

2019 Docket:  
 WRITTEN COMMENTS RECEIVED IN PERSON OR BY EMAIL &  
 TESTIMONY RECEIVED AT PUBLIC HEARING ON 1/21/2020

Count	Last Name	First Name	Organization	Proposal	Method	Received Date
1	D.	Molly	Skagit Land Trust	C-5 Habitat Restoration, P-4 Herons,	Email (4)	01/24/2020
2	Agricultural Advisory Board		Agricultural Advisory Board	C-5 Habitat Restoration	Email (letter)	12/24/2019
3	Akins	Judith	Sierra Club	P-4 Herons	Email	01/23/2020
4	Allison	Nick	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
5	Anderson	Robert	Citizen	P-1 Rainwater Catchment	Email	01/22/2020
6	Ashbach	David	Citizen	P-2 Guemes Island Wells	Testimony	01/21/2020
7	Ashbach	Lowell	Citizen	P-2 Guemes Island Wells	Testimony	01/21/2020
8	Balmer	Sally	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/21/2020
9	Brandt	Jane	Citizen	P-4 Herons	Email	01/19/2020
10	Bravinder	Phyllis	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
11	Bray	Martha	Citizen	P-4 Herons	Email	01/17/2020
12	Brocksmith	Richard	Skagit Watershed	C-5 Habitat Restoration	Email	01/24/2020
13	Brown	Michael	GIPAC	P-2 Guemes Island Wells	Testimony	01/21/2020
14	Burdock	Joseph	Citizen	P-4 Herons	Email	01/19/2020
15	Burdock	Joseph	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/23/2020
16	Bush	Allen	Citizen	P-2 Guemes Wells	Email	01/22/2020
17	Chamberlain	David	Skagit County Forest Advisory Board	C-4, C-5, P1, & P-5	Email	01/24/2020
18	Cunningham	Brenda	Citizen	P-4 Herons, C-5 Habitat Restoration	Email (2)	01/24/2020
19	Clark	Edie	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/22/2020
20	Clark	Bill	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
21	Curtis	Gary	Citizen	P-2 Guemes Island Wells	Email	01/23/2020
22	Curtis	Stacey	Citizen	C-4 Trails in the OSRSI	Email	01/23/2020

23	Curtis	Gary	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Letter	01/21/2020
24	Curtis	Cary	Citizen	P-1 Rainwater Catchment	Testimony	01/21/2020
25	Deighton	Susan	Citizen	P-4 Herons	Email	01/15/2020
26	Dilabio	Gena	Citizen	P-4 Herons	Email	01/22/2020
27	Dix	Teresa	Citizen	P-4 Herons	Email	01/22/2020
28	Doran	Molly	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020
29	Finley	Marlene	Evergreen Islands	C-4 Trails in the OSRSI	Email	01/23/2020
30	Fox	Nancy	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email (2)	01/24/2020
31	Gastellum	Carolyn	Citizen	C-5 Habitat Restoration	Email	01/23/2020
32	Gastellum	Carolyn	Citizen	P-4 Herons	Email	01/23/2020
33	Gastellum	Carolyn	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020
34	Glade	Tom	Evergreen Islands	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email (2)	01/24/2020
35	Glade	Tom	Evergreen Islands	P-2 Guemes Island Wells	Testimony	01/21/2020
36	Gray	Michael & JoAnne	Citizen s	P-2 Guemes Island Wells	Email	01/24/2020
37	Gray	Ellen	Citizen	P-4 Herons	Testimony	01/21/2020
38	Hartt	Jack	Citizen	C-5 Habitat Restoration	Email	01/23/2020
39	Havens	Dyvon	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/23/2020
40	Hitchcock	Mark	Citizen	C-5 Habitat Restoration	Email	01/24/2020
41	Holder	Mary Ruth	Citizen	P-4 Herons	Email	01/24/2020
42	Houppenrmans	Wim	Evergreen Islands	P-4 Herons	Testimony	01/21/2020
43	Islands	Evergreen		C-4 OSRSI, C-5 Habitat Restoration	Letter	01/21/2020
44	Johnson	Gina	Skagit Land Trust Volunteer	P-4 Herons	Email	01/24/2020
45	Johnson	Bruce	Citizen	P-4 Herons	Email	01/24/2020
46	Johnson	Steve	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020

47	Kerschbaum	Matthias	Citizen	P-4 Herons	Email	01/23/2020
48	Kooiman	Marianne	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
49	Land Trust	Skagit	Skagit Land Trust	P-4 Herons	Email	12/20/2019
50	Lee	Harold	Citizen	C-5 Habitat Restoration	Email	01/23/2020
51	Manns	Timothy	Skagit Audubon Society	C-5 Habitat Restoration, P-4 Herons	Email/Letter	01/21/2020, 01/24/2020
52	Manns	Tim	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020
53	Manville-Ailles	Marianne	Skagit Surveyors	PL18-0404	Testimony	01/21/2020
54	McCracken	Ann & Phil	Citizen s	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
55	McRae (Hall)	Janet	Citizen	PL18-0404	Email	10/07/2019
56	McShane	Dan	Stratum Group	MRO	Letter	01/21/2020
57	McShane	Dan	Citizen	P-4 Herons	Testimony	01/21/2020
58	McShane	Dan	Geologist for Proponet	PL18-0404	Testimony	01/21/2020
59	Merrow	Marcus	Citizen	P-1 Rainwater Catchment	Email (2)	01/23/2020
60	Middleton	Anne	Citizen	P-4 Herons	Testimony	01/21/2020
61	Nicolls	Gail & Richard	Citizen s	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
62	O'Donnell	Sue	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/22/2020
63	Ohms	Barbara	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/23/2020
64	Orsini	Stephen	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email (2)	01/22/2020
65	Orsini	Steve	Citizen	P-2 Guemes Island Wells	Testimony	01/21/2020
66	Palmer	Joan	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email (2)	01/23/2020
67	Passarelli	Anne	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/22/2020
68	Robblee	Nancy	Citizen	P-4 Herons	Letter	01/21/2020
69	Robblee	Nancy	Citizen	P-4 Herons	Testimony	01/21/2020
70	Rooks	Hal	Citizen	P-1 Rainwater Catchment	Email/Letter/Testimony	01/21,01/22, & 01/24/2020

71	Rooks	Hal	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Letter	01/24/2020
72	Rooks	Hal	GIPAC	P-1 Rainwater Catchment	Testimony	01/21/2020
73	Rose	Patty	Citizen	P-2 Rainwater Catchment	Email	01/22/2020
74	Rose	John	Citizen	P-2 Rainwater Catchment	Email	01/22/2020
75	Rose	Patty	GIPAC	P-2 Guemes Island Wells	Testimony	01/21/2020
76	Ross	Jerry	Citizen	P-1 Rainwater Catchment	Email	01/22/2020
77	Schnabel	Barbara	Citizen	P-1 Rainwater Catchment	Email	01/24/2020
78	Shafransky	Paula	Citizen	P-4 Herons	Email	01/22/2020
79	Skagit Surveyors		Behalf of Magat Estates	PL18-0404	Letter	01/24/2020
80	Snell	Constance	Citizen	P-2 Guemes Island Well	Email	01/22/2020
81	Stapp	Thomas & Christine	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/24/2020
82	Stapp	Sally	Citizen	P-1 Rainwater Catchment	Testimony	01/21/2020
83	Thornburgh	Kathy	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020
84	Trainer	Amy	Swinomish Indian Tribal Community	C-4 Trails in the OSRSI, C-5 Habitat Restoration	Email	01/24/2020
85	Trohimovich	Tim	Futurewise	P-2 Guemes Wells	Email (3)	01/21/2020
86	Ullman	Carl	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/22/2020
87	Walden	Edith	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Letter (2)	01/24/2020
88	Walden	Edith	GIPAC	P-2 Guemes Island Wells	Testimony	01/21/2020
89	Whickman	Gary	Citizen	P-4 Herons	Email	01/23/2020
90	Walter	Kay	Citizen	P-4 Herons	Email	01/24/2020
91	Whitman	Kathy	Citizen	P-1 Rainwater Catchment & P-2 Guemes Island Wells	Email	01/23/2020
92	Winkes	Anne	Citizen	P-4 Herons	Email/Testimony	01/24/2020
93	Winkes	Anne	Citizen	C-5 Habitat Restoration	Email	01/24/2020
94	Winkes	Anne	Skagit Land Trust	P-4 Herons	Testimony	01/21/2020
95	Johnson	Kirk	Citizen	P-4 Herons	Email	01/20/20

Comments received after Deadline

James	Beverly	Email(2)
Lazara	Nancy	Email
Steffy	Carol	Email

RECEIVED  
JAN 21 2020  
SKAGIT COUNTY  
PDS



PO Box 2546, Bellingham, Washington 98227  
Phone: (360) 714-9409

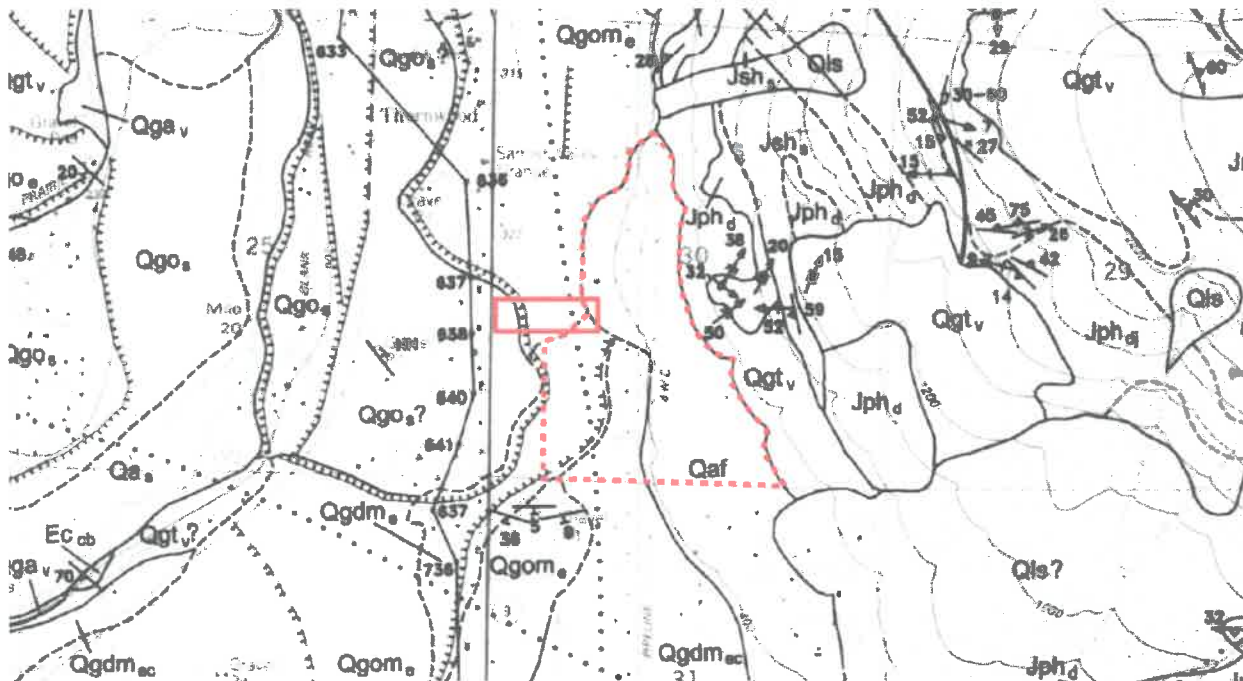
### Mineral Resource Overlay Assessment:

Dear Planning Commission:

Based on my geology assessment of the MRO, it is my opinion that the potential for mineral or aggregate extraction of the alluvial fan sediments and glacial drift sediments that underlie the MRO is so remote as to be negligible.

The alluvial fan sediments are much less extensive than indicated on the geologic map and consist of rock types that are not remotely suitable for aggregate material as they are soft and friable and readily weathered. The glacial drift sediments underlying the MRO consist of clay sediments. The glacial drift is not remotely suitable material for aggregate material.

In addition to the unsuitable quality of the two geology unit that underlie this MRO, most of the MRO would be precluded from mining due to the presence of three high voltage electric utility lines and a natural gas transmission line that extend through the entire length of the MRO.



Portion of geologic map (Dragovich and others, 1999). Dashed line indicates the Skagit County MRO. The geology units that are mapped within the MRO are Qaf = alluvial fan deposits and Qgdm<sub>e</sub> = undivided glaciomarine drift ice-proximal to ice-distal marine drift. Red rectangle is subject property.



**Glacial drift clay excavated from test pit.**



**High voltage electric transmission lines that extend the entire length of the MRO would preclude mining even if the geology was not clay glacial drift.**

## Conclusion

Based on my assessment of the two geologic units that have been mapped as underlying the MRO, it is my professional opinion that aggregate extraction of the alluvial fan sediments and clay rich glacial drift sediments that underlie the MRO is so remote as to be negligible. The MRO has negligible value as a mineral resource and removing the MRO designation from this site will not impact the mineral resources available to Skagit County.

If you have any questions, please do not hesitate to contact me at (360) 714-9409 or (360) 510-5406 or by email at [mchanedan@gmail.com](mailto:mchanedan@gmail.com).

Sincerely,  
Stratum Group



Dan McShane, M.Sc., L.E.G.  
Licensed Engineering Geologist



DANIEL McSHANE



# Untitled Map

Write a description for your map.

## Legend

Yellow highlight area are 3 high voltage electric transmission lines and a underground natural gas transmission line

5-acre or less residential homes

Existing home

New homes

test pits

Dense residential



2000 ft

Google Earth

© 2019 Google

TRANSMISSION LINE EASEMENT

The GRANTOR, herein so styled whether one or more, MILO SEXTON and NADA SEXTON,  
husband and wife,

for and in consideration of the sum of SIXTEEN THOUSAND SEVEN HUNDRED  
-----  
-----Dollars (\$16,700.00),  
in hand paid by the UNITED STATES OF AMERICA, receipt of which is hereby acknowledged, hereby grants, bargains,  
sells and conveys to the UNITED STATES OF AMERICA and its assigns, a perpetual easement and right to enter  
and erect, maintain, repair, rebuild, operate and patrol ONE line (X) of electric power transmission struc-  
tures and appurtenant signal lines, including the right to erect such poles, transmission structures, wires, cables  
and appurtenances as are necessary thereto, in, over, upon and across the following-described parcel of land in the  
County of Skagit in the State of Washington, to-wit:

See Schedule "A", attached hereto

and by this reference made a part hereof.

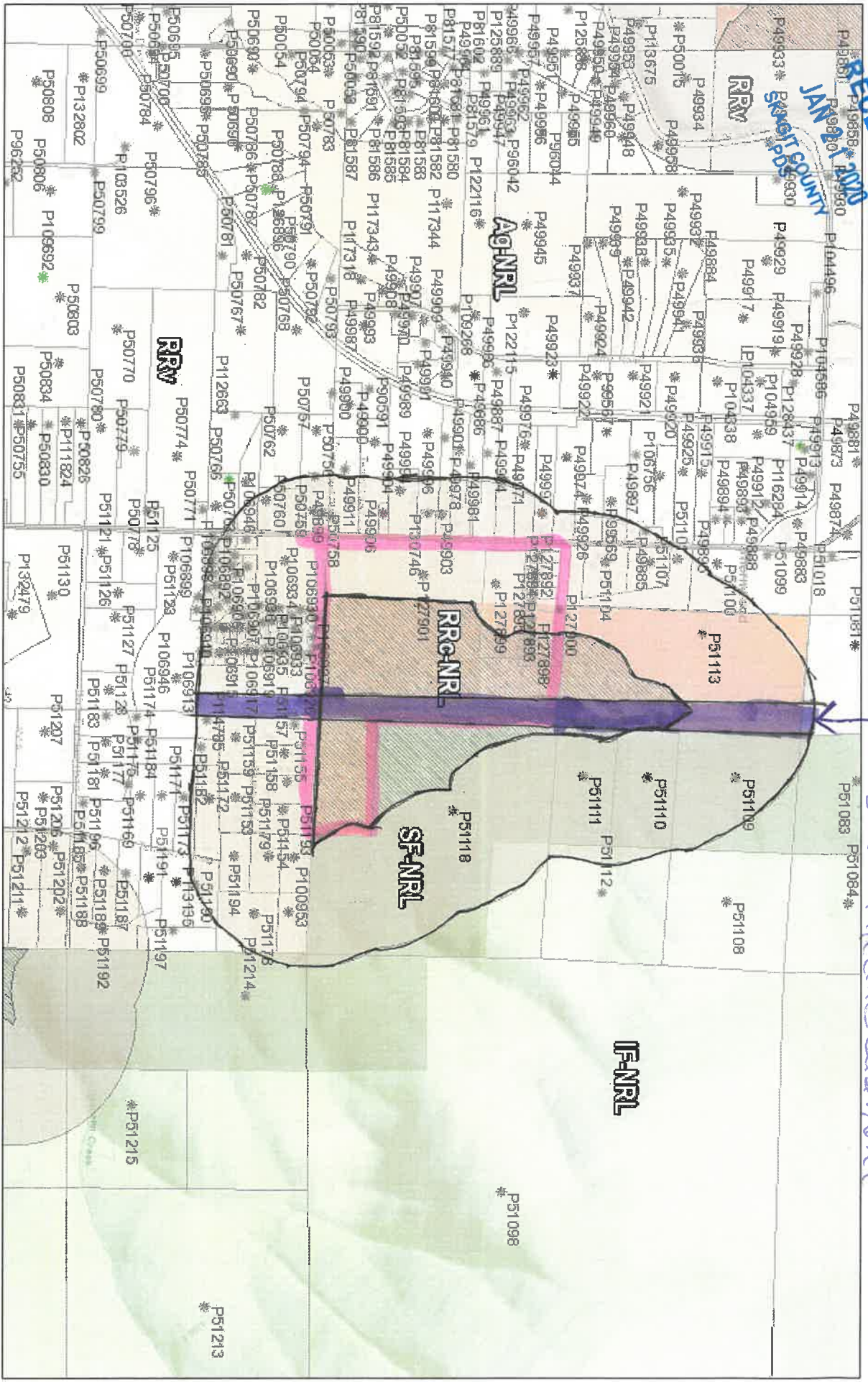
The rights granted herein include all necessary and convenient access over, along  
and across existing roads on premises owned by the Grantor within existing Bonneville  
Power Administration easements.

1. It is agreed that any damage to Grantor's agricultural crops, fences, or irrigation  
or drainage systems on the right-of-way resulting from and in the course of  
construction, reconstruction or maintenance of the transmission line or lines shall  
be repaired, replaced or paid for by the United States of America or its contractor.  
Where payment is made, the amount of damages will be determined by an appraisal  
made by the United States of America.
2. Any use of the right-of-way by the Grantor, his heirs, successors, and assigns,  
other than the right to grow, cultivate, and harvest agricultural crops, shrubs,  
decorative plants, or to utilize as grazing lands, shall be by express permission  
of the United States of America. However, the United States of America shall have  
the right to grade, cultivate, plant, and maintain grass, shrubs, or other cover  
or ornamental plants upon the portion of the right-of-way not otherwise being  
utilized by Grantor.
3. For the purpose of preserving the natural appearance of the right-of-way, it is  
agreed by the Grantor and the United States of America that the right-of-way shall  
not be used for the accumulation or dumping of litter, trash, or other foreign  
material except for small limbs and slash as permitted under the United States of  
America's standard clearing contracts. The United States of America agrees that  
any such accumulations resulting from its entry upon the right-of-way for  
construction or maintenance purposes will be removed or disposed of by the United  
States of America or its contractor.

