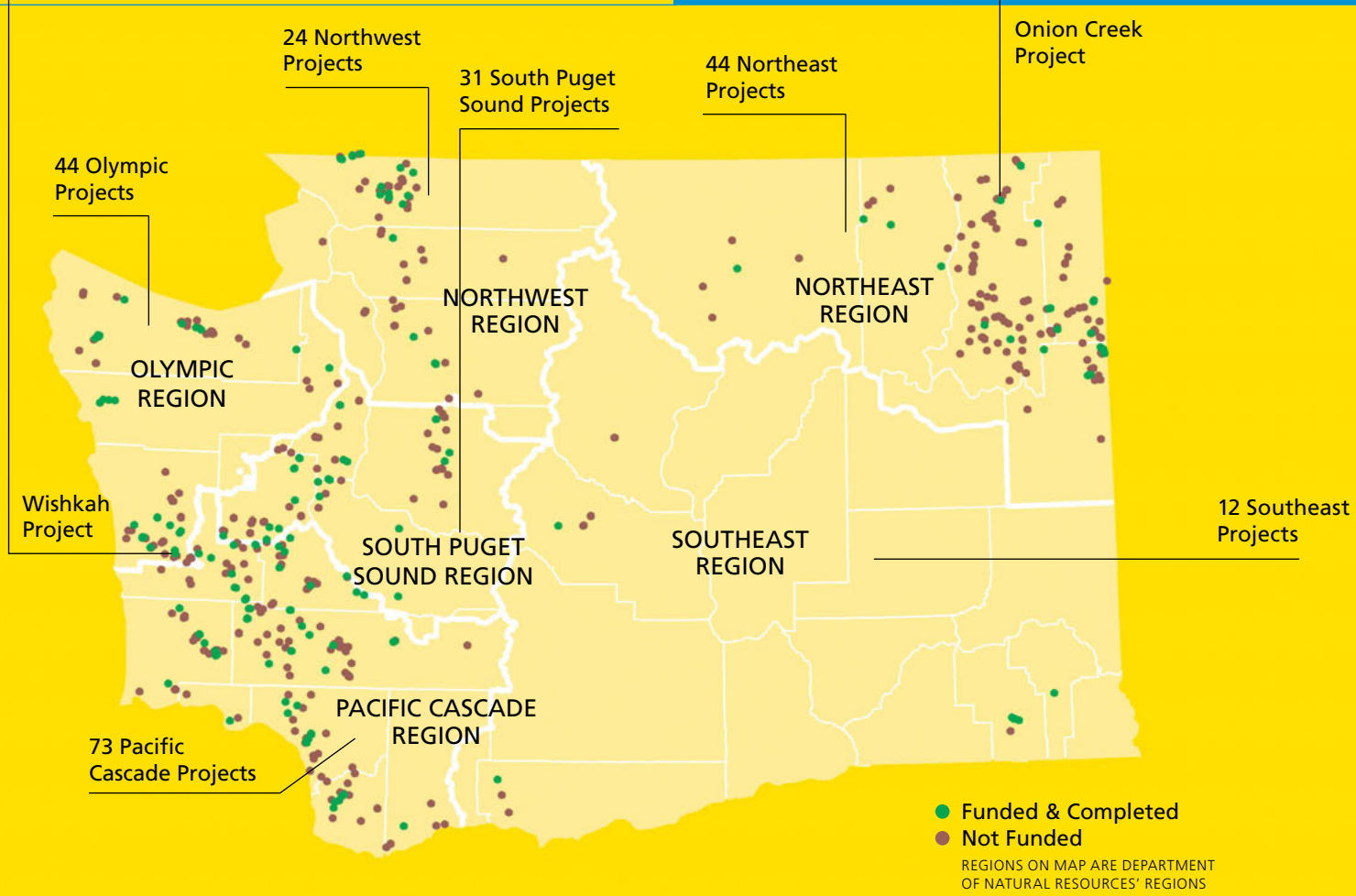
"They were so thick you could pitch-fork them from the bank," he said.

Now, with the help of the sponsor (Grays Harbor Conservation District) and the Family Forest Fish Passage Program, those teams of fish are expected to return to the stream any day.

PHOTOS BY LAURA TILL AND DAVID BERGVALL

Final installation of the new fish friendly bridge on the Wishkah project.

This project on Onion Creek in Stevens County opened 2.8 miles of habitat.



Funded and Unfunded Family Forest Fish Passage Projects

Fish Program Aids Small Forest Landowners

3.2 million acres* of forestland in Washington are owned by small forest landowners. **Ten thousand miles** of fish-bearing streams flow through these mid- and low-elevation forest lands and provide high value, prime fish habitat. Small family forest landowners have long periods of time between harvests and significant financial burdens to implement fish barrier corrections and road maintenance projects. The state Family Forest Fish Passage Program provides financial assistance to small family forest landowners and is one of the critical links in a comprehensive approach to forest road management.

