

**Interim Ordinance Adopting a Moratorium on the Acceptance of
Permit Applications for Offsite Compensatory Mitigation Projects
On Skagit County Agricultural-Natural Resource Lands**

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Skagit County Farming – What Are We Protecting Here?

- Unlike other Puget Sound counties, Skagit County has forgone the wealth that growth and development brings, instead protecting our farmland and other undeveloped natural resource lands
- Approximately 88,000 acres of Skagit farmland remain
- Skagit Valley produces a significant portion of the world's vegetable seed; is uniquely resilient to climate change due to maritime climate; and is close to large population centers
- Loss of farmland means loss of farming – critical mass

Skagit County Fisheries – What Are We Protecting Here?

- All five species of salmon, steelhead, bull trout, lamprey
- Fisheries a central part of our local Skagit culture & Comprehensive Plan
- Collective national obligation to Skagit Tribes under 1855 Treaty of Point Elliott to ensure robust runs and harvestable numbers
 - *Tribes gave up entirety of Skagit land base pursuant to the Treaty on the promise that the nation would keep harvestable numbers of anadromous species around*
- Tourism and recreation economy, like the Treaty right, is about actual fish that actually return to the Skagit
 - *Tribal folks and local folks both want the exact same thing: robust salmon runs returning to the Skagit in perpetuity, not perpetual salmon conflict*

Large-Scale Enhancement Projects on Farmland

General Principles

- **Growth Management Act and Skagit County Comprehensive Plan require us to balance the needs of farming, fishing and forestry on our rural land base, while discouraging uses incompatible with farming, fishing and forestry**
 - Restoration Projects must be sited and planned with care, projects can't just go anywhere
 - Skagit Chinook Recovery Plan and ERSA identified high priority locations for Delta projects
 - *At scale* is far preferable
 - Giving up some of the world's best farmland intended to help the fisheries resources must produce very high fisheries resource benefit and should not create expensive new problems

ERSA Project List – Achieving 2005 Chinook Recovery Plan Goals

- Estuary Restoration Strategic Assessment (ERSA) – list of prioritized projects meant to get the agreed-upon 2,700 Chinook Plan acres done
 - ERSA led by Farm, Fish, and Flood Initiative (3FI)
 - Identifies best places for large estuary restoration on Skagit Delta using rigorous cost-benefit analysis
 - NMFS, WDFW, Upper Skagit Tribe, dike/drainage districts, Skagit County, others
 - List of ERSA projects is in progress and partially complete
- Public vs Private land - broad principle of environmental law & policy = public lands are to be restored first before looking to private lands
 - *Deepwater & McGlenn Island Causeway, priority public lands restoration projects, not done yet*

Large-Scale Enhancement Projects on Farmland

- TFI Agreement - Skagit County diking and drainage districts agreed to support up to 2,700 acres of habitat pursuant to 2005 Skagit Chinook Recovery Plan
 - **Per TFI Agreement, Skagit County diking & drainage districts are not responsible for property acquisition or the funding of recovery projects**
 - **Instead, diking and drainage districts agreed to cooperate with projects funded by others, TFI Agreement is explicit about that**
 - **State government is responsible for land acquisition**
- Just short of 1,000 acres has been restored, on track to meet 20-year estuary habitat restoration goals established by the 2005 Skagit Chinook Recovery Plan
- **No local entity is standing in the way of the goals and priority projects established by the 2005 Chinook Recovery Plan - to the contrary, we have an interest in seeing them completed**

Hearing Examiner Special Use Permit Requirement for Major Enhancement Projects on Skagit Farmland

- Altering dikes and drainage is serious business
- Large habitat projects must be executed and maintained over time with the utmost care
- Consent and cooperation of diking and drainage districts is indispensable to a good outcome – they are responsible for long term O&M, which is critical to success
- Skagit County Code 14.16.400(4)(d) requires HE Special Use Permit for major enhancement projects on Ag-NRL land (projects that involve hydrological modification or terraforming)
 - *Onsite mitigation and smaller projects not involving hydrology changes don't require HE SUP*
 - *Projects that are not on farmland (Ag-NRL) don't require HE SUP*
 - *Core intent of permit requirement is to ensure close cooperation with diking & drainage concerns*