As part of the consideration for this grant it is agreed that the foregoing provisions  
numbered 1, 2, and 3 shall hereafter also apply to the previously existing right-of-way  
on Grantor's property described in the easement dated June 23, 1946, and recorded  
August 6, 1946 in Volume 211, page 633, File No. 394711, and easement dated  
September 20, 1963, recorded September 26, 1963 in Volume 333D, page 619, File No. 641288,  
records of Skagit County, Washington.

It is further understood and agreed the consideration named herein includes payment  
for damages to the domestic water system from its source to the Grantor's residence.

**RECEIVED**  
**JAN 20 2020**  
**BARRETT COUNTY**

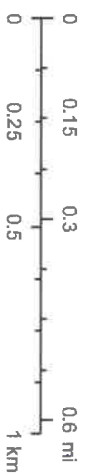


*Barrettville Power Line Easement  
 & NW Pipeline Easement*

January 20, 2020

**Legend**

- Tax Parcels
- County Boundary
- Incorporated Areas
- Airport Environs Overlay (AEO)
- UGA Areas
- Tax Parcel Numbers
- Dirt Accounts
- Senior Citizen Accounts
- Mobile Home Only Accounts
- Building Only Accounts
- Guemmas Island Overlay
- Mineral Resource Overlay 1/4 Mile Buffer



1:18,056

Data Accuracy Warning: All GIS data was created from available public records and existing map sources. Map features have been adjusted to achieve a best-fit registration. While great care was taken in this process, maps from different sources rarely agree as to the precise location of geographic features. Map discrepancies can be as great as 300 feet.



**SKAGIT COUNTY FOREST  
ADVISORY BOARD**

Dave Chamberlain, Chairman  
Lisa Cassidy                      Ken Osborn  
Al Craney                          Chuck Parker  
Gordon Iverson                 Tom Nelson  
Paul Kriegel                      Aubrey Stargell  
Tim Raschko                     Steve Tift  
Fred Loffer

Kendra Smith, Staff

January 22, 2020

Re: Comments on the 2019 Docket of Comprehensive Plan Policy, Map and Code Amendments

Dear Chairman Raschko and Planning Commission Members,

The members of the Skagit County Forest Advisory Board (FAB), would like to thank you for the opportunity to make comments on the 2019 Comprehensive Plan docket as prepared by the county planning department staff (Planning Development and Services -PDS). The FAB is a 12-member board representing forest interests, including large and small forest management companies, mill operations, small land owners, conservation district, supporting insurance companies and bankers, appointed by the Board of County Commissioners to provide knowledgeable recommendations on forest related issues.

The FAB has been following the 2019 docket proposals and staff recommendations over the last two months and would like to make comments on the following four proposals presented, C-4 (Modify SCC 14.16.500(3) and (4): Trails in the OSRSI; C-5 (SCC 14-16: Classification of Habitat Restoration), P-1 (Modify Mineral Resource Overlay-MRO) and P-4 (Great Blue Herons).

C-4 Modify SCC 14.16.500(3) and (4): Trails in the OSRSI: The issue of trails next to private property was a discussion item before the FAB years ago when the topic discussing permitting of trailheads transpired. Similar concerns emerge with the current proposal to amend the code to allow trails as outright permitted uses. The FAB does not necessarily support having the additional permitting requirements, however, in some cases public trails move onto private property and create future trespass and adverse possession issues. The FAB is aware that it is up to private property owners to post no trespass signs but that may not always be feasible when 100's of acres are concerned and private property owners are unaware of where public trails are near or abutting their own property. There are times when the public may take a slightly different route off the trail for ease or even to see something wonderful not knowing they are on private property in the spacious woods. Once the users believe a path is public, simply from its use, it may result in a contentious outcome. Rather than allowing the SCC to be modified so that a trail is outright permitted we ask that any and all adjacent property owners be notified that a trail is being constructed. Also, that at the trailhead, maps be provided showing the private parcels in proximity of the trail and along with information encouraging

thoughtfulness for private property owners. Comprehensive Plan policies supporting our request include Goal 4B-5.4 Recreational and Park Uses: Recreational opportunities on Forest Resource land shall be permitted uses *where they will not conflict with forest practice activities on these lands or when such impacts can be fully mitigated* (emphasis added). 4B-6 Minimize land use conflicts and promote mitigation of conflicts on the lands adjacent to Forest Lands. 4B-7 Establish, in all aspects of forest management regulations, support for the forest product industry and its ability to keep and economically manage forest lands.

C-5: SCC 14-16: Classification of Habitat Restoration: The current code interpretation allows habitat restoration projects as a permitted use in all zoning designations. The PDS has proposed to clarify the interpretation aspect and have the code now state that habitat restoration projects are allowed without permit *except* in those lands designated Ag-NRL. Habitat restoration projects in Ag-NRL would now be required to retain a Hearings Examiner Special Use for projects. The FAB believes that all forest resources lands (IF-NRL and SF-NRL) should also require the same permitting process as Ag-NRL. The GMA (RCW 36.70A.020(8)) requires maintaining and enhancing natural resource-based industries, including productive timber, and encourages conversion of productive forest lands. The GMA required counties to identify ag and industrial forest lands of long-term commercial significance and to protect those lands from conversions (any use that would change the current use of growing and harvesting trees for commercial purposes). This is supported by the Countywide Planning Policies (CPP) 8.1, Goals 4-B and the Guiding Principles: Forest Resource Lands, and CPP 8.5. By requiring a Hearing Examiner Special Use, it will assure forest related goals will be considered and excessive conversion of productive forest land reduced. The Forest Practice Rules have already required restoration activities such as the Road Maintenance and Abandonment Plans (RMAPs) under WAC 222, and subsequently, the industry has delivered miles of streams where fish can now go. Without permitting restoration projects in forest designations, the FAB believes there could be some unintended consequences to the long-term commercial significance of the forest resource.

P-1 Modify Mineral Resource Overlay-MRO: The FAB supports the PDS staff analysis and conclusions for not modifying the existing MRO. These lands are necessary for mineral extraction (often rock for roads and building) and they are not plentiful, therefore all MROs should be retained. If lands are to be removed it is essential that thorough studies show the minerals' absence. The Comprehensive Plan states "Mineral lands of long-term commercial significance are to be designated to conserve the mineral resource. These designations apply to areas within other natural resource lands where mining and processing activities are economically and environmentally feasible and where conflicts with other land uses can be minimized. *Because mineral resources cannot be replaced or relocated, Skagit County*

*designates all commercially significant mineral resources to ensure that these lands are available for resource production far into the future*" (emphasis added). And further supported in Goal 4D-1 "Designate and map long-term commercially significant mineral resource lands as an overlay to the Comprehensive Plan Map." These lands were designated and approved after public input (through public comments) was solicited (CPP 4D-1.4).

P-5 Great Blue Herons: The FAB wants to be clear that they are supportive of the protections for listed threatened and endangered species; but due to past rules, regulations and complaints being asserted without scientific studies to identify the impacts and/or solutions, they find it difficult to support either the citizen's or staff's proposal. The FAB would like to see science reports done looking at site specific criteria for the size of the necessary buffers around roosting areas. The FAB does not believe a set buffer size without understanding the reasons should be applied. They would like to see protection done on a case by case basis using an Administrative Special Use (level 1 review) process, thus allowing for additional information and concerns to be voiced. The application should show that work has been done in consultation with WDFW.

Thank you for your considerations and if the FAB can answer any further questions please contact the FAB via Kendra Smith (FAB staff support) at [Kendras@co.skagit.wa.us](mailto:Kendras@co.skagit.wa.us).

Respectfully submitted,

A handwritten signature in blue ink that reads "Dave Chamberlain". The signature is fluid and cursive, with a large initial "D".

Forest Advisory Board  
Dave Chamberlain, Chair

PDS

RECEIVED

JAN 24 2020

SKAGIT COUNTY  
PDS

January 24, 2020

Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

Re: **Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments—P-2**

Skagit County Planning Commissioners,

The following comments have been approved by the board members of the Guemes Island Planning Advisory Committee (GIPAC). GIPAC is mandated in the Guemes Island Subarea Plan, which was adopted by Skagit County in 2011, to provide communication between islanders and government agencies regarding the subarea plan, to monitor implementation of the subarea plan, and to initiate studies and other actions related to plan implementation.

These comments pertain to the 2019 proposed P-2 amendment that GIPAC submitted for the Skagit County Comprehensive Plan and was docketed.

## **Background**

On May 24, 1994, almost 26 years ago, the Washington Department of Ecology (DOE) advised the Skagit County Department of Health to curtail well drilling on the north end of Guemes Island. DOE also recommended that Skagit County “discourage wells completed within unconsolidated materials near the coast island-wide.” (See attached letter.)

In December 1994, the Skagit County Board of Health adopted the Interim Seawater Intrusion Policy, and the county began regulating new wells associated with building permits or land divisions by setting well pumping-rate limits and monitoring chlorides. The Seawater Intrusion Policy changed to formal code in 2016 (SCC 14.24.380). See SCC 14.24.380(1)(b), where the entirety of Guemes Island is classified as a seawater intrusion area.

However, since 1995, the United States Geological Survey reports that more than 250 new wells have been drilled on Guemes Island, resulting in a total of at least 360 wells now in existence. Guemes homeowners have experienced numerous documented well failures due to seawater intrusion, impacting more than 65 residences on North and West Beaches, South Shore, and the end of Section Avenue. Wells have also failed by going dry. The number of well failures is probably low because the county has never tracked failed wells on Guemes, and there is no official source of well-failure information. Some property owners are reluctant to publicize their well problems, and property owners' privacy concerns must be respected.

In 1997, the Environmental Protection Agency, acting under the Federal Safe Drinking Water Act, designated the aquifer system on Guemes Island as a sole source aquifer, meaning that “The aquifer supplies at least 50 percent of the drinking water for its service area [and that] there are no reasonably available alternative drinking water sources should the aquifer become contaminated.” Guemes Island is the only federally designated sole source aquifer in Skagit, Whatcom, and San Juan Counties. For numerous reasons, including being a sole source aquifer, Guemes Island is classified as a Category 1 aquifer recharge area. Guemes Island has designated wellhead protection areas, and is also defined as a critical area and a sensitive area.

In 2010, Skagit County indicated a capacity for approximately 860 new homes that could be built on Guemes Island (see page 17 of the Guemes Island Subarea Plan). If pumping exceeds capacity from the island's aquifers, seawater intrusion could contaminate island groundwater irreversibly for all island residents. Further growth and development, and the increase of short-term rentals, are placing greater demands on the island's aquifers, and it is becoming more imperative to protect our groundwater resources.

When buyers—often coming from urban areas—purchase property on Guemes Island, they may not be informed about potential water shortages, seawater intrusion, or the owner responsibilities for protecting critical areas—or even understand the multiple ways property on Guemes Island qualifies as a critical area.

Those who buy undeveloped land may know that before they can obtain a building permit, they must be able to prove they have an adequate supply of potable water. Numerous landowners choose to construct a well long before they are ready to site buildings and apply for permits. **These wells are not currently being reviewed by Skagit County prior to drilling**, as is required for any well that will be drilled in conjunction with a building permit application, pursuant to the county's Seawater Intrusion Policy.

## **P-2: Modify SCC 14.24: Guemes Island Wells Content**

GIPAC's intent in our P-2 amendment request was threefold:

- GIPAC believes existing county code mandates that **all** new wells drilled on Guemes Island, a seawater intrusion and aquifer recharge area, must have a critical areas review, a thorough hydrogeological review, and be permitted by the county **prior to drilling**. We ask that the existing code be enforced for wells that are not associated with an application for a building permit, as is required for new wells that will be drilled as part of a building permit.
- GIPAC asks that the code requiring a thorough hydrogeological review for new wells being drilled in conjunction with a building permit application be enforced in a seawater intrusion area. Such review must include "An estimated land elevation of the well, except that if the well is within 250 feet of the shoreline, or if determined by the County Hydrogeologist, the elevation of the well must be surveyed by a licensed surveyor." See SCC 14.24.380(a)(i)(C). It is our understanding that land elevations are not currently being required in the building permit review process for seawater intrusion area, as is mandated in the abovementioned code.
- GIPAC asks that the requirement to drill a test well prior to applying for a rainwater catchment system be rescinded in seawater intrusion areas.

We do not want to place onerous requirements on people who want to drill new wells. In conversation with the county's Critical Areas staff, we have learned that many or even most new wells could be reviewed hydrogeologically, based on what is already known of geology in the area and the condition of existing wells, and not require a more in-depth review. But where there is history of well failures and the potential for further negative impacts to existing wells, we think that careful and thorough review should be a mandatory practice. In the long run, we think this practice protects the development rights of not only those with senior water rights, but also those who wish to put a new tap into the aquifer and who assume that a county well permit assures them of access to an adequate supply of potable water in perpetuity.



We understand that “PDS intends to issue an Administrative Official Interpretation to clarify that a well does not need to be drilled prior to permitting a rainwater catchment system on Guemes Island,” according to the PDS staff report on P-2: Modify SCC 14.24: Guemes Island Wells. If that happens, our remaining concern regarding P-2 is the requirement that all new wells require a county review and permit prior to drilling.

### **Existing Code Requirements**

The following material outlines various code requirements regarding the protection of drinking water in the state of Washington and in Skagit County and code requirements for the protection of resources in sole source aquifers, aquifer recharge areas, wellhead protection areas, critical areas, seawater intrusion areas, and sensitive areas—all of which pertain to Guemes Island.

**The Washington State Growth Management Act (GMA)** is a law that requires counties and cities to designate critical areas and to adopt regulations to protect such areas. (See WAC 365-190-080.) Critical areas that must be protected, according to the code, include “Areas of critical recharging effect on aquifers used for potable water.” (See WAC 365-196-830(2)(b).) “Protection,” as defined by the code, means “preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety.” (See WAC 365-196-830(3).)

Counties and cities must classify aquifer recharge areas according to the aquifer vulnerability. (See WAC 365-190-100(3).) A classification strategy for aquifer recharge areas should be to maintain the quality and quantity of groundwater. Such classification should include “consideration of the degree to which the aquifer is used as a potable water source . . .” (See WAC 365-190-100(4).) Evaluations of aquifer vulnerability may include “Recharge areas for sole source aquifers designated pursuant to the Federal Safe Drinking Water Act, Areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act, Areas near marine waters where aquifers may be subject to saltwater intrusion, and Other areas meeting the definition of ‘areas with a critical recharging effect on aquifers used for potable water’ in these guidelines.” (See WAC 365-190-100(4)(b)(i),(iii),(iv), and (v).) Guemes Island is a Category 1 aquifer recharge area.

The Washington Antidegradation Policy (WAC 173-200-030) ensures “the purity of the state’s groundwaters” and protects “the natural environment.” It requires that “Existing and future beneficial uses shall be maintained and protected and degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall not be allowed.” Furthermore, it protects the senior water rights of well owners accordingly: “Whenever groundwaters are of a higher quality than the criteria assigned for said waters, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters . . .” unless the public interest would be served and reasonable methods of prevention, control, and treatment have been tried. Saltwater is a contaminant when introduced into potable groundwater.

**The Revised Code of Washington (RCW)** mandates that counties and cities adopt a comprehensive plan that includes a land use element. The land use element “shall provide for protection of the quality and quantity of groundwater used for public water supplies.” (See RCW 36.70A.070.) While this requirement refers specifically to public water supplies, and does not specify private individual wells, there are at least 20 Group A and Group B water systems on Guemes Island, which are considered “public water systems.” One Group A system has been approved for a total of 267 connections and has wellhead protection areas designated for their two

well fields. The Safe Drinking Water Act (SDWA), regulated by the Environmental Protection Agency (EPA) protects public drinking water supplies throughout the nation. Although the EPA does not regulate private wells nor does it provide recommended criteria or standards for individual wells, the SDWA is concerned with protecting source water for public systems. A sole source aquifer has only one source of water: groundwater. Any contamination, such as saltwater, in individual wells could impact the entire water source on Guemes Island.

“Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170.” (See RCW 36.70A.060(2).) Critical areas include “areas with a critical recharging effect on aquifers used for potable water.” (See RCW 36.70A.030(6)(b).) Because the entirety of Guemes Island is classified as a seawater intrusion area, the entire island is also classified as a critical area and a sensitive area. Because Guemes Island is designated as a sole source aquifer, the entirety of Guemes Island is classified as an aquifer recharge area.

According to RCW 90.48.010, “It is declared to be the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof . . . .” In RCW 90.48.030, the Washington Department of Ecology is mandated to “control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.”

RCW 90.54.010(1)(a) acknowledges the following: “Proper utilization of the water resources of this state is necessary to the promotion of public health and the economic well-being of the state and the preservation of its natural resources and aesthetic values. Although water is a renewable resource, its supply and availability are becoming increasingly limited, particularly during summer and fall months and dry years when demand is greatest. Growth and prosperity have significantly increased the competition for this limited resource. Adequate water supplies are essential to meet the needs of the state's growing population and economy.” RCW 90.54.020(5) requires that “Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.” RCW 90.54.020(7) states: “Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state.” RCW 90.54.090 makes certain that counties are required to protect the state’s groundwaters: “All agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with the provisions of this chapter.” Clearly Washington emphatically values the need for pure and adequate water supplies and expects counties to protect the state’s groundwaters.

**Skagit County Code (SCC)** also regulates critical areas, aquifer recharge areas, seawater intrusion areas, sensitive areas, and public and individual water systems.

The Skagit County Planning and Development Services (PDS) sent staff recommendations regarding P-2 to Skagit County Planning Commissioners advising that P-2 be denied, citing that “County legal counsel does not believe it is lawful to regulate all new wells on Guemes Island.” No explanation of that legal finding was offered. Three weeks ago, on December 31, 2019, GIPAC requested a copy of the legal opinion so that we could better prepare our testimony before the Planning Commission on January 21, refuting what we believe to be an error in interpreting code. PDS was not able to obtain the information for us, and a public records request

resulted in the very recent release of four fully redacted pages—each page entirely blacked out. The redactions were explained as being due to a privileged work product.

We are incredulous that the PDS attorney has concluded that what we are asking for is not “lawful,” yet we are refused any explanation as to the reasoning. It is perfectly legal, and the current practice, for Skagit County to regulate any new well on Guemes that is accompanied by an application for a building permit. Why would it not be “lawful” to regulate new wells that are highly likely to provide an “adequate water supply” for future development applications? Why would it not be “lawful” to take measures to prevent seawater intrusion and degradation of neighboring wells with senior water rights when the GMA and WAC Antidegradation Policy demand such protection, and the RCW mandates counties to protect the state’s groundwaters?

Without knowledge of the county’s legal reasoning, we submit the following applicable citations of Skagit County Code to document what we believe are legal requirements for the county to review and permit all new wells on Guemes Island prior to drilling and to conduct complete hydrogeological and critical areas assessments for such wells.

## **Chapter 12.48**

### **RULES AND REGULATIONS OF THE SKAGIT COUNTY BOARD OF HEALTH GOVERNING INDIVIDUAL AND PUBLIC DRINKING WATER SYSTEMS**

- **12.48.010 Purpose and intent:** “These rules and regulations are established by the Skagit County Board of Health [SCPHD] pursuant to its authority under RCW 70.05.060 and WAC 246-290-030 permitting local boards of health to enact local rules and regulations as are necessary in order to preserve, promote and improve the public health and provide for the enforcement thereof. The purpose of these rules is to:
  - (1) Define minimum regulatory requirements and to protect the health of consumers whether they drink from an individual or a public water system and to meet the intent of the Growth Management Act; . . . .
  - (3) Whenever possible, carry out powers in manners which are consistent with Chapter 90.45 RCW. . . .
  - (4) Direct the public to the best source of drinking water and the best location for that source of water; . . . .
  - (5) Apply the best public health development standards and practices for the protection of drinking water sources.”
- **12.48.020 Applicability:** “(1) These regulations:
  - (a) Shall apply to all public and individual water systems in Skagit County;”
- **12.48.030 Definitions:** “‘Sensitive area’ means an area where drilled wells have been known to have potential quantity or quality problems.”