* ROGERS, LUKE W., A. COOKE. (2010). THE WASHINGTON STATE FORESTLAND DATABASE (2007 VERSION, RELEASE 2). DIGITAL DATA, MARCH, 2010. SEATTLE, WA, UNIVERSITY OF WASHINGTON.

> **"The Family Forest Fish Passage Program is a well-managed government program which uses public tax dollars prudently for the benefit of the public resource and small forest land owners."**
>
> **SAM COMSTOCK**
> WASHINGTON FARM FORESTRY ASSOCIATION

Road to Recovery

The Family Forest Fish Passage Program is implemented by three state agencies: Washington State Department of Fish and Wildlife, Washington State Department of Natural Resources, and the Recreation and Conservation Office. Each agency brings its expertise to oversee the program's operations, outreach and project selection processes. An oversight steering committee approves annual projects and keeps procedures current. The Washington Farm Forestry Association joins the steering committee as a landowner organization.

The Family Forest Fish Passage program recognizes the critical role small family forest landowners' play in salmon populations and is committed to assisting with their economic viability. The Family Forest Fish Passage Program benefits are seen through:

- Creating jobs and economic opportunities in rural communities.
- Honoring and implementing Indian treaty fishing rights.
- Sustaining our forest industry and encourage renewable green products.
- Improving water quality in forested watershed by reducing sediment delivery to streams and spawning areas.
- Minimizing flooding and the downstream harm to habitat and property.
- Helping the recovery of Puget Sound.

Local Groups are the Cornerstone to the Program

Local groups (sponsors) experienced in fish passage corrections complete most of the projects. Sponsors manage the project design, construction oversight, permitting, billing, and grant management. A sponsor may be a Conservation District, Regional fisheries enhancement group, Local fish-related non-profit organization, Tribe, or other interested organization.

Project Sponsors

REGIONAL FISHERIES ENHANCEMENT GROUPS

Chehalis Basin Fisheries Task Force
Hood Canal Salmon Enhancement Group
Mid-Sound Salmon Enhancement Group
Nooksack Salmon Enhancement Association
Skagit Fisheries Enhancement Group
South Puget Sound Salmon Enhancement Group
Stilly-Snohomish Task Force
Tri-State Steelheaders
Willapa Bay Fisheries Enhancement Group

PRIVATE SPONSORS

Fisheries Consultants
Frame, LLC
LWC Consulting
PB Lumber
Pacific Coast Salmon Coalition
Pacific Forest Management Stewardship Partners
Wild Fish Conservancy

CONSERVATION DISTRICTS

Cascadia Conservation District
Clallam Conservation District
Clark Conservation District
Cowlitz Conservation District
Ferry Conservation District
Grays Harbor Conservation District
Jefferson County Conservation District
Kitsap Conservation District
Kittitas County Conservation District
Lewis County Conservation District
Mason Conservation District
Okanogan Conservation District
Pacific Conservation District
Pend Oreille Conservation District
Spokane County Conservation District
Stevens County Conservation District
Thurston Conservation District
Underwood Conservation District
Wahkiakum Conservation District

TRIBES

Confederated Tribes of the Colville Reservation
Confederated Tribes and Bands of the Yakama Nation
Kalispel Tribe of Indians
Lower Elwha Klallam Tribe
Nooksack Indian Tribe
Spokane Tribe of Indians
Stillaguamish Tribe of Indians
Tulalip Tribes

How Do I Get More Information?

Visit our website:
www.dnr.wa.gov/sflo

Program Partners

PROGRAM OUTREACH

Department of Natural Resources
Small Forest Landowner Office

Natural Resources Building
1111 Washington Street
MS 47012
Olympia, WA 98504-7012
(360) 902-1400
TTY: (360) 902-1125 TRS: 411
www.dnr.wa.gov

PROJECT EVALUATION AND RANKING

Department of Fish and Wildlife
Habitat Management Program

600 Capitol Way
Olympia, WA 98501-1091
(360) 902-2352
TTY: (360) 902-2207
www.wdfw.wa.gov

PROGRAM FUNDING

Recreation Conservation Office
Natural Resources Building
MS 40917
Olympia, WA 98504-0917
(360) 902-3000
TDD: (360) 902-1996
www.rco.wa.gov

LANDOWNER ORGANIZATION

Washington Farm Forestry Association
PO Box 1010
Chehalis, WA 98532
Contact: Sam Comstock (360) 736-5750
http://www.wafarmforestry.com/

The above agencies are responsible for implementing the program. The Washington Farm Forestry Association joins the agencies on a steering committee.