Skagit Farmland Should Not Be Used To Provide Mitigation Land For Everyone Else's Environmental Impacts

- Offsite Compensatory Mitigation (“OCM”) = mitigation for environmental impacts created by distant industrial, residential and commercial activities
- *Major Subset of OCM: Mitigation banking - company buys farmland, does habitat project, gets certified by Ecology, then sells state government-approved environmental credits to industrial, residential and commercial activities that need to mitigate for their offsite environmental impacts*
- Skagit County Ordinance 20090006 prohibits mitigating banking on Skagit County Ag-NRL lands; Board adopted Interim Ordinance prior to permanent ordinance

Skagit Farmland Should Not Be Used To Provide Mitigation Land For Everyone Else's Environmental Impacts

- Existing code ban on mitigation banking arguably only prevents mitigation banks certified by Department of Ecology
- Board considered in 2009 whether banning mitigation banking alone was sufficient, opted to “wait and see”
- Concerns about rapid growth in “mitigation industrial complex”, ESG governance, carbon offset schemes, etc. – sounds good at a conceptual level, but a threat to remaining Skagit farmland
- Existing code inadequately protects Skagit farmland from direct activities – i.e., programmatic OCM without going through a mitigation bank

Seattle City Light Offsite Compensatory Mitigation Plans on Skagit Ag-NRL Lands

- Concern that Seattle City Light (“SCL”) is prioritizing conversion of Skagit Delta farmland as the preferred mitigation option for its Skagit Hydroelectric Project as SCL seeks new federal hydropower operating license from the Federal Energy Regulatory Commission (“FERC”)
 - Under current FERC license (1995 to present), SCL has purchased +/-12,000 acres of Skagit County land as mitigation for its dams, which Seattle has removed from local tax rolls
 - Most available property in Eastern Skagit County has been acquired for habitat at this point
 - SCL is now *voluntarily* studying impact of its dams on the Skagit Delta
 - SCL has expressed mitigation plans involving purchase and conversion of significant amount of Skagit farmland, heightened urgency given gap in County code
 - SCL has put a “spotlight” on code gap for others to see

Moratorium / Interim Ordinance

- Expands exclusion of mitigation banking via large-scale habitat projects to include any form of offsite compensatory mitigation on Skagit Ag-NRL lands
- Interim Ordinance definition of “offsite compensatory mitigation”:

Any action proposed on Ag-NRL zoned lands as compensatory mitigation for activities, actions or environmental impacts occurring outside Skagit County Ag-NRL zoned lands.

Summary Rationale for Interim Ordinance

- Community has already agreed to support specific recovery objectives & specific delta habitat projects meant to achieve those goals, as identified in the 2005 Skagit Chinook Recovery Plan and ERSA
- Farmland can be relatively cheap mitigation option for large outside entities, creating undesirable incentive to target Skagit farmland for acquisition and conversion as mitigation for distant environmental impacts unrelated to farming
- Skagit Valley does ***not*** have sufficient farmland to mitigate for distant environmental impacts created by energy companies and/or other industries
- Interim Ordinance will preserve the *status quo* thereby affording opportunity to engage in public discussion and create a clear ordinance reasonably regulating offsite compensatory mitigation on Skagit farmland

What's Next If Interim Ordinance Is Adopted?

- Board of Commissioners is required to hold a public hearing on the Interim Ordinance within 60 days.
- Public hearing date scheduled for Tuesday September 6, 9:30 a.m. – 10:30 a.m.
- Board can extend the ordinance 6 months at a time
- Board can adopt a permanent ordinance after GMA process (public hearings, Planning Commission, etc)

QUESTIONS?