- **12.48.040 Administration:** “(1) The SCPHD will evaluate individual water systems according to this Chapter.”
- **12.48.260: Sensitive areas:** “(1) SCPHD may require more extensive testing if a proposed well, or a well nearby the proposed well, is in an area where water quantity or quality is poor (e.g., seawater intrusion).”
- **12.48.090 Individual well site approval:** “(1) Well site approval for an individual water system must be performed by the SCPHD or a licensed well driller. The Health Officer has the option to view the well site prior to drilling. The applicant is responsible for advising the inspecting authority regarding the location of all potential sources of contamination.”

GIPAC asserts that SCC 12.48 clearly establishes that the county is authorized to enact local rules and regulations in order “to protect the health of consumers whether they drink from an individual or a public water system and to meet the intent of the Growth Management Act.” Chapter 12.48 applies to “all public and individual water systems in Skagit County.” Furthermore, SCPHD is specifically empowered to “require more extensive testing if a proposed well, or a well nearby a proposed well” is in a known seawater intrusion area. SCPHD is authorized to “view the well site prior to drilling” and to perform well site approval for an individual water system.

An essential part of the GMA is to protect and preserve critical areas and aquifer recharge areas. GIPAC realizes that the 2016 relocation of the Drinking Water staff from the Public Health Department to the Planning and Development Services Department may have shifted some responsibilities regarding the enforcement of well regulations, but we maintain that the **county** is still authorized to regulate individual water systems to preserve public health and comply with the GMA, whether a new well is associated with a building permit application or not.

GIPAC does not care who regulates and thoroughly reviews wells, as long as **all new wells** on Guemes Island are reviewed and permitted by some authority in the county **prior to drilling any new well**, in order to protect our sole source aquifer, aquifer recharge area, seawater intrusion area, wellhead protection areas, and sensitive area. Nor are we adamant that the code itself must be amended if an Administrative Official Interpretation would accomplish the same goals.

## Chapter 14.24

### CRITICAL AREAS ORDINANCE

- **14.24.010 Introduction:** “The ordinance codified in this Chapter was developed under the directives of the Growth Management Act to designate and protect critical areas. “Critical areas” are defined as wetlands, aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.”
- **14.24.020 Title and purpose:** “This Chapter shall be known as the Critical Areas Ordinance (CAO) of Skagit County, Washington, and is adopted to assist in conserving the value of property, safeguarding the public welfare and providing protection for the following critical areas:” . . . .

(3) “Aquifer Recharge Areas. Potable water is an essential life-sustaining element. Much of Skagit County’s drinking water comes from groundwater supplies, which also provide base

flows to protect aquatic resources. Once groundwater is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge. It is the purpose of this Chapter to prevent contamination and depletion, and to avoid exorbitant cleanup costs, hardships and potential physical harm to people and aquatic resources.”

- **14.24.040 Applicability, jurisdiction and coordination:** “(1) Applicability. The provisions of this Chapter shall be consistently applied to any land use or development under County jurisdiction within the geographical areas that meet the definitions and criteria for critical areas regulation as set forth in this Chapter.

When clicking on the word “development” in SCC 14.24.040, “development” is defined as “construction or exterior alteration of structures, dredging, **drilling**, [emphasis added] dumping, filling, earth movement, clearing or removal of vegetation (except activities meeting the definition of forest practices), storage of materials or equipment in a designated floodway, or other site disturbance, other than internal logging roads, which either requires a permit, approval or authorization from the County or is proposed by a public agency.”

- **14.24.060 Authorizations required:** “With the exception of activities identified as allowed without standard review under SCC 14.24.070, any land use activity that can impair the functions and values of critical areas or their buffers, including suspect or known geologically hazardous areas, through a development activity or by disturbance of the soil or water, and/or by removal of, or damage to, existing vegetation, shall require critical areas review and written authorization pursuant to this Chapter. Authorizations required under this Chapter overlay other permit and approval requirements of the Skagit County Code. Regardless of whether a County development permit or approval is required, any proposed alteration that can adversely affect a critical area or its standard buffer must comply with the substantive and procedural requirements of this Chapter. Critical areas review pursuant to this Chapter shall be conducted as part of the underlying permit or approval, where applicable. It is the responsibility of the landowner, or designee, who conducts or proposes to undertake land use activities that can adversely impact critical areas or their buffers to obtain County authorization prior to commencing such activities.”

Drilling is not exempted from a standard review under SCC 14.24.070, and drilling a well disturbs the soil and can disturb water. Clicking the link in the 14.24.060 code on “functions and values” leads to the following definition: “the beneficial roles served by critical areas including, but are not limited to, **water quality protection and enhancement** [emphasis added]; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; **ground water recharge and discharge** [emphasis added]; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation. These beneficial roles are not listed in order of priority.” Drilling a well can certainly impair water quality protection and enhancement as well as groundwater recharge and discharge. All of Guemes Island is classified as a critical area. Therefore, GIPAC maintains that **any** new well on Guemes Island requires a critical areas review.

GIPAC also notes that the Critical Areas Ordinance clearly specifies that “**Regardless of whether a County development permit or approval is required** [emphasis added], any proposed alteration that can adversely affect a critical area or its standard buffer must comply with the substantive and procedural requirements of this Chapter.” Furthermore, critical area regulations take precedence

over other permitting regulations: "Authorizations required under this Chapter overlay other permit and approval requirements of the Skagit County Code."

- **14.24.080 Standard critical areas review and site assessment procedures:**  
“(1) Determination That an Activity Requires Standard Review. All applications for approval of activities requiring written authorization pursuant to SCC 14.24.060 shall require the submission of a critical areas checklist completed and filed by the applicant on the forms provided by Planning and Development Services. If not otherwise required, all applications for critical areas review shall include a description of the proposed activity and a site plan showing the location of the proposed activity and associated area of disturbance in relation to all known critical areas or critical areas indicators. Upon receipt of the application, the Administrative Official shall determine whether the proposed activity fits within any of the activities allowed without standard review found in SCC 14.24.070. If the proposed activity is so allowed and meets the associated conditions for such an allowance, no other critical areas review shall be required, except as necessary for the Administrative Official to ensure that any conditions for such an allowance are met in practice. The Administrative Official shall note this determination in the application file and provide written authorization for the project or activity to proceed as proposed in the application when undertaken in accordance with any conditions for such an allowance.”

All of Guemes Island is an aquifer recharge area; drilling is not an exempted development activity in SCC 14.24.070. GIPAC ascertains that a standard critical areas review is required prior to drilling any new well on Guemes Island.

- **14.24.300 Aquifer recharge areas intent:** “(1) This Section establishes areas determined to be critical in maintaining both groundwater quantity and quality. This Section specifies regulatory requirements for development within these areas and provides a methodology by which Skagit County will determine the level of review and any mitigation measures required.”

The county’s definition of “development” (see paragraph 3 on page 7) includes drilling, earth movement, and site disturbance, all of which occur in the process of drilling a well.

“The intent of this Section is to:

- (a) Define minimum regulatory requirements to protect groundwater quality and quantity for existing and future use; and
  - (b) Identify practices, alternatives, and mitigation measures that can minimize the adverse impacts of proposed projects; and
  - (c) Ensure adequate design, construction, management, and operations to protect groundwater quality and quantity.
- (2) Existing and future beneficial uses of groundwater shall be maintained and protected. Degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall be avoided or minimized.

(3) Wherever groundwater is determined to be of a higher quality than the criteria established for said waters under this Section, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters, . . . .

(4) It is also the intent of this regulation to:

(a) Comply with and implement the requirements of Chapter 90.48 RCW, Chapters 173-200, 173-201A, 173-160, 246-290 and 246-291 WAC, Chapter 12.48 SCC; and

(b) Carry out powers in manners which are consistent with Chapter 90.54 RCW and Chapters 173-503 and 173-505 WAC, as amended; and

(c) Comply with the Washington State Department of Health's wellhead protection guidance. (Ord. 020080014 (part))"

GIPAC maintains that beneficial uses of groundwater should be maintained and protected, along with protecting the water quality and senior water rights of existing well owners. Permits **prior to drilling** any new well on Guemes Island should be required to satisfy these requirements.

- **14.24.310 Aquifer recharge areas designations:** "There are 2 categories of aquifer recharge areas. These categories are designated to assist the Administrative Official in determining the level of assessment necessary to evaluate land use proposals. The categories are based on the determination that certain areas require additional scrutiny of the potential impacts of a proposed land use, with consideration given to hydrogeological susceptibility and vulnerability. All designated areas are subject to change as data and information are updated or become available.

(1) Categories.

(a) Category I areas are those so designated because of the need for protection due to a pre-existing land use, or because they are identified by the County, State or Federal government as areas in need of aquifer protection where a proposed land use may pose a potential risk which increases aquifer vulnerability. Category I areas are shown on the aquifer recharge area map. Category I areas include:

(i) Areas served by groundwater which have been designated as a 'sole source aquifer area' under the Federal Safe Drinking Water Act; and

(ii) Areas identified by the County as potential or existing sea water intrusion areas; and

(iii) Areas designated as 'wellhead protection areas' pursuant to WAC Chapter 246-290 and the groundwater contribution area, or otherwise recognized by the Health Officer or Administrative Official as needing wellhead protection. Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with:

(A) The 10-year groundwater time of travel for all Group A public water systems; or

(B) The 1-year groundwater time of travel for all Group B public water supply wells."

Guemes Island is classified as a Category 1 aquifer recharge area because it meets all three requirements for that category: it is a federally designated sole source aquifer, a seawater intrusion area, and has three wellhead protection areas.

- **14.24.330 Aquifer recharge areas site assessment requirements:** “(1) Except as provided in Subsection (4) of this Section, the level of study for a site assessment which will be required of the applicant by the Administrative Official for a given development will be based on an initial project review by Skagit County Planning and Development Services that may also include staff from the Health Department and a County staff hydrogeologist. The standard site assessment requirements are provided in Subsection (2) of this Section. The reporting requirements for a particular project can be reduced, at the discretion of the Administrative Official or Health Officer, if it is determined that the preparation of a site assessment is not likely to provide additional information that will aid in the assessment of likely impacts to groundwater quality or quantity.

(2) Site Assessment Requirements. Unless the scope of the site assessment has been reduced by the Administrative Official or the Health Officer, the site assessment shall satisfy the requirements of SCC 14.24.080, and shall include:

(a) A site plan acceptable to the Administrative Official or Health Officer, which indicates the approximate location of known or geologically representative wells (abandoned and active), springs, and surface watercourses within 1,000 feet of the project property.

(b) A description of the site-specific hydrogeological characteristics regarding potential impact(s) to the quantity or quality of underlying aquifer(s). At a minimum this will include a description of the lithology, depth and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map; and

(c) Identification of the initial receptors of potential adverse impacts located hydraulically down-gradient and within 1,000 feet of the project or as otherwise directed by the Administrative Official or Health Officer.

(3) Additional Site Assessment Elements. After the initial project review, 1 or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeological conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors.”

Guemes Island is a Category 1 aquifer recharge area. To adequately protect our sole source aquifer GIPAC contends that all new wells on the island require a site assessment that, at a minimum, meets all three requirements in Section 2 of SCC 14.24.330.

- **14.24.380 Seawater intrusion areas:** “(1) Applicability. This Section applies to wells and applications for building permits; special use permits; shoreline substantial development, variance, and conditional use permits; and land divisions in the following areas:
  - (a) Areas within one-half mile of a marine shoreline; and
  - (b) The entirety of Guemes, Sinclair, Cypress, and Vendovi Islands.



(2) Application Requirements.

(a) For Wells. An application proposing use of a well must include all of the following, which must be submitted for review prior to drilling any new well:

(i) A site plan, including:

(A) A dedicated inland well site location;

(B) Estimated depth of proposed well;

(C) An estimated land elevation of the well, except that if the well is within 250 feet of the shoreline, or if determined by the County Hydrogeologist, the elevation of the well must be surveyed by a licensed surveyor;

(D) Depth and chloride levels of surrounding wells;

(ii) A drilling plan;

(iii) Payment of applicable fees.

(4) Development Standards for Wells.

(c) Documentation of Elevation. Before final inspection, the applicant must submit a land elevation of the well as surveyed by a licensed surveyor."

GIPAC interprets SCC 14.24.380 as applying to all new wells in a seawater intrusion area, which includes all of Guemes Island. The preponderance of other applicable code indicates to us that the intent of the Critical Areas Ordinance (CAO) is to protect groundwater, sole source aquifers, critical areas, aquifer recharge areas, seawater intrusion areas, sensitive areas, and wellhead protection areas above all else. Again, we assert that the permitting process for all new wells on Guemes Island should be consistent with the overall protective goals of the CAO, "**regardless of whether a County development permit or approval is required** [emphasis added]," as clearly stated in SCC 14.24.060, in addition to the requirement that "Authorizations required under this Chapter [SCC 14.24] **overlay other permit and approval requirements of the Skagit County Code** [emphasis added]," also appearing in SCC 14.24.060.

## Summary

GIPAC maintains that this documented evidence of applicable code supports our opinion that current code requires that **all new wells** on Guemes Island must be reviewed and permitted prior to drilling, whether associated with a building permit application or not. Furthermore, all new wells require a thorough hydrogeological assessment that includes documentation of land elevations. Our P-2 proposed code amendment would emphasize and clarify these requirements.

We continue to request an explanation of the county's legal opinion. We believe we are entitled to one, and we think no fair decision can be made without knowledge of the basis for the legal ruling. We respectfully request that the Planning Commission adopt P-2, or direct PDS staff to issue an Administrative Official Interpretation that clarifies a requirement for the county to conduct critical

areas reviews/seawater intrusion areas reviews and to issue permits for all new wells on Guemes Island prior to drilling.

Thank you for your attention to our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Edith M. Walden", with a long horizontal flourish extending to the right.

Edith Walden, on behalf of the GIPAC board of directors  
6203 S Shore Rd, Anacortes, WA 98221

GIPAC Board of Directors:

Hal Rooks, Chair  
Michael Brown  
Allen Bush, Jr.  
Nancy Fox  
Steve Orsini  
Patty Rose  
Edith Walden  
Gary Curtis, Emeritus

Cc: Michael Cerbone  
Peter Gill  
Commissioner Ron Wesen  
Commissioner Ken Dahlstedt  
Commissioner Lisa Janicki



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

*Northwest Regional Office, 3190 - 160th Ave. S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000*

May 27, 1994

Mr. John Thayer  
Environmental Health Director  
Skagit County Department of Health  
County Administration Building, Room 301  
700 South Second  
Mount Vernon, WA 98273-3864

Dear Mr. Thayer:

This letter is to express concern held by the Water Resources and Water Quality Programs of Ecology regarding ground water withdrawal on Guemes Island. Ecology has historically been involved with water rights administration, ground water quality surveys, SEPA review and water availability questions on Guemes. Several of our staff have been working with your department and Guemes Island residents regarding sea water intrusion in island aquifers.

Several areas of the island are experiencing elevated chloride levels in ground water wells. The data indicate that some parts of the island are experiencing significant sea water intrusion.

We are particularly concerned about the north end of the island, specifically that part lying within Township 36 North. Ground water sampling data indicate consistently high chloride values often exceeding 100 mg/l.

As you may know, Ecology uses 100 mg/l as the threshold for indicating a medium risk of sea water intrusion.

Pumping from near shore wells with elevated chloride concentrations usually induces movement of saline water into the fresh water aquifer. This initially occurs in the vicinity of the pumping well intake. The cumulative effect of numerous withdrawals will eventually cause large scale saline intrusion of the coastal aquifer. The Antidegradation Policy, as stated in the Water Quality Standards for Ground Waters, Washington Administrative Code (WAC) 173-200-030, ensures the purity of the state's ground waters and protects the natural environment. Permitting saline

Mr. John Thayer  
Page 2  
May 27, 1994

intrusion into fresh water aquifers could be a violation of the state's Antidegradation Policy, and can cause adverse water quality effects in existing wells.

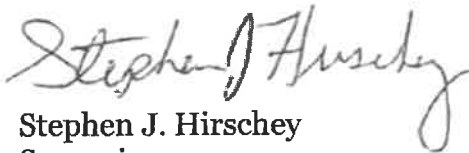
For these reasons, we would recommend limiting new well construction on the north end of the island. We would encourage no well site approval or plat approval for developments planning on using ground water from this part of the island, unless they have a valid permit from Ecology. We would also recommend the county discourage wells completed within unconsolidated materials near the coast island-wide.

We are interested in working with the county regarding water supply and water quality issues on Guemes Island. We see the ground water resource in the area as important and vulnerable to overdraft. We look forward to evaluating the recently completed USGS study on Guemes Island ground water. When our staff resources allow, we would welcome meeting with appropriate county agencies toward a cooperative evaluation of water supply issues for the whole island.

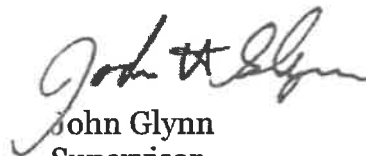
In summary, we have concerns regarding how the County can make findings of adequacy of water in this part of Guemes Island under Section 63 of the Growth Management Act. With this in mind, we would encourage you to deny well site approvals until a site specific management program is in place. We recognize that this may cause difficulties in the development community, but it is better to address water availability now than when the property has been platted and homes built.

If you have any questions regarding our concerns, please call either of us. Thank you for your consideration.

Sincerely,



Stephen J. Hirschey  
Supervisor  
Water Resources Program



John Glynn  
Supervisor  
Water Quality Program

SJH:eg:w  
Enclosures

RECEIVED

JAN 24 2020

SKAGIT COUNTY  
PDS

January 21, 2020

To: Skagit County Planning Commissioners re: **2019 Docket**

My name is Edith Walden. I am a board member of the Guemes Island Planning Advisory Committee (GIPAC). I live at 6203 South Shore Road on Guemes Island (Anacortes, WA).

Almost 26 years ago, the Washington Department of Ecology advised Skagit County to curtail well drilling on Guemes Island because of a potential “violation of the state’s Antidegradation Policy.” At least 250 new wells have been drilled on Guemes Island since 1995. Property owners have experienced numerous well failures due to seawater intrusion, impacting more than 64 residences. Continuing growth and development are placing increasing demands on the island’s aquifers.

The Growth Management Act mandates that aquifers used for potable water be protected from seawater degradation, as do numerous sections of the Washington Administrative Code, the Revised Code of Washington, and the Skagit County Comprehensive Plan. We document these code requirements in more thorough written comments, which we hope you will study carefully before making your decision on P-2.

As you know, all of Guemes Island is designated as a sole source aquifer, a critical area, an aquifer recharge area, a seawater intrusion area, and a sensitive area. These designations legally require the protection of the quality and quantity of groundwater. A new well in a seawater intrusion area requires a thorough hydrogeological analysis that must be submitted to the county prior to drilling. This is to prevent further seawater intrusion and the degradation of senior water rights in neighboring wells. Currently, a well that is not being drilled as part of an application for a development permit is not being given a critical areas review, as is required in sole source aquifer areas.