PRINTED ON RECYCLED PAPER
DECEMBER 2010

Salmon Recovery Funding Board
Project Tour Information
August 2011

Project Itinerary

8:00 a.m.	**Board members and staff depart from Ellensburg Holiday Inn Express hotel parking lot**
8: 30 a.m.	**Rendezvous with other tour participants at the Thorp Fruit Stand** *(Exit 93 off I-90, 14 miles west of Ellensburg, see directions at end of memo)*
8:45 a.m.	Arrive at Bruton Dam (RCO project #07-1551, site #1)
9:10 a.m.	Arrive at Taneum Canal Company (RCO project #07-1551, site #2)
9:40 a.m.	Arrive at Taneum Creek Large Wood Project (part of RCO project #08-2001)
10:50 a.m.	Arrive at Roslyn Park; carpool to next site
11:00 a.m.	Arrive at Cle Elum Log Jam (RCO projects #06-2141 and 11-1564)
11:35 a.m.	Arrive at Roslyn Park
11:45 a.m.	Arrive Hundley Conservation Easement (RCO project #06-2143)
Noon	**End tour** Participants can depart directly on I-90 for Seattle and Olympia, or, if headed east, car pool back to cars in Thorp and Ellensburg

Project Details

Taneum Creek Fish Passage (07-1551)

Type	Sponsor	Start Date	SRFB Grant	Match	Total Cost	Paid To Date
Restoration	Kittitas Conservation Trust	2/1/08	$281,429	$440,000	$721,429	$248,986

This project is in active status.

Description: The Kittitas Conservation Trust is using this grant to replace two ineffective and outdated fish passage structures in lower Taneum Creek by building new approaches at each diversion dam. Work includes finalizing engineering designs, getting construction permits, modifying the channel and replanting the work areas. Neither of the existing fish passage structures meets current standards. Modifying the stream channel will increase the ability of fish to access 30 miles of habitat during all water levels.

Large Wood Replenishment (08-2001)

Type	Sponsor	Start Date	SRFB Grant	Match	Total Cost	Paid To Date
Restoration	Mid-Columbia RFEG	2/24/09	$110,025	$21,700	$131,725	$4,277

This project is in active status.

Description: This project will replenish large woody debris in key reaches of high-priority tributaries in the Yakima Basin. Implementation will result in direct habitat benefits including increased pool habitat; retention/deposition of spawning gravels; cooler water temperatures; and improved floodplain connectivity. This wood used in this project will be harvested from adjacent, over-stocked coniferous stands, thereby decreasing fire potential and making the riparian timber less susceptible to insect damage.

Cle Elum River Instream Habitat (06-2141)

Type	Sponsor	Start Date	SRFB Grant	Match	Total Cost	Paid To Date
Restoration	Kittitas Conservation Trust	2/1/07	$320,120	$178,600	$498,720	$320,120

This project has been completed.

Description: The Kittitas Conservation Trust used this grant to design and build two logjams in the lower Cle Elum River, providing critical freshwater habitat for spring Chinook, mid-Columbia steelhead, bull trout and coho. Construction of the Cle Elum dam in 1933 and the ensuing regulation of flows in the lower Cle Elum River have reduced the extent and complexity of salmon rearing habitat. The dam had isolated the lower Cle Elum River from its upper watershed and the natural habitat forming processes associated with floods, sediment transport, and recruitment of large woody debris. Several meanders also had been cut off, limiting off-channel habitat for rearing.

Cle Elum River PH-2 Instream Habitat Design (11-1564)

Type	Sponsor	Start Date	SRFB Grant	Match	Total Cost	Paid To Date
Planning	Kittitas Conservation Trust	n/a	$172,000	NULL	$172,000	n/a

This project is being proposed for funding in the 2011 grant round.

Description: This planning and design project will produce the full range of preliminary and final engineering designs, exhibits, and construction notes for eight large engineered log jams that are proposed for construction in the lower Cle Elum River. The primary purposes of the log

jams is to restore instream habitat complexity for spring Chinook, Coho, Sockeye, Steelhead, Bull trout and all aquatic species, direct mainstem flows into side channel rearing habitat, and optimize freshwater habitat quality and availability in a flow regulated tributary to the Upper Yakima River.

Upper Yakima Protection-Hundley (06-2143)

Type	Sponsor	Start Date	SRFB Grant	Match	Total Cost	Paid To Date
Acquisition	Kittitas Conservation Trust	2/1/07	$29,463	$11,956	$41,420	$29,463

This project has been completed.

Description: The Kittitas Conservation Trust used this grant to protect 100 acres of floodplain in the Easton reach of the Yakima River, which includes prime salmon spawning and rearing habitat. The land, known as the Hundley property, is comprised of 500 acres that contain 3 miles of shoreline, 40 acres of connected ponds and wetlands and two small tributary streams. It is adjacent to 212 acres of property owned by the state Department of Fish and Wildlife and several hundred acres of conserved land associated with Suncadia Resort near Roslyn. Subdivision and rapid development had put the land at risk of fragmentation.

Driving Directions and Map

Holiday Inn Express in Ellensburg to Thorp Fruit Barn

- Follow I-90 west to Exit 93, Elk Heights Road
- Turn right on Elk Heights Road
- Take first right onto Thorp Prairie Road
- Follow Thorp Prairie Road to Thorp Fruit Barn on left

Meet at Thorp Fruit Barn. From there, follow tour leaders to Taneum Creek project sites. Then drive to Roslyn Pioneer Park and follow project leaders to remaining project sites. Tour will conclude on I-90 between Cle Elum and Easton.

Driving directions and a map will be provided at the meeting.