We were stunned when we learned that the county’s Planning and Development Services (PDS) staff recommendation was to deny the adoption of P-2, citing that “County legal counsel does not believe it is lawful to regulate all new wells on Guemes Island.”

Three weeks ago, GIPAC requested to see the legal ruling so we could prepare testimony to support our code research that had led us to an opposing conclusion. PDS was not able to obtain the material for us, and a public records request resulted in the very recent release of four fully redacted pages (see attached) with a claim of privileged work product.

We are thus stymied in our ability to respond adequately other than to repeat our belief that P-2 is a request to enforce **existing code** in order to protect the aquifers of Guemes Island, and to insist that **all new wells on Guemes Island need a thorough critical areas review prior to drilling.**

We hope you will support our request and approve P-2.

Work product

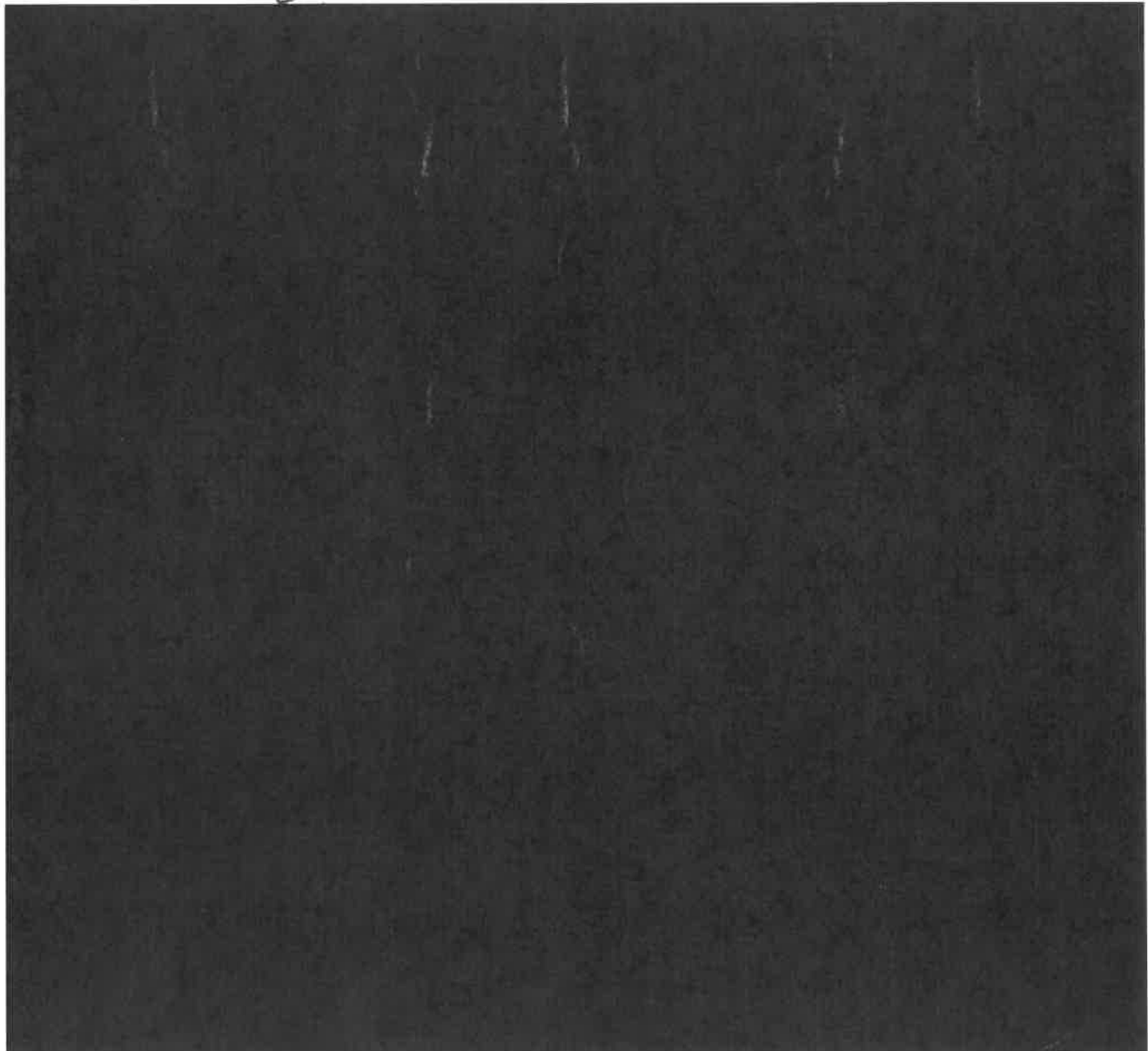
- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(

Guemes Island Planning Advisory Committee (GIPAC) has asked the County to develop a pre-drilling approval requirement for new wells installed on Guemes Island. Its application materials stated the following:

*[N]ew wells on the island, particularly on the north end, have caused deterioration of water quality and quantity in existing wells in violation of senior water rights. More explicit language regarding review and approval of new wells is needed to ensure that existing code requirements for protection of the aquifer are consistently applied.*

Skagit County does not have the authority to regulate wells unrelated to a development application.

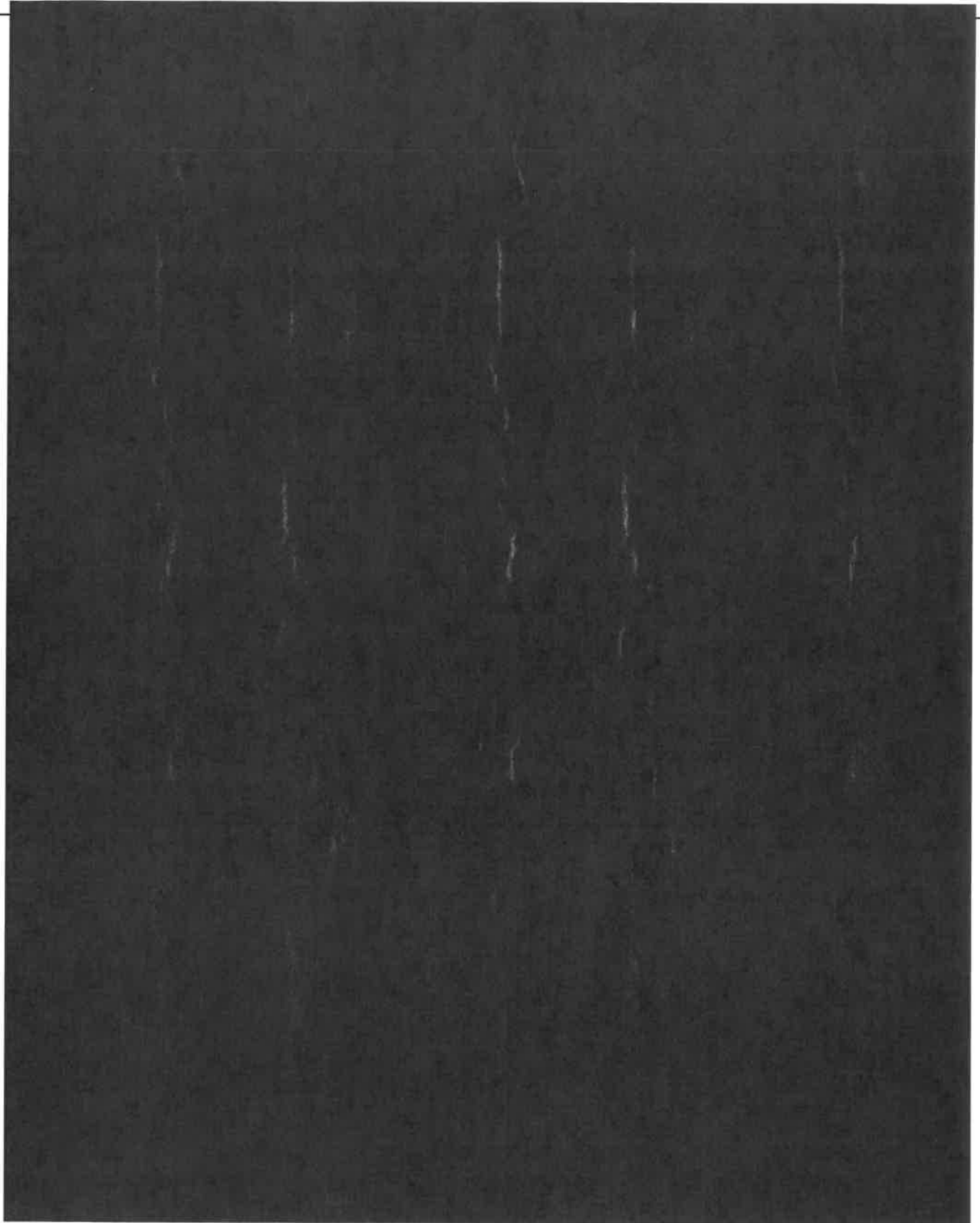
Copy



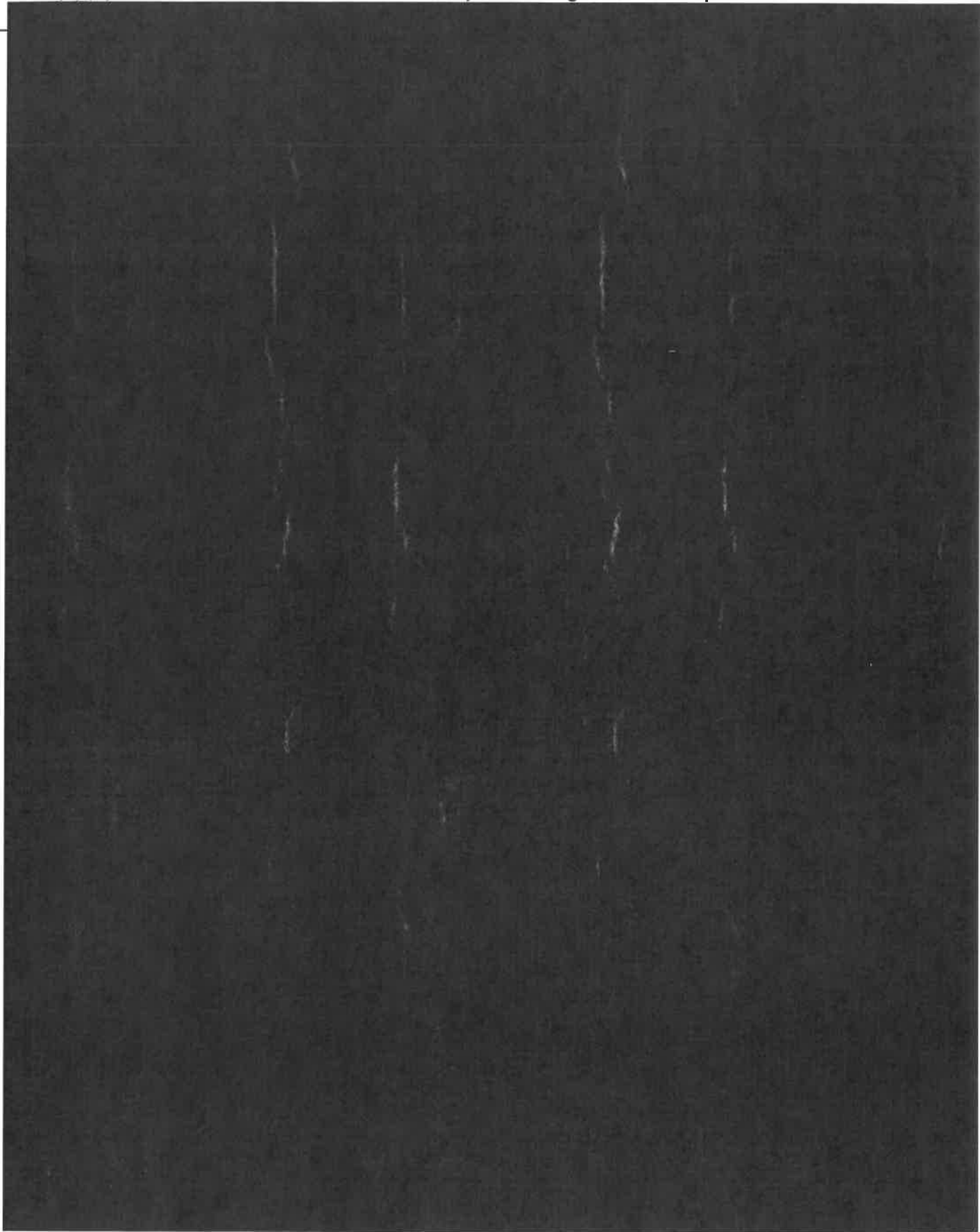
work product

•RCW.42.56.290- records relevant to a controversy

•CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(



- Work product
- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(

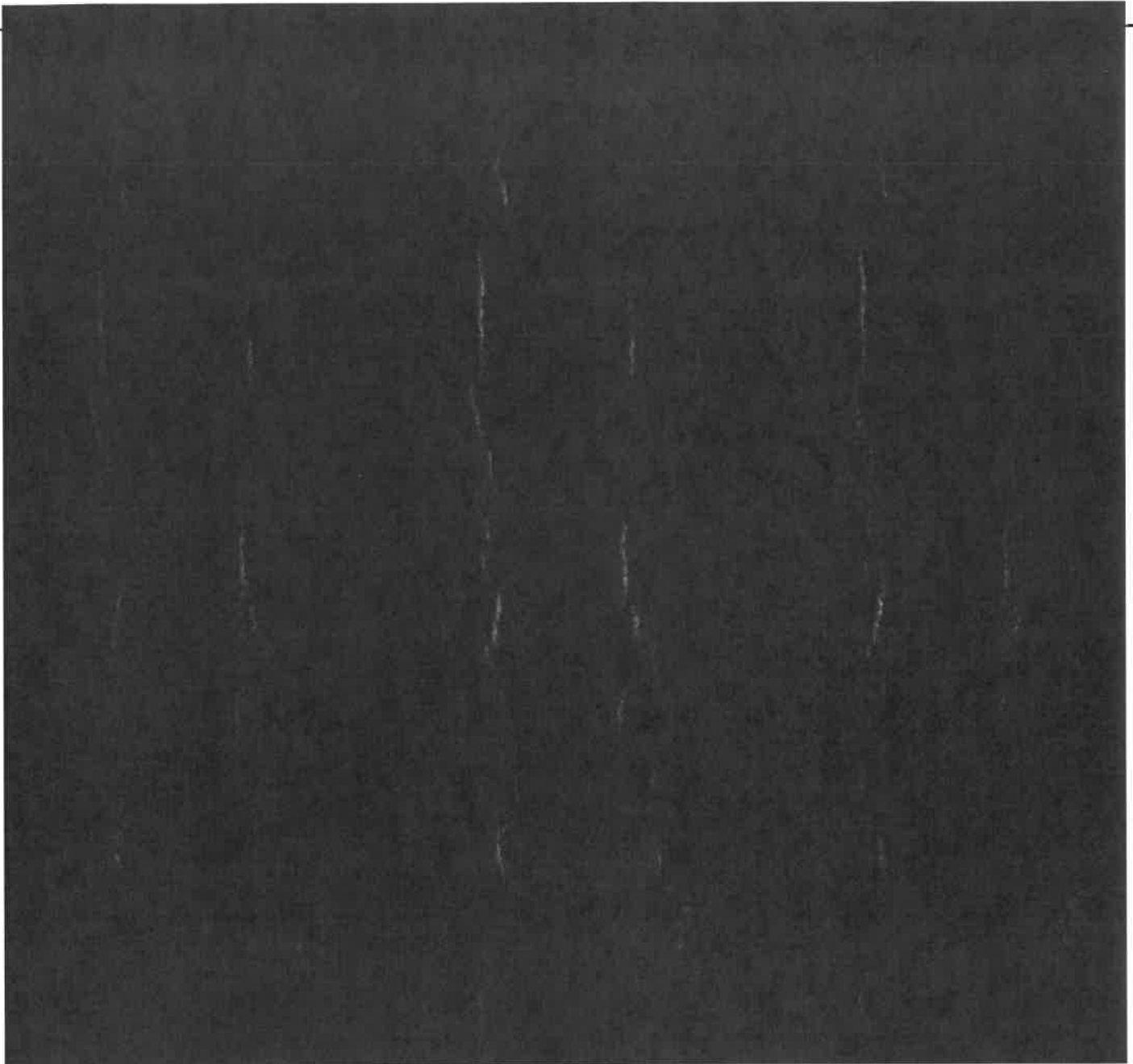




Work product

•RCW 42.56.290- records relevant to a controversy

•CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(



January 23, 2020

TO: Skagit County Planning & Development Services

**SUBJECT: Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments—P-2**

RECEIVED

JAN 24 2020

SKAGIT COUNTY  
PDS

Skagit County Planning Commissioners:

I am the chair of the Guemes Island Planning Advisory Committee (GIPAC) and I am writing to voice my support for Code Amendment P-2 and to urge the Planning Commission to approve P-2.

GIPAC originally submitted a similar well code amendment to the Planning and Development Services (PDS) for the 2016 docket, but it was never acted on. We then submitted P-2 in July 2018 and it was docketed for 2019 by the Board of County Commissioners. Only in early December, 2019—after more than 3 years in County processing—did we hear that there might be a legal issue with our proposed code amendment, but no specifics about these purported legal concerns were offered to us.

On December 11, 2019, PDS published the PDS Staff Report on the 2019 Docket of Comprehensive Plan Policies, Land Use Map, and Development Code Amendments. On p. 34, the report states, in reference to Code Amendment P-2, that the "County legal counsel does not believe it is lawful to regulate all new wells on Guemes Island." Later on, at the end of the analysis of P-2 (p.35), the staff reports states: "Planning and Development Services do not believe [we] have the ability to regulate wells that are not part of a development application."

On December 31, 2019, I wrote the Assistant Planning Director, with a copy to the Planning Director, to ask for the written justification for the PDS Legal Department's conclusion cited above. When we met with him a few days later, the Assistant Planning Director said he would request a copy for us. He has since told me he was unable to obtain one.

On January 9, 2020, with the Planning Commission public hearing on January 21 rapidly approaching, I filed a Public Records Request (# 20-0014) requesting the reasoning for the Legal Department's conclusion that it is "not lawful to regulate all new wells on Guemes Island."

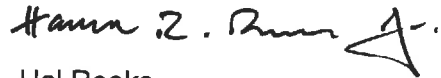
On January 15, 2020, I received in response:

( Copies of 4 pages of redacted material )

I find it difficult to believe there is anything sensitive enough about this issue that it warrants redacting the entire legal reasoning for denying our code amendment. Because we were denied knowledge of the grounds for the denial, we could not address the legal department's concerns at the recent Planning Commission public hearing, which could be the only—and final—opportunity for GIPAC to address these concerns if the BoCC does not hold a public hearing on P-2. This is hardly providing due process, or transparent government, for Skagit residents.

I urge the Planning Commission to recommend approval of P-2, as written, to the BoCC. The need to protect the sole source aquifer that provides drinking water to virtually all Guemes residents and visitors is compelling and P-2 is a vital tool in doing so.

Thank you,

A handwritten signature in black ink, appearing to read "Hal Rooks". The signature is stylized and includes a large, sweeping flourish at the end.

Hal Rooks  
1219 10th St.  
Anacortes, WA. 98221

Cc: Michael Cerbone  
Peter Gill  
Commissioner Ron Wesen  
Commissioner Ken Dahlstedt  
Commissioner Lisa Janicki

Work product

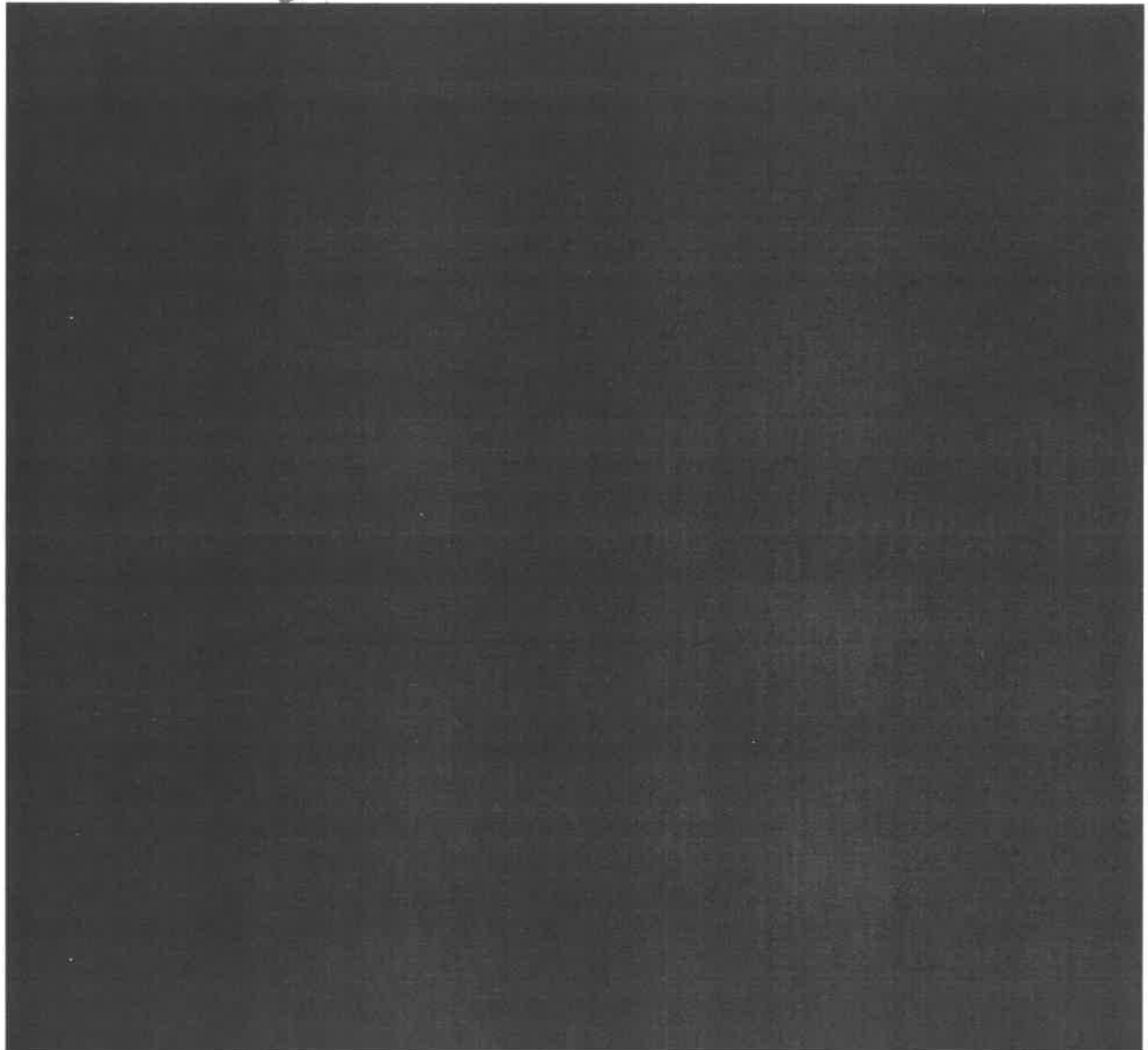
- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(1)

Guemes Island Planning Advisory Committee (GIPAC) has asked the County to develop a pre-drilling approval requirement for new wells installed on Guemes Island. Its application materials stated the following:

*[N]ew wells on the island, particularly on the north end, have caused deterioration of water quality and quantity in existing wells in violation of senior water rights. More explicit language regarding review and approval of new wells is needed to ensure that existing code requirements for protection of the aquifer are consistently applied.*

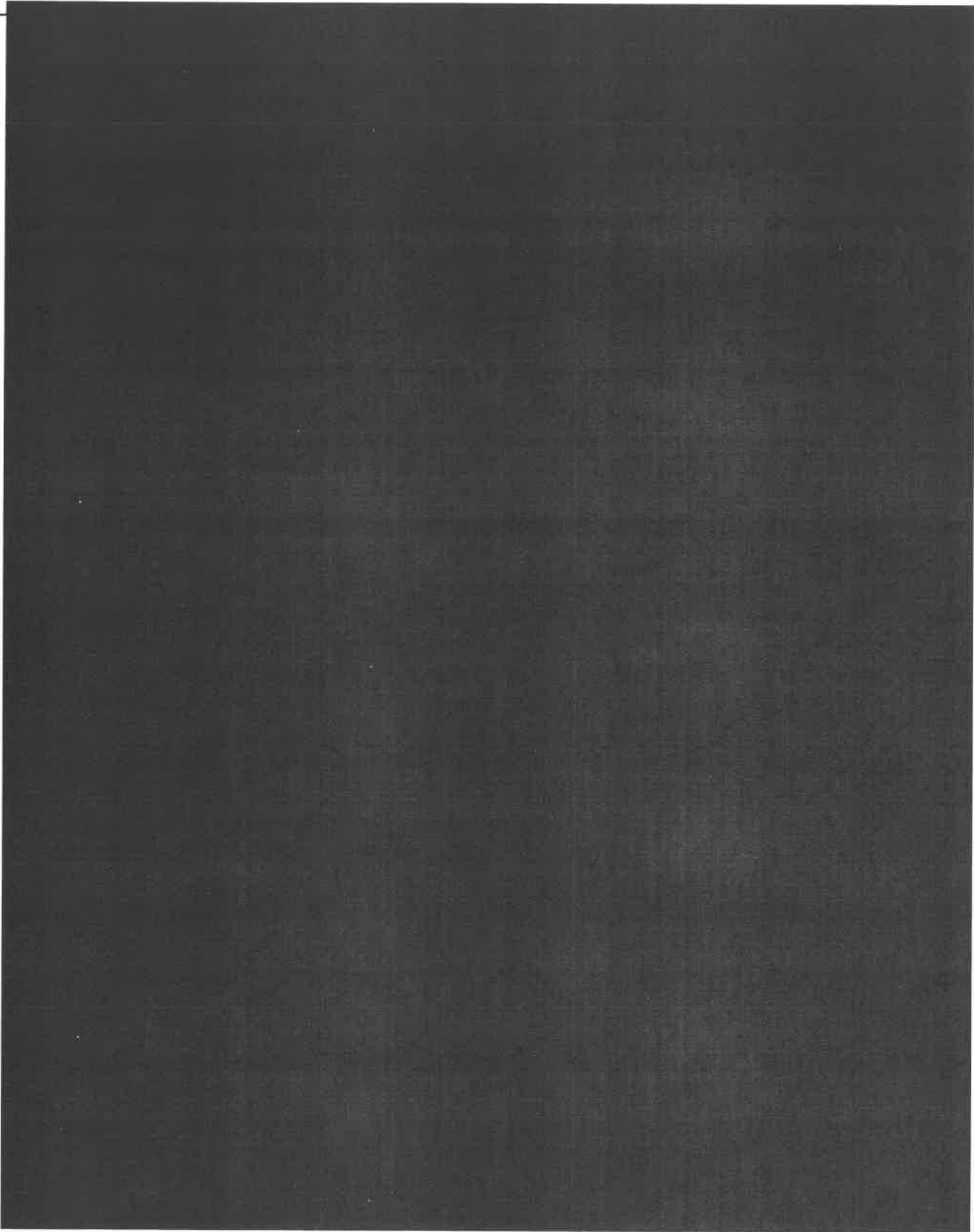
Skagit County does not have the authority to regulate wells unrelated to a development application.

Copy



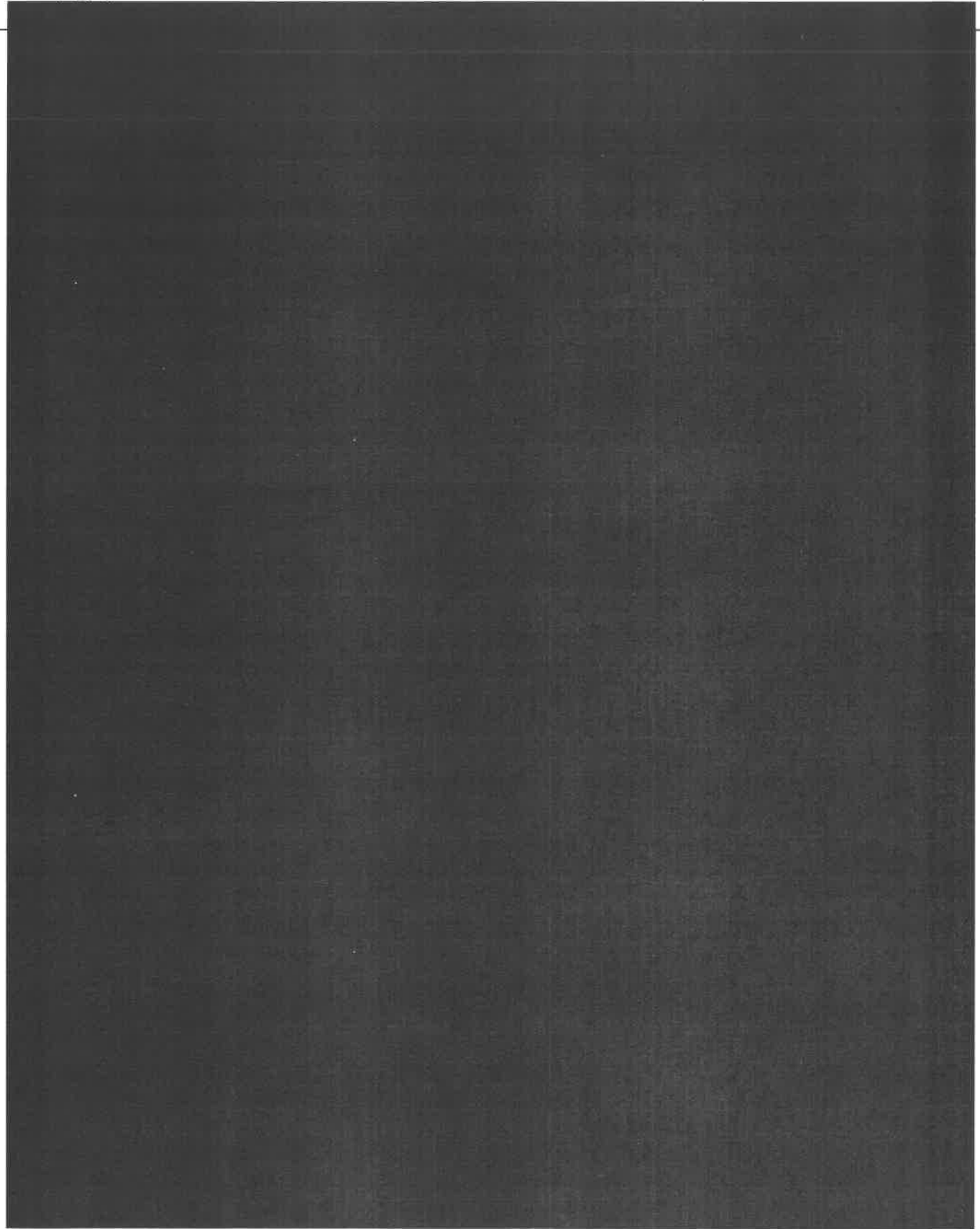
Work product

- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(1)



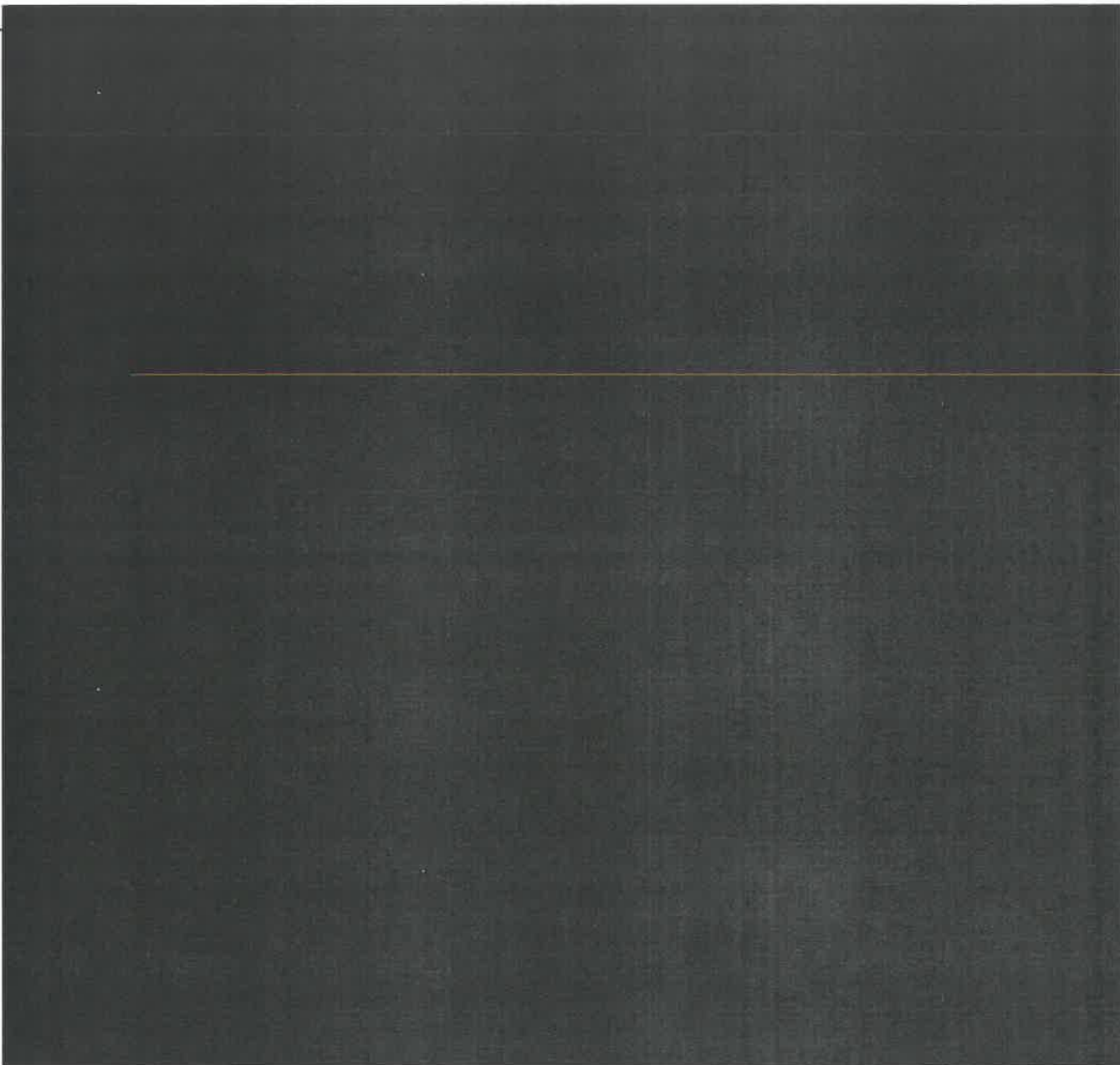
Work product

- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(1)



Work product

- RCW 42.56.290- records relevant to a controversy
- CR 26(b)(1) which is another statute or rule preventing disclosure pursuant to RCW 42.56.070(1)





606 E Fairhaven  
PO Box 1223 Burlington, WA 98233  
360-855-2121

RECEIVED  
JAN 24 2020  
SKAGIT COUNTY  
PDS

1/24/2020

Planning & Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

RE: Comments on PL18-0404 Modify Mineral Resource Overlay

On behalf of the property owners Happy and Dave Mangat Skagit Surveyors offers the following comments on the subject Comprehensive Plan Amendment request:

### **Background**

The Mangat's submitted a plat (Mangat Estates) for 9 lots with development rights preserved for an additional 9 lots. That plat was submitted to the County on June 30, 2006 and was recorded July 23, 2008. The plat was designed for the first phase of 9 lots to be located north of the access roadway that serves the plat and the second phase of 9 lots to be located south of the roadway. The applicant constructed infrastructure improvements necessary to serve all 18 lots with the first phase of the development. The first phase of the development is now completely built out and the owners are ready to complete the second phase. In the spring of 2018, the Mangat's returned to Skagit County to plat the remaining 9 lots that had been preserved by the original plat. They were informed that they could not complete the anticipated phase 2 because the County had designated the area as a Mineral Resource Overlay (MRO) and residential development was now incompatible with that designation.

Skagit County Natural Resource Staff have indicated that a broad-brush or high-level approach was taken with the designation of MRO in Skagit County with limited ground truthing. If a property owner believes that their property has been designated in error the County Code includes a process to remove the designation. When meeting with County Staff the applicants were told that the property may have been designated in error and recommended that they hire a Geologist to review the property to find out if the MRO was in fact suitable for mineral extraction. If that analysis indicated that the property was not suitable for mineral extraction, staff recommended that the Mangat's apply for a Comprehensive Plan Amendment (CPA) to correct the mapping error. The Mangat's hired a Geologist who performed the required analysis and did conclude that the area had been designated in error. That analysis was provided to the County and is included as part of the application that was submitted for the CPA.

The Mangat's also hired Skagit Surveyors to assist in the preparation of the Comprehensive Plan Amendment. Having been through this process at the County numerous times and knowing the difficulty of obtaining an amendment, we were cautious about agreeing to participate in the process. The job inquiry for this project (dated 6-4-18—copy attached) includes the following notations in Marianne's handwriting: "Call Stacie/John to make sure I should spend any time on it." and "Per Stacie the County is on board so long as the Geotech supports removal".

Based on the strength of the Geologic report the Mangat's were encouraged by County Staff to submit a Comprehensive Plan Amendment request to correct the mapping error. That application was prepared and submitted. A collaborative process between the applicant and the County staff was undertaken to ensure that the necessary information was available, to the extent possible, to reach a successful outcome for the Mangat's. Throughout the first 18 months of the process staff worked with and ensured the applicant that staff was fully supportive of the proposed amendment and that it would just take time to work its way through the process.



On November 5, 2018 a workshop was held with the Skagit County Commissioners to vet the proposal and determine if there were any questions or concerns that needed to be addressed. At that meeting the County's geologist provided an overview to the Commissioners and indicated that the imposition of the MRO had occurred at a high level and that no ground truthing had been done in this area. The Commissioners indicated that they recognized that the designation had been done with no on the ground testing and specifically asked staff if staff were comfortable with the recommendation to remove the MRO. Staff responded that they were "very comfortable". It was clear that both staff and the Commissioners were supportive of the request and no additional information was requested from the applicant.

In late summer 2019, there was new county staff involved with the proposal with a new approach to the process. We had some good communication with staff in August and September (when we had a workshop with the Planning Commission). After the September Planning Commission meeting, the applicant heard nothing from the county (not even notification that the project was again discussed at the Planning Commission on October 8). We were informed in November to expect a staff report in December and were surprised and disappointed when a staff report was provided to us on December 12, 2019 recommending denial of our request.

We are frustrated and disappointed that after working closely with staff; the applicant having been encouraged by staff to take this approach; that staff would now recommend denial of the very request that they urged the applicant to pursue. Additionally, we are frustrated that when it became clear to staff that they were considering a recommendation of denial they did not let us know that they were changing their position. Discussion between the applicant and staff could have identified that additional information was necessary. That information could have been, and now has been, prepared. That additional information could have informed the process and resulted in a favorable recommendation from staff as was always the goal of the applicant. Unfortunately, this was not the approach the County chose. Instead, they have chosen to reward our good faith efforts and collaboration with a recommendation for denial.

### **Designation in Error**

We want to make clear that it is the applicant's position that the MRO that was applied to this area was a designation error. When the designation was applied the County by its own admission was applying a high-level approach with little to no testing and recognized that we will have these types of corrections (from November 5, 2018 BOCC workshop see video—unfortunately the video only records bits and pieces of the meeting).

The application for the CPA prepared and submitted by the applicant includes a section titled "Analysis of Suitability of the Area to be Designated MRO". That section (a copy is attached) discusses all the criteria that was to be considered for the area to be designated as MRO. We will not reiterate all that analysis but would like to emphasize and elaborate on three of those factors here.

One of the most significant factors to consider in the MRO designation is the geologic suitability of the area for mineral extraction. The Mangat's hired a geologist and provided two studies to the County documenting the unsuitability of the property for mineral extraction. Those reports have been provided to the Planning Commission in the application and by the geologist Dan McShane. The reports speak for themselves. In addition to the analysis of the Mangat's professional geologist, the County's own professional geologist in statements to the BOCC (November 5, 2018 video of BOCC workshop) indicated that the maps look accurate at the top but when you dig the test pits they are not representative. While

the staff report indicates the applicant has not met its burden of proof to show that the area is not geologically suitable, the information provided by an independent professional geologist and the statements by the County's own professional geologist show that the area is not suitable for mineral extraction. It would seem logical that on-site ground truthing and the concurrence of two professional geologists should be adequate to demonstrate that the applicant has met their burden of proof but if that is not enough, there are other factors that also contribute support the applicant's position that the area was designated in error.

Even if the area was viable form mineral extraction it is significantly encumbered. Two Bonneville high voltage power lines and associated 125-foot easement and the Northwest high-pressure gas line and associated 75-foot easement run north and south the entire length of the MRO precluding mining within that area. The easements also act as a significant barrier in being able to access to those portions of the MRO lying east of them. In addition to the utility easements, Northern Pacific Railway has a 100-foot wide easement that also bisects the MRO area from north to south. That easement is located roughly 450 feet to the west of the utility easements further reducing the area of MRO that is available for mining. The Mangat's property includes a total of 11.73 acres of critical area in 4 separate tracts scattered throughout the designated MRO. At least one of these critical areas tracts extends north onto the adjacent MRO area on neighboring property. It is likely, given the clay nature of the soils and the use of MRO area for cattle ranching which compacts clay soils, that other critical areas would be identified throughout the MRO (random wetlands are very common with this specific fact pattern). All of these encumbrances act to the ability for the area to be used for mineral extraction supporting the applicant's position that the area was designated in error.

Goal 4D of the Comprehensive Plan is the primary and overarching goal of the MRO. It states, "Conserve mineral resource lands of long-term commercial significance where mining and processing activities are economically and environmentally feasible and where conflicts with other land uses can be minimized." The previous discussion addresses the lack of long-term commercial significance and potential environmental conflicts that would render the area both economically and environmentally infeasible. The following discussion addresses how the designation does not adequately consider minimizing conflicts with other land uses.

Using Skagit County's IMAP it is a simple process to identify properties within ¼ mile of the designated MRO area and to determine use and lot size. There are 140 lots within ¼ mile of this MRO. Interestingly there is one existing mine that was not included within any MRO. There are 7 parcels that are government owned including a school. There are five parcels that are in forest taxation. There are 8 parcels that are in farm and ag taxation. Finally, there are 118 residential parcels (only 7 of which are vacant). Clearly the vast majority of the adjacent parcels are residential in nature and pose a significant opportunity for land use conflicts with mining operations.

The Comprehensive Plan establishes an acceptable gross residential density of no greater than 1 unit per 10 acres for land uses surrounding MRO designated areas. When considering all 140 parcels surrounding this MRO (that includes government owned, exiting pit, forestry, farm and ag, and residential) the average lot size is 13.4 acres which exceeds the acceptable 10-acre density and would seem to support the designation. This is however quite misleading for several reasons. The first and most significant is that one of the forestry parcels is 640 acres (that is one square mile) in size. When this parcel is removed from the total, the average lot size (still including all of the other non-residential properties) goes down to 8.9 acres—less than the acceptable 10-acre density. When considering only the 118 residential properties the average lot size is reduced to 3 acres—well below the acceptable

gross residential density of 1 unit per 10 acres. It is notable that the Mangat's 9 one acre lots (and when the designation was put in place their approval of a total of 18 one acre lots) are within the MRO and a 50-lot subdivision with lots ranging from 0.31 acres to 0.93 acres (average of 0.48 acres) is immediately adjacent to and touching the MRO. Clearly the adjacent land uses do not minimize the potential for conflict with mining and would be a limiting factor in the designation of this area as MRO thus supporting the applicant's position that the area was designated in error.

In order to justify denial of the CPA request, the Staff report focuses exclusively on the geologic factor. While that is the primary and first criterion that must be considered in designating MRO it is not the only factor. Were the area commercially significant for mineral extraction—which we believe it is not based on the previous discussion—the area would still need to be evaluated on the other criteria established in the Comprehensive Plan. When considered together, the criteria to designate the area as MRO do not appear to support the designation. As such it must be concluded that the area was designated in error and that error should, as the BOCC stated at the November 2018 meeting stated, "be corrected".

#### **Mining permit Requirements and Rebuttal to Letters from Neighbors**

It is important to remember that the MRO designation does not automatically confer on a property owner the right to extract minerals. In order to actually mine the resources, requires a Mining Special Use Permit from Skagit County as well as surface mining permits from the state. SCC 14.16.440 (8) through (11) (copy attached) includes the requirements and process for obtaining the required mining permit from Skagit County.

Skagit Surveyors has assisted a number of mineral extraction companies in obtaining mining permits over the years with the most recent example being a modification of a Mining SUP that was completed in November 2019. That modification process (a minor modification to change the location of the access to the pit) took 20 months and cost the property owners \$70,000 in permitting costs. In addition to the costs of surveying and permit management, the modification required revision of a noise study, revision of the traffic study, additional critical areas evaluation, an engineering study, and geotechnical studies. For a new mining permit an applicant should plan to spend a minimum of \$100,000 just for permitting cost. That assumes no controversy or appeals.

Prior to the Planning Commission hearing the County received letters of opposition from two neighbors. The first was from a neighbor within the Mangat Estates plat. The property is one acre in size and has a single-family residence located on it. It has one acre lots with homes on both sides. The lot is further encumbered by the previously discussed railway right of way. The plat restricts the buildable area of the lot to the area located outside of the railway right of way. Based on the lot size and how the property is encumbered, removal of the MRO would not in any way change what the property owner could do with the lot. The requirements of the mining Special Use Permit would preclude mining on the lot.

The second letter was from the farm located north of the Mangat's property. Like the Mangat's property the property to the north includes the utility easements (both the high voltage power lines and the high-pressure gas line) and the railroad easement. Like the Mangat's property this significantly reduces the area of MRO that is available for mining. The neighbor's letter conveyed the desire for the area to remain a cattle ranch. Removal of the MRO does not affect the under lying Rural Resource (RRc-NRL) zoning designation. It is the RRc-NRL zoning designation that allows for the use as a cattle ranch not the MRO. If it is the neighbors intent to see the area preserve the area for cattle ranching they should support the removal of the MRO to prevent mining activity. The neighbor's letter also indicates that they oppose the removal because they (the neighbor) want to have the "...ability to use some

gravel for neighboring farms to repair driveways as needed.” As previously discussed, mining gravel—as is allowed by the MRO designation—requires mining permits which are expensive and take a long time to obtain. Even if the gravel located within the MRO area was suitable for use in driveway improvements (which the geological testing does not indicate is the case), it is not practical or feasible to obtain the necessary permits just for some gravel to fix driveways.

### **Conclusions**

The foregoing discussion provides context for the applicant’s request. It provides elaboration and clarification regarding the designation criteria indicating that the original designation of the MRO in this area was a mapping error. It also includes a discussion of the requirements to obtain a mining permit in an area designated MRO. When considering all the information presented, it becomes clear that the staff is mistaken in its assertion that the applicant has failed to meet their burden of proof to show that the area was designated MRO in error. We would request that the Planning Commission reject the staff recommendation to deny the request and instead recommends approval of the request to the County Commissioners.

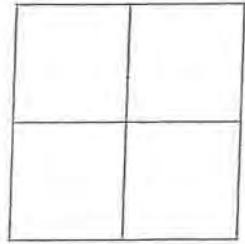
Thank You,

Skagit Surveyors, PLLC



Marianne Manville-Ailles  
Senior Land Use Planner

SKAGIT SURVEYORS AND ENGINEERS  
806 METCALF STREET  
SEDRO-WOOLLEY, WA 98284  
(360)855-2121 (360)855-1658 FAX



JOB INQUIRY

30 36 05  
SEC TWP RNG

NAME HAPPY MANGAT DATE 6-4-18

ADDRESS P.O. BOX 1692

CITY, STATE, ZIP MANYSVILLE WA 98270

HOME PHONE 425-220-5762 WORK PHONE \_\_\_\_\_

MOBILE PHONE \_\_\_\_\_ E-MAIL ADDRESS \_\_\_\_\_

Second Party or Job Address PT 127899 IN SEDRO-WOOLLEY

Approximate size of property \_\_\_\_\_

Legal Description \_\_\_\_\_

**They will:** mail \_\_\_\_\_ Deed \_\_\_\_\_ tomorrow \_\_\_\_\_ next week \_\_\_\_\_  
bring in \_\_\_\_\_ Title Ins. \_\_\_\_\_ by \_\_\_\_\_  
call again with more information \_\_\_\_\_

**We should:** return their call \_\_\_\_\_ send written estimate \_\_\_\_\_  
set up appointment \_\_\_\_\_ return call with quote \_\_\_\_\_

Appointment time and date: \_\_\_\_\_

Type of Job requested: \_\_\_\_\_

Quoted price range: \_\_\_\_\_ to \_\_\_\_\_

Other comments: \_\_\_\_\_

COMPREHENSIVE PLAN FOR DEVELOPMENT

Camp Plan Amendment - To Remove MRD  
Call Stacie / John to make  
sure I should spend any  
time on it.

per Stacie the County is on board so  
long as the geotech supports removal.

### Analysis of Suitability of the Area to be Designate as MRO

The Skagit County Comprehensive Plan includes goals and policies relating to the designation of an area as MRO. The subject area was designated as MRO sometime after the Mangat Estates Plat was approved and its development rights secured. It would appear that based on the required criteria, the entire area was designated in error. The following discussion provides the rationale for that assertion.

Relevant sections of the overall Goal have been highlighted below.

*“Goal 4D Conserve mineral resource lands of long-term commercial significance where mining and processing activities are economically and environmentally feasible and where conflicts with other land uses can be minimized.*

*Skagit County supports environmentally responsible and safe mineral resource extraction and processing activities. Mineral resource lands where mining and processing activities are economically and environmentally feasible and where conflicts with other land uses can be minimized are to be identified and designated as a Mineral Resource Overlay (MRO) to conserve mineral resource lands of long-term commercial significance. Because mineral extraction sites can take 20 to 40 years or longer to excavate, identifying and protecting opportunities for mineral extraction operations requires a long-term planning horizon.*

*Extraction and processing of construction material such as sand and gravel make up most of the mining activity in Skagit County, although there is significant hard-rock mining and processing of such resources as olivine, various other “green rock,” and limestone. Protection of these mineral resources from competing land uses ensures the availability of basic building materials, and helps to reduce costs, as producers would otherwise be forced to transport low value, high volume commodities over long distances.*

*The potential for mining without adverse impacts is greatest in relatively undeveloped areas. Valuable and non-replaceable resources in these areas are preserved, to the extent possible, by indicating that mining will be the preferred land use for these areas, and by establishing guidelines for adjacent land uses that will help reduce potential conflicts with mining. Extractive industries can conflict with residential uses in several ways, including potential noise, dust and hazards from blasting, rock crushing and heavy truck traffic. Therefore, it is important to establish firm policies and regulations to protect public health and safety, while also preserving a valuable part of Skagit County’s economy, now and into the future.*

*Concerns and issues related to mining activities in riverine areas are addressed in the Skagit County Shoreline Management Master Program. Concerns and issues related to metal mining are addressed at the state level. The Washington State Department of Natural Resources and the Washington State Department of Ecology have previously codified the Washington State metal mining law. This element proposes not to allow chemical leach mining in Skagit County until state laws are enacted to allow such activities.”*

In addition to Goal 4D Policy 4D-1 includes more specific criteria for designation as MRO. That designation is to be based on a number of factors including geologic, environmental, economic, existing land uses, ownership, and surrounding parcel size. A discussion of each of these factors is included below:

### Geologic

No assessment of the potential for mineral extraction was prepared prior to the County redesignating the area as MRO. The Geotechnical report prepared for this request (Stratum Group 2018 copy attached) indicates that it appears the County's designation of this area as MRO was based on a 1999 geologic map prepared by Dragovich and others. The test pit investigation that was performed by the Stratum Group did not confirm the mapping that the County relied upon for its designation.

Minimum threshold volumes are included as part of the discussion for MRO designation. The Geotechnical Assessment for the area indicates that, "Based on the geology of units, it is our professional opinion that the potential for mineral extraction at the site is so remote as to be negligible.

This more detailed information would indicate that the area is not consistent with the necessary geologic criteria for designation as MRO.

### Environmental

The majority of the designated MRO area is within the Plat of Mangat Estates. The plat was evaluated for critical areas and four critical areas and their associated buffers were identified. All of the critical areas are located within the designated MRO area. One of the areas (Tract D – a stream) extends off of the Mangat property to the north continuing into the MRO area on the adjacent property.

Given the presence of these critical areas combined with the negligible potential for mineral extraction it would not appear that the area is consistent with the environmental criterion for MRO designation.

### Economic

It is clear from the geotechnical analysis that there is negligible opportunity for mineral extraction in the area. As such, it does not appear to be an economically viable land use for the area and would therefore not be consistent with the economic criterion for MRO designation.

### Existing Land Uses

Existing land use in the area is primarily residential. The property immediately south of the MRO designation includes a 50 lot subdivision that actually touches the area designated MRO. The Plat of Mangat Estates (9 small lots and 9 additional development rights) is located within the area designated as MRO. It appears that the existing land use criterion was not carefully examined when the designation was changed. One of the primary considerations in establishing MRO areas is to minimize land use conflicts. In this case it appears that this factor was not carefully considered. In combination with the lack of potential for mineral extraction it would appear that the designation is in sharp conflict with this criterion.

Several maps showing the area with the land uses and boundary are attached. It is clear from those maps that the primary land use in the area is residential and in fact that the lots in that area are significantly smaller than in a majority of the rural parts of Skagit County.

### Ownership

It is unclear what the intent of applying this criterion is. The majority of the property is owned by the Mangats who have a significant objection to their property being designated MRO. They have spent tens of thousands of dollars to develop their property for residential purposes. They followed all of the County regulations for preserving the development rights for the second phase of their development.

They were never consulted regarding the designation of their property as MRO and whether such a designation was consistent with the long term plans for the property. If this is the intent of the criterion then the designation is clearly inconsistent.

In addition the other properties that have the MRO designation are either being actively managed as Forest Land or Ag Land. There is no ownership interest that would indicate an intent to extract minerals and given the lack of minerals to extract it is not unexpected that no mineral based company has an ownership interest in the property.

#### Surrounding Parcel Size

The attached aerial photo and surrounding land uses/parcel size exhibits indicate that the surrounding area is primarily smaller lot residential. The lots to the east of the designation do tend to be larger but the uses to the south and west tend to be quite small and residential. It would appear that the designation of the area as MRO is in sharp conflict with the area as primarily residential. The larger resource lands to the east are more consistent with the intent of this criterion but overall the prevalence of existing smaller lots significantly increases the potential for land use conflicts and when added to the lack of available minerals for extraction makes the designation inconsistent with this criterion.

Based on the foregoing discussion there appears to be very little rationale for designation of the area as MRO and a great potential for the types of land use conflicts that are specifically supposed to be avoided. There is no existing mineral extraction in the area and the designation was put in place post 2007-2009 long after the area was well established as primarily residential. It appears that the designation is a clear mapping error and should be removed.



**14.16.440 Mineral Resource Overlay (MRO).**

(8) Application For Mining Special Use Permit. An applicant for a mining operations special use permit shall submit:

(a) The following information on maps in an 11-inch by 17-inch format size:

(i) A vicinity map with a north arrow indicating the area on which the extraction operation is proposed including a legal description, showing right-of-way width of access roads to the proposed site from the nearest community and any roads proposed on the site, and showing zoning of adjacent properties and land uses within 5 miles of the area proposed for mineral extraction and related activities;

(ii) A pre-mining map drawn to scale with an appropriate scale bar showing the permit area and buffers, elevations and contours, natural slopes and other drainage patterns, boundaries of municipalities, boundaries of property ownership, names and addresses of adjacent property owners, locations of nearby mines, locations of all railroads, bridges, utility lines or other rights of way, locations and names of any streams and natural or artificial drain ways on or adjacent to the site, locations of parks and other significant features;

(iii) A reclamation sequence map drawn to scale with an appropriate scale bar covering the same area as the pre-mining map showing the permit area border and buffers, excavation areas, location of all proposed access roads to be built, location of types of setbacks and beams, numbered segments and the direction of the sequence of mining, soil storage areas and sequence of stripping, storing and replacement of mined segments, overburden storage areas and sequence of stripping, storing and replacement of overburden on mined segments, waste rock piles and how they will be reclaimed and stabilized, operation plant and processing areas, measures to be taken to adjacent surface area to prevent slumping or landslides on adjacent lands, location and description of stormwater and erosion control systems, including drainage facilities and settling ponds and estimated runoff served by individual facilities; and

(iv) A final reclamation map drawn to scale with an appropriate scale bar covering the same area as the pre-mining map permit area and buffers, final elevations and contours, adjacent natural ground slopes, reclaimed drainage patterns, general topography, locations and names of any roads, utility lines, rights-of-way, streams, bridges, lakes, springs, wetlands, location and depth of topsoil to be replaced after seedbed preparation, permanent drainage and water control systems, area to be re-vegetated and proposed species, 2 cross-sections (at right angles) with horizontal and vertical scales the same that show the original and final topography and the water table.

(b) A report by a qualified geologist, hydrogeologist or licensed engineer characterizing the area's ground water including, but not limited to, the following information:

(i) A description of the geology and hydro-geology of the area including the delineation of aquifer, aquitards, or aquicludes (confining layers), hydrogeologic cross-sections, porosity and horizontal and vertical permeability estimates;

(ii) Determination of the direction and velocity of ground water movement, water table contour and potentiometric surface maps (for confined aquifers), if applicable; and

(iii) A map containing the limits of the mine, buffer zones, location of all ground water wells within 1 mile distance down gradient from the property boundaries, location of all perennial streams and springs, and definition or specification of locations of aquifer recharge and discharge areas.

(c) The estimated quantities of all materials to be extracted.

(d) Identification of any possible Scientific Resource Sites that may be located on the proposed site. Scientific Resource Sites include unique or rare occurrences of rocks, minerals, or fossils that are of outstanding scientific significance. These areas must be delineated on the map in Subsection (8)(a)(ii) above and the proposal for preservation of the identified area(s) must be addressed.

(e) An on-site study to determine appropriate mitigation requirements for noise, vibration and dust levels. The study should specify what levels the applicant deems satisfactory to mitigate off-site disturbances.

(f) An operations proposal detailing estimated frequency of blasting, estimated truckloads per day, what provisions for screening and fencing are proposed, and estimated hours of operation.

(g) Identification and description of those critical areas designated and regulated by Chapter 14.24 SCC, together with any critical areas studies that may be required by Chapter 14.24 SCC.

(h) A completed environmental checklist.

(i) A review from Skagit County Public Works Department or Washington State Department of Transportation demonstrating that roads or bridges are capable of sustaining the necessary traffic for the proposed mineral extraction operation, and that the proposed operation meets level-of-service, safety, and other standards as outlined in the Skagit County Transportation Systems Plan, the Skagit County Comprehensive Plan, and applicable State and local regulations.

(9) Hearing Examiner Review. Except as may be provided herein to the contrary, all applications for mining operations special use permit shall be reviewed by the Hearing Examiner under the procedures set forth in Chapter 14.06 SCC. The Hearing Examiner shall make a decision as to whether or not it should be approved based upon the special use approval criteria and the following provisions:

(a) When reviewing an application for mining operations special use permit, the Hearing Examiner should recognize that surface mining is an essential economic activity and that it is not possible to extract minerals without producing some environmental impacts. The Hearing Examiner shall consider all relevant evidence and conditions that will mitigate detrimental

impacts to the environment and conditions that protect the general welfare, health and safety. The permit shall be granted if the impacts are mitigatable. The burden of proof shall be on the applicant. Mitigating conditions shall be performance-based, objective standards that:

(i) Are directly and proportionately related to limiting surface mining impacts;

(ii) Are reasonable, practicable and generally capable of being achieved by the mine operator; and

(iii) Take into consideration existing and available technologies applicable to mining operations.

(b) The Hearing Examiner shall consider the requirements of this Chapter as minimum standards based on unique site-specific factors or conditions as appropriate to protect public health, safety, and the environment.

(c) Appropriate site-specific conditions shall be required to mitigate existing and potential incompatibilities between the mineral extraction operation and adjacent parcels. Such limitations shall reflect the differences in potential impacts based on the mineral extraction operation's location in resource, rural or urban growth areas and recognize that the purpose of designating mineral resource lands is to conserve mineral resource lands, allow continued operation of existing legally established mining operations, and assure that use of adjacent lands does not interfere with the extraction of minerals. The Hearing Examiner shall take into consideration the January 1996 publication *Best Management Practices for Reclaiming Surface Mines in Washington and Oregon*, published jointly by the Oregon Department of Geology and Mineral Industries and the Washington State Department of Natural Resources, Ch. 3, Operation and Reclamation Strategies, in determining appropriate mitigation requirements for operational impacts.

(d) Appropriate site-specific conditions shall be required to mitigate stormwater runoff and erosion impact. The Hearing Examiner shall take into consideration the January 1996 publication *Best Management Practices for Reclaiming Surface Mines in Washington and Oregon*, published jointly by the Oregon Department of Geology and Mineral Industries and the Washington State Department of Natural Resources, Ch. 2, Storm Water and Erosion Control, and the National Pollutant Discharge Elimination System (NPDES) Surface Water Protection requirements in determining appropriate conditions for mitigating stormwater and erosion impacts.

(e) The Hearing Examiner shall consider public interests such as fishing, boating, hiking and camping when reviewing a mining operations special use permit, and may impose mitigating measures as necessary and appropriate.

(10) Operating Standards or Requirements.

(a) Site Area and Width. When the activity includes both extraction and on-site mineral crushing or mineral processing including asphalt or concrete batching and asphalt or concrete recycling, the site area shall be a minimum, of 20 acres. There shall be a minimum lot width of 500 feet for crushing or processing activities. Operations that are limited to extraction and transportation shall comply with dimensional standards of the underlying zone.

(b) Buffers.

(i) A minimum 200-foot buffer shall be required between on-site crushing, processing, or recycling activities and adjacent properties for the site as a condition for the issuance of a mining operations special use permit.

(ii) Adjacent properties are required to maintain a 200-foot buffer from the mineral resource designated land or sign a nuisance waiver to reduce the 200-foot buffer. In the case of a pre-existing structure located in the buffer of adjacent property, the required buffer shall be established on the mineral resource designated land.

- (iii) A minimum 100-foot buffer shall be required for the site where operations are limited to the extraction and transportation of minerals. Once the extraction and transportation operations have been completed, the material in the buffer may be utilized during reclamation.
- (c) Maximum Permissible Noise Levels. Maximum permissible noise levels shall be according to the provisions of the Chapter 173-60 WAC, Maximum Environmental Noise Levels.
- (d) Blasting. Blasting shall be restricted to daylight hours when the mineral extraction operation is within 1/4 mile of a residential area with a greater density than 1 dwelling unit per 10 acres. The Hearing Examiner may otherwise set blasting hours and conditions based on site-specific circumstances. Except in the case of emergencies declared by civil authorities, blasts should be scheduled for regular and predictable times.
- (e) Vertical Limitations/Aquifer Protection.
- (i) Surface mining shall be vertically limited to only 1 aquifer unless approved by the Washington State Department of Ecology. Hydrological barriers separating aquifers shall not otherwise be disturbed.
- (ii) Activities related to mineral extraction and processing operations in the vicinity of aquifers must provide safeguards including containment to prevent direct contamination to the open aquifers and indirect contamination through infiltration of mining operation pollutants.
- (iii) Imported material shall not be used as a backfill for mine sites where an aquifer has been breached.
- (iv) Disturbed aquifers should be reclaimed as ponds or lakes and/or wetlands.
- (v) Additional buffers and setbacks may be required beyond those listed in Subsection (10)(a-b) above, if necessary, to prevent over-excavation when mining in an aquifer.
- (vi) All relevant provisions of the Critical Areas Ordinance, Chapter 14.24 SCC, for aquifer protection shall be met.
- (f) Surface Water Protection. All mineral and aggregate sites shall meet the minimum requirements of Chapter 14.32 SCC, as well as all pertinent requirements of the Washington State Department of Ecology, the Department of Natural Resources, Department of Fish & Wildlife and other State and Federal regulations regarding surface water protection.
- (i) Storage pond systems for holding processing waters shall be designed to preclude untreated discharge to natural streams or surface waters, unless the discharges are otherwise regulated and allowed by a State or Federal government agency.
- (ii) The flow of natural runoff from extraction sites shall be dispersed or regulated such that soil erosion on receiving lands is prevented.
- (g) Bench/Terrace. Benches shall be back-sloped and shall be established at not more than 40-foot intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of 5%.

(h) Reclamation. Reclamation of surface mining sites shall be in accordance with the requirements of the State Department of Natural Resources. Reclamation activities shall not allow land filling unless sites comply with Chapters 173-304 and 173-351 WAC, Chapter 12.16 SCC, other relevant State, and Federal regulations. If the operation is not subject to the State Department of Natural Resources permitting requirements, the following minimum standards shall apply. All reclaimed slopes shall:

- (i) Have a varied steepness;
- (ii) Have a natural appearance in both profile and plan view;
- (iii) Have no large rectilinear topographic elements;
- (iv) Not exceed 2 horizontal to 1 vertical except as necessary to blend with natural adjacent slopes;
- (v) Be compacted if significant back-filling is required to produce the final reclaimed slope;
- (vi) Provide measures to establish a beneficial wetland where a lake pond or swamp is created; and
- (vii) Place topsoil and re-vegetate as necessary to stabilize slopes and controls erosion.

(i) Hours of Operation. Hours of operation shall vary according to the location of the site as stated below and may be shortened by the Hearing Examiner based on site-specific circumstances:

(i) Within designated natural resource lands, the hours of operation may be unlimited. The Hearing Examiner may limit hours of operation to daylight hours or to such other reasonable limitation deemed necessary to address potential significant adverse impacts to existing adjacent land uses, on any portion of the mining site where mining activity is proposed to occur less than 1/4 mile from existing Rural Intermediate, Rural Village, or Urban Growth Area designated lands;

(ii) Within rural lands, the hours of operation shall be from dawn to dusk;

(iii) Within urban growth areas and rural villages, the hours of operation shall be from 8 a.m. to 5 p.m., Monday through Saturday; and

(iv) During emergencies, restrictions on hours of operation can be suspended by the Board of County Commissioners pursuant to the lawful procedures for declaring an emergency.

(j) Chemical Leach Mining. Chemical leach mining shall not be allowed.

(k) Responsibility. The landowner(s) and operator(s) shall be held jointly responsible for the operation of a mineral extraction site.

(l) Metals mining shall be regulated by Chapter 78.56 RCW, Metals Mining and Milling Act.

(11) Additional requirements related to this zone are found in SCC 14.16.600 through 14.16.900 and the rest of the Skagit County Code.

## Hall family property

To whom it may concern:

October 7-2019

Our grandparents homesteaded this property in 1884, and we are the 3<sup>rd</sup> Generation to farm this land.

We can not understand how an adjoining property owner could dictate what We are able to do with our property. They were able to turn in an application To change the use<sup>of</sup> our land without our knowledge. We want the land to Remain as a farm, with the ability to use some gravel for neighboring farms To repair driveways, as needed.

The farm next door was sold, and it is now a housing development, we did Not protest them, because they owned the property, however we did not Approve this change, it should still be a cattle ranch.

Thank you for alerting us to this application for change.

Janet (Hall) McRae



RECEIVED

JAN 21 2020

SKAGIT COUNTY  
PDS

GARY NOBLE CURTIS  
GNCSE@gncurtis.com  
4792 West Shore Road  
Anacortes, WA 98221

Consulting  
Structural Engineer

Cell (562) 537 7287

Testimony for Skagit Count Planning Commission  
Re: P-1 and P-2 Hearing January 21, 2020

My name is Gary Curtis residing at 4792 West Shore Road on Guemes Island and am an emeritus member of GIPAC. At present I own two five acre properties with wells on the island. They both provide excellent water and I hope that continues.

60 years ago I graduated in engineering from a small college in Eastern Washington and moved to Southern California. Withn a couple years the firm I worked for was commissioned to design a large tower that was to be occupied in only 13 months. A 30 foot deep foundation had to be designed and large steel columns produced in Chicago, fabricated and shipped to Seattle, then a five story building constructed 500 feet in the air. The Space Needle opened a month early.

A few years later working and living in Long Beach CA I served on the Hearing Board for the City Building Department where we developed the first process for coping with the seismic hazards of old buildings in California. It took a while to enforce but at this time there are no unreinforced masonry buildings in the city. 12 years ago I put this experience to work for the Guemes Island Community Hall so that it too could withstand an earthquake.

I am not accustomed to large time gaps between a good idea and execution.

25 years ago I purchased the property on Guemes Island and built my home there. Since undergrowing that house I am now starting over, but smaller.

**RECEIVED**

**JAN 21 2020**

**SKAGIT COUNTY  
PDS**

GARY NOBLE CURTIS  
GNCSE@gncurtis.com  
4792 West Shore Road  
Anacortes, WA 98221

Consulting  
Structural Engineer

Cell (562) 537 7287

14 years ago The AIA provided a grant and conducted a Sustainable Design Assessment of Guemes Island bringing professional architects and engineers from all over the US. The community enthusiastically supported this effort filling the parking lot solid for a week of conferences. That directly led to the current Sub Area Plan and Advisory Committee that the County has approved and endorsed.

I have served with this effort for all those 14 years. I have witnessed that the dedication, commitment and amount of work by the members of this committee is truly unbelievable. Their work product should be of high value to the County. It would have taken substantial county staff to produce such benefit. The current items P-1 and P-2 are intended to protect the water resources, provide sustainable development opportunity while maintaining property rights, not to mention protecting many millions of dollars of property value.

In my opinion it is shameful that the county has been so obstructive to this effort.

Gary N Curtis SE



RECEIVED

JAN 21 2020

SKAGIT COUNTY  
PDS

Comment #1: three minutes

I am Nancy Robblee.. I live at <sup>21072</sup>~~2776~~ Mann Rd, Mount Vernon. I love watching herons (~~or something like that~~).

To successfully raise young, great blue herons need forest habitat in which to build their nests, and productive foraging areas nearby.

Skagit County's herons typically build their nests high in very tall firs, cedars, maples, and alders. Some of the trees contain 1 or 2 nests, others more than 20 nests. Some nests sit on a horizontal plane next to one another, others are built apartment-style with nests directly one above another.

Washington Department of Fish and Wildlife says forest stands appropriate for nesting herons should consist of at least 10 acres of mature coastal forest with dominant trees at least 56 ft high. Such stands provide nests sites, buffering from wind and extreme weather, and screening from human activities. As Skagit County becomes more developed, forests like these are hard to find. .

WDFW says that adequate heron nesting habitat can't be just any mature coastal forest. It should be forest within 2 miles of good foraging habitat. The subspecies of great blue heron that live in Skagit County prefer eelgrass beds for foraging.

Padilla Bay's eelgrass beds sit close to the March Point heronry and to the now-abandoned Samish Island heronry. Padilla Bay is an internationally known nursery for forage fish. Its eel grass beds provide the fish needed by the adult herons, and by their chicks that must grow from 2 ounces at hatching to the almost 5 pounds they weigh when they leave the nests 2 months later.

Mature coastal forest stands with nearby eelgrass beds are increasingly scarce in Skagit County.

If great blue herons are to continue to thrive in Skagit County, we must protect their heronries from disturbance. Please adopt Skagit Land Trust's P-4 amendment so our County's heronries are better protected..

9410070117

**DEVELOPER**

LOWELL H. ASHBACH, JR.  
1084 SOUTH BURLINGTON BLVD.  
BURLINGTON, WA 98233  
TEL. (206) 757-8470

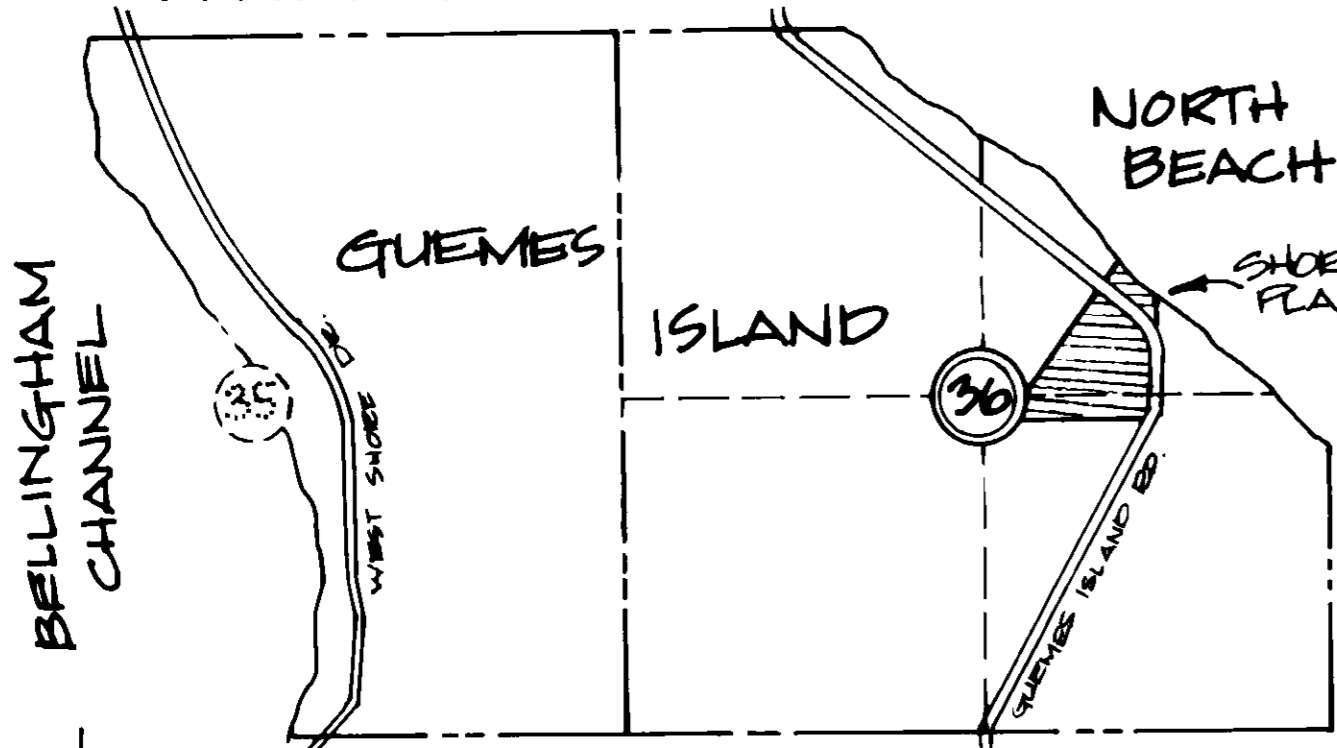
**LEGAL DESCRIPTION**

LOTS 1, 2 AND 3 AS DEFINED IN SHORT PLAT NO. 32-82 RECORDED IN BOOK 6 OF SHORT PLATS AT PAGE 49 RECORDS OF SKAGIT COUNTY, WASHINGTON.

**BASIS OF BEARING**

SHORT PLAT No. 32-82 RECORDED IN BOOK 10 OF SHORT PLATS AT PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

**VICINITY MAP**



1.  $\Delta = 0^{\circ}41'48''$   $\Delta = 4^{\circ}56'19''$   $\Delta = 1^{\circ}59'52''$   $\Delta = 3^{\circ}29'13''$   
 $L = 17.67$   $L = 1452.69$   $L = 1452.69$   $L = 389.27$

2.  $\Delta = 26^{\circ}47'46''$   $\Delta = 31^{\circ}47'$   $\Delta = 7^{\circ}07'54''$   
 $L = 389.28$   $L = 287.94$   $L = 329.27$

3.  $\Delta = 1^{\circ}50'16''$   $\Delta = 5^{\circ}04'45''$   $\Delta = 3^{\circ}59'06''$   
 $L = 1412.69$   $L = 125.19$   $L = 192.46$

**NOTES:**

1. ALL MAINTENANCE AND CONSTRUCTION OF PRIVATE ROADS ARE THE RESPONSIBILITY OF THE LOT OWNERS AND THE RESPONSIBILITY OF MAINTENANCE SHALL BE IN DIRECT RELATIONSHIP TO USAGE OF ROAD.
2. SHORT PLAT NUMBER AND DATE OF APPROVAL SHALL BE INCLUDED IN ALL DEEDS AND CONTRACTS.
3. ZONING - RURAL 2 RESIDENTIAL
4. SEWAGE DISPOSAL - INDIVIDUAL SEPTIC SYSTEMS
5. WATER - INDIVIDUAL WELLS, EXCEPT LOT 3
6. SHORELINE DESIGNATION - RURAL RESIDENTIAL
7. RESERVATION OF MINERAL RIGHTS TO STATE OF WASHINGTON RECORDED UNDER AUDITOR'S FILE NO. 102142. ALSO RIGHT OF STATE SUBJECT TO COMPENSATION TO ACQUIRE RIGHT-OF-WAY FOR PRIVATE RAILROADS, SKIDROADS, FLUMES, CANALS, WATER COURSES OR EASEMENTS FOR MOVING TIMBER, STONE, MINERALS AND OTHER PRODUCTS FROM THIS AND OTHER PROPERTY.
8. POSSIBLE RIGHTS OF THIRD PARTIES TO TAKE WATER FROM SUPPLY LOCATED ON GOV'T LOT 3, TOGETHER WITH EASEMENTS TO SUPPLY AS STATED, BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 687803.
9. WATER OF SUFFICIENT QUANTITY AND/OR QUALITY FOR NORMAL DOMESTIC PURPOSES IS NOT PROVIDED AT THE TIME OF FILING THE PLAT. THE BUYER SHOULD INQUIRE AND INVESTIGATE AS TO AVAILABILITY OF SAID WATER.
10. SEE VARIANCE NO. VP-82-002 REGARDING ROAD RIGHT OF WAY WIDTH OF 40 FEET.
11.  $\odot$  DENOTES SET 12" REBAR WITH BELOW CAP MARKED "LEONARD IS 8992".
12.  $\circ$  DENOTES FOUND REBAR.

13. THESE LOTS ARE LOCATED NEAR A SEWERAGE INTENSION SENSITIVE AREA. THE WELLS FOR LOT 1 AND 2 MUST BE LOCATED IN THE DESIGNATED DEDICATED WELL STATES AND WATER COLLECTION MEASURES MUST BE UTILIZED. MAXIMUM PUMP RATE ON EACH WELL MUST NOT EXCEED 2 GPM UNLESS ESCAPED BY THE HEALTH DEPARTMENT BASED UPON DOCUMENTATION THROUGH A PROFESSIONAL HYDROGEOLOGICAL ASSESSMENT. EACH INDIVIDUAL WATER SYSTEM MUST INCLUDE A MINIMUM OF 400 GALLONS OF WATER STORAGE CAPACITY AND A TOTALIZING WELL-HEAD SOURCE METER. WELL OWNERS MUST GAGE METER READINGS ANNUALLY.

**CONSENT**

KNOW ALL PERSONS BY THESE PRESENTS THAT THE UNDERSIGNED SUBDIVIDES HEREBY CERTIFY THAT THIS SHORT PLAT IS MADE AS THEIR FREE AND VOLUNTARY ACT AND DEED.

*Lowell H. Ashbach, Jr.* *Dawn Elise Ashbach*  
LOWELL H. ASHBACH, JR. DAWN ELISE ASHBACH

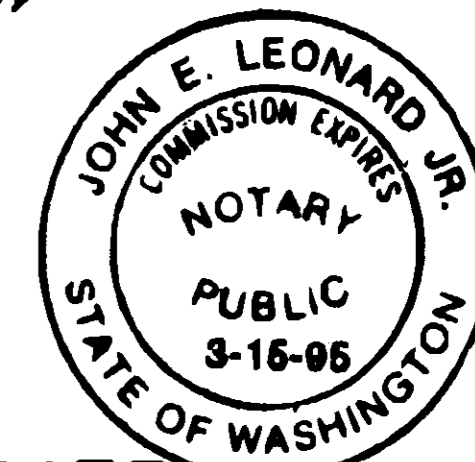
*Winifred Claudia Ashbach*  
WINIFRED CLAUDIA ASHBACH

**ACKNOWLEDGMENT**

STATE OF WASHINGTON }  
COUNTY OF SKAGIT }

ON THIS 2nd DAY OF AUGUST, 1992, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED Lowell H. Ashbach, Jr. & Dawn Elise Ashbach, Husband and wife, and Winifred Claudia Ashbach TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED THAT THEY SIGNED AND SEALED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE PURPOSES THEREIN MENTIONED. WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR ABOVE WRITTEN.

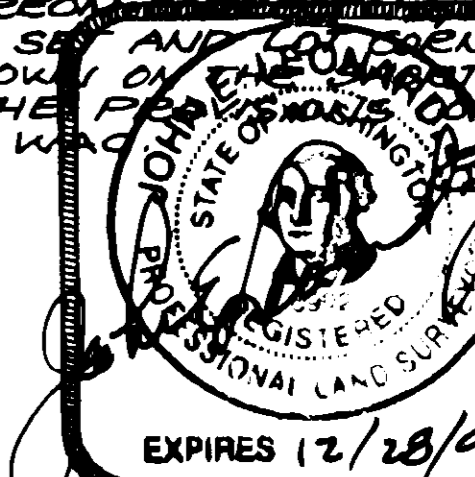
*John E. Leonard, Jr.*  
JOHN E. LEONARD, JR.  
NOTARY PUBLIC  
RESIDING AT:  
Seda-Woolley, WA



**SURVEYOR'S CERTIFICATE**

THIS SHORT SUBDIVISION IS BASED ON ACTUAL SURVEY, WHICH IS RETRACEABLE ON A TRUE SUBDIVISION OF THE SECTION, AND THAT THE DISTANCES, COURSES AND ANGLES ARE SHOWN THEREON. THAT INSTRUMENTS HAVE BEEN SET AND LOCATIONS STAKED ON THE GROUND AS SHOWN ON THE SHORT PLAT IN ACCORDANCE WITH THE FEASIBILITY OF TRAINING IN CHAPTER 332-130 WAC.

*John E. Leonard, Jr.*  
JOHN E. LEONARD, JR., R.E.P.L.S.  
CERTIFICATE NO. 6992  
DATE 8/20/92



**APPROVALS**

THE WITHIN AND FOREGOING SHORT PLAT IS APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THE SKAGIT COUNTY SHORT PLAT ORDINANCE THIS 19th DAY OF August, 1992.

*James H. ...*  
JAMES H. ...  
SHORT PLAT ADMINISTRATOR COUNTY ENGINEER

**AUDITOR'S CERTIFICATE**

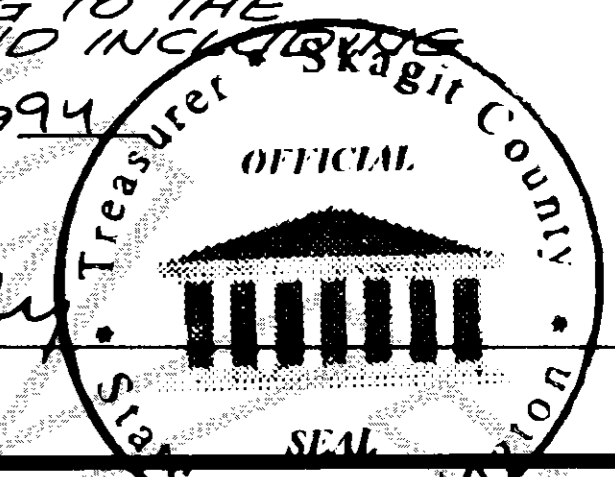
FILED FOR RECORD THIS 1st DAY OF Oct 1992, AT 3:57 P.M. IN BOOK 11 OF SHORT PLATS AT PAGE 35, AT THE REQUEST OF LEONARD, BOUDINOT & SKODJE, INC.

*James H. ...*  
JAMES H. ...  
SKAGIT COUNTY AUDITOR  
DEPUTY

**TREASURER'S CERTIFICATE**

THIS IS TO CERTIFY THAT ALL TAXES HERETOFORE LEVIED AND WHICH HAVE BECOME A LIEN UPON THE LANDS HEREIN DESCRIBED HAVE BEEN FULLY PAID AND DISCHARGED ACCORDING TO THE RECORDS OF MY OFFICE, UP TO AND INCLUDING THE YEAR OF 1991. THIS 1st DAY OF October, 1992.

*Julia M. ...*  
JULIA M. ...  
SKAGIT COUNTY TREASURER  
DEPUTY



SHORT PLAT NO. 93-047		
LOWELL ASHBACH, JR.		
SECTION 36, TWP. 36 N., RGE. 1 E., W.M.		
DATE: DEC. 1992	LEONARD, BOUDINOT & SKODJE 603 So. 1st STREET MT. VERNON, WA 98273 • 336-5751	SCALE: 1" = 100
FD. BK. 290 pg.68		JOB No.: 90056

**NOTES. CONT.**

14. WATER WILL BE SUPPLIED FROM INDIVIDUAL WATER SYSTEMS EXCEPT LOT 3. CONTACT THE HEALTH DEPARTMENT TO DETERMINE IF ADDITIONAL WATER QUALITY OR QUANTITY TESTING WILL BE REQUIRED FOR BUILDING PERMIT APPROVAL.
15. A DEMONSTRATION WELL WAS PROVIDED ON LOT 4.
16. SKAGIT COUNTY CODE 12.48 REQUIRES A 100' RADIUS WELL PROTECTION CONTROL ZONE LOCATED OWNED IN FEE SIMPLE OR APPROPRIATE RECORDED COVENANTS / EASEMENTS FOR ALL LOTS.
17. BUYER SHOULD BE AWARE THAT THIS SHORT SUBDIVISION IS LOCATED IN THE FLOODPLAIN AND SIGNIFICANT ELEVATION MAY BE REQUIRED FOR THE FIRST FLOOR OF RESIDENTIAL CONSTRUCTION.
18. ALTERNATIVE ON-SITE SEWAGE DISPOSAL SYSTEM MAY HAVE SPECIAL DESIGN, CONSTRUCTION AND MAINTENANCE REQUIREMENTS. SEE SKAGIT COUNTY HEALTH OFFICER FOR DETAILS. (LOTS 1, 2 AND 3 ONLY).

SOUTH 1/4 CORNER SECTION 36-36-1 ROUND CAR AXLE

RECEIVED

JAN 21 2020

SKAGIT COUNTY  
PDS

(402 words)

June 21, 2020

**Skagit Audubon Remarks to Skagit County Planning Commission in Support of  
Strengthening the Protection of Heronies in the Critical Areas Ordinance**

Tim Manns  
1218 South 13<sup>th</sup> Street, Mount Vernon

Commissioners:

I'm here on behalf of the 270 member families of Skagit Audubon Society. We urge your support for Skagit Land Trust's proposed change to our county's Critical Areas Ordinance to better protect Great Blue Heron nesting areas.

Skagit Audubon's members include a wide range of county residents. We are teachers, scientists, truck drivers, public servants, doctors, shipyard workers, business owners, students, nurses, attorneys, farmers, and more. Our politics are all over the map, but we're united in caring about wildlife, particularly birds, and we all support protecting the habitat which wildlife needs. Our interest in birds is an important part of our quality of life here and springs also from a firm belief that development should accommodate the needs of wildlife as well as those of people.

You all know that Skagit County is an especially important place for Great Blue Herons, a species as iconic and numerous here as Trumpeter Swans and Bald Eagles. Why so many herons? - - the biologically rich bays of Skagit County, the fields and ditches where there are voles and mice to be had, and the fortunate and essential fact that there are still forests suitable for this bird's communal nesting.

A few years ago, the sudden abandonment of the multi-hundred-nest heronry on Samish Island was a wake-up call. If we just take for granted that the conditions herons need will always be here, we will lose them. Imagine if the March Point heronry, the largest around Puget Sound and likely the second largest in the West, were to suddenly be abandoned, and we had done nothing to prevent it. No one wants this to happen on their watch.

Skagit Land Trust has provided a true community service by stepping up and going through the complex process of developing a proposed change to the Critical Areas Ordinance to help ensure this iconic species remains a major presence in Skagit County. We know the Planning staff has been very helpful working with the Trust. However, Skagit Audubon prefers the P-4 alternative developed by the Land Trust to the good, but not likely as effective, alternative put forward by Planning staff. We feel that the greater detail in the Trust's proposal provides a level of specificity which will better ensure protection of the heronies and will also give landowners clearer guidance. The membership of Skagit Audubon urges your support for the Trust's P-4 alternative. Thank you.



**Evergreen Islands  
Board of Directors**

Tom Glade  
President

Marlene Finley  
Vice President

Wim Houppermans  
Secretary

Jan Heald Robinson  
Treasurer

Kathryn Alexandra  
Director

Rich Bergner  
Director

Brenda Lavender  
Director

Mark Lundsten  
Director

Brian Wetcher  
Director

*mailing address*  
P.O. Box 223  
Anacortes WA  
98221

*web address*  
evergreenislands.org

*tax deductions*  
Evergreen Islands is a  
501(c)(3) organization.  
Your contributions are  
tax-deductible.

# EVERGREEN ISLANDS

January 21, 2020

To: Skagit County Planning Commission

**Re: Comprehensive Plan Proposed Amendment C-4, Trails in OSRSI  
(OPPOSE)**

Dear Planning Commissioners,

I am submitting this letter on behalf of Evergreen Islands and its membership. We are writing in **opposition** to the staff proposal C-4: Modify SCC 14.16.5009 (3) and (4) in the Public Open Space of Regional/Statewide Importance (OSRSI) zone.

While the staff report before you, dated December 11, 2019, refers to trails as “uses” within the OSRSI, changing the trails from an “administrative special use” to a “permitted use” would allow construction of new trails within the OSRSI without public notice. Trails are fundamentally infrastructure. While trails are important and necessary within OSRSI for public access; trail construction, use and management causes impacts which should require public notice of location, details of trail design, and disclosures of impacts.

Changing trails in the OSRSI zone to permitted uses would streamline new trail construction because public notice and impact disclosures would not be required unless the project triggers the Statewide Environmental Protection Act (SEPA). The only opportunity for public involvement would could occur during the development of the Parks Comprehensive Plan (once every 5 years or so) or during development of individual master plans or trail plan documents. This change is insufficient because these planning documents lack specific information on location, trail design and construction – all of which are critical to understanding the environmental impacts, the suitability and the cost of the projects.

Please keep in mind we are talking about areas of regional and statewide importance. These areas are extra special places within our county.

Furthermore, the C-4 modification is not consistent with the vision statements, goals, objectives, and policy directives of the Skagit County Comprehensive (SCC) Plan:

“SCC policy 2B-1.1: Public open space areas shall be those lands in public ownership that are dedicated or reserved for public use or enjoyment for recreation, scenic amenities, natural resource land management, or for the protection of environmentally sensitive.” (sic)

How can we protect environmentally sensitive areas if trail construction is a permitted use without public notice and environmental disclosure?

Hi, my name is Tara Satushek, I'm a planner with the Swinomish Indian Tribal Community, and I'm here to provide comments on two of the agenda items. We will work to submit written comments to the record by the 24<sup>th</sup>. Thank you.

*Policy  
amendments*

**Policy /Code Amendment C-4; Trails in the OSRSI (Public Open Space of Regional/Statewide Importance)**

This amendment would allow for new trails in the OSRSI Zone – which is quite extensive – as a “permitted” use and would no longer require an Administrative Special Use Permit. The Swinomish Tribe strongly supports new trails for the community’s health and well-being, but want to be sure that any new proposed trails and their trailheads must not adversely affect either environmentally sensitive areas or cultural resources. Although the trails and trailheads may require a grading permit, and this may flag concerns of environmentally sensitive areas or cultural resources it, it does not provide a sufficient amount of notice or process where the County would ensure that these resources are adequately protected.

The Tribe would like to see a process for new trails and trailheads that engages tribal cultural resource and environmental staff in the earliest possible phase through required notice and opportunity to comment to ensure that tribal cultural resources and sensitive areas are adequately protected. The Tribe requests this tribal notification be required in both the “permitted” use as well as in the grading permit as an extra safeguard.

**Policy /Code Amendment C-5, Habitat Restoration as Hearing Examiner (HE) Special Use Permit**

We support the move to make habitat restoration a more simple process in the majority of zoning districts with this proposed amendment. However, what we’ve realized in looking at this particular proposal, is that the outcome would be that habitat restoration will continue to be a Hearing Examiner’s Special Use Permit in the Agriculture-Natural Resource Lands zone, whereas it will be a permitted use in the rest of zoning districts. The Tribe would like to ultimately see habitat restoration not have to be so difficult in any zoning district, particularly given the amount of salmon streams in the Ag-NRL zone – a land use zone that includes many miles of the Lower Skagit river basin with salmon streams like the Nookachamps Creek, home to Chinook and Steelhead. So again, we wanted to express our support for this amendment, but state for the record that this more simple permitting process should ultimately extend to the Ag-NRL zone as well to ensure that our imperiled salmon, and the Orca whales that depend on them, can recover.

Thank you.



**RESPONSE TO QUESTIONS AND COMMENTS  
MADE AT THE 12/17/2019 SKAGIT COUNTY PLANNING COMMISSION  
MEETING**

**ABOUT THE CAO GREAT BLUE HERON CONSERVATION PROPOSAL**

By Skagit Land Trust

Skagit Land Trust’s proposal and the staff proposal take the existing Skagit County Code and operationalize it. **Current code reads:**

14.24.520(4) The following species and habitats have been designated on a site-specific basis according to the official Habitats and Species of Local Importance Map:

(a) Great blue heron nest [sites](#);

14.24.520 (4) Fish **and wildlife habitat conservation area site assessment requirements.**

All other [fish and wildlife habitat conservation areas](#), including habitats and species of local importance, shall be protected on a case-by-case basis by means of a habitat management plan based on the Washington [State](#) Priority Habitat and Species (PHS) program, as set forth in the [site assessment](#) requirements in [SCC 14.24.080](#) and this Section. (Ord. O20110008 (part): Ord. O20090011 Attch. 2 (part): Ord. 17938 Attch. F (part), 2000)

**1. What defines a “Habitat Management Plan”?**

Answer: A landowner wishing to develop their property in the proposed 1000 ft “notification area” of a heronry (staff recommended proposal) or “buffer area” (Skagit Land Trust proposal) would do a site assessment and develop a plan based on WDFW’s most current guidance document, local knowledge and SCC 14.24.080. This would describe how to avoid, control or mitigate for proposed activities in the mapped and identified buffer areas of the permit applicant’s property. An expert (typically a qualified biologist or environmental consulting firm) would develop this situational plan with the landowner.

**2. At what point does abandonment “stick” and is that addressed in the proposed code?** What happens if herons begin to recolonize an abandoned heronry more than 10 years post the original abandonment? How many nests would need to be built in the now newly established colony for the nesting area to be counted as a heronry with applicable year-round and seasonal buffers?

Answer: Abandonment is defined in the proposed code. In practice this is how it would be applied: If more than 10 years have passed since the heronry was abandoned and herons then return to the site and build nests, the new heronry would have to have at least 20 nests before year-round and seasonal buffers would be applied. However, if any herons returned to nest during the 10 years post abandonment, the original buffers would apply as it indicates the heronry is re-building.

WDFW keep maps and data on Washington heronries and active nests. Although the exact date of abandonment may not be known, it will generally be known within a month that a heronry is abandoned as they are monitored by conservation groups. That data is sent to WDFW.

**3. What percentage of the March Point Heronry and the proposed buffers would fall under the jurisdiction of the County and what percentage would fall under the jurisdiction of the City?**

We estimate about 1/3 would fall in the County's jurisdiction under a 1000 ft notification area (and proposed buffer). This appears to be 8 properties, with one of these being Skagit Land Trust. Most properties in the County's jurisdiction are across hwy. 20 from the heronry and for most, only part of their land falls in the proposed year-round buffer.

**4. What is Anacortes doing in its CAO?**

Answer: *Existing Anacortes code* says, "The March Point Heronry is designated as a habitat of local importance. The March Point Heronry, with the understanding that even though it is currently outside the city limits and therefore under Skagit County jurisdiction, *requires* a habitat management plan using CAO guidelines and professional scientific analysis shall be developed prior to any city development permit(s) being issued for any parcels of property within the city limits that are adjacent to the March Point Heronry.

**17.70.170 Habitat management for the March Point Heronry.**

A habitat management plan substantially similar to that developed by the Skagit Land Trust and T-Bailey for the March Point Heronry in 2003 shall be developed prior to any city development permit(s) being issued for any parcels of property within the city limits that are adjacent to the March Point Heronry. (Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005)"

*Proposed Changes in the Anacortes Critical Areas Regulation* update: Anacortes is in the middle of public hearings to update their code. In their draft, "adjacent" would be replaced with a 1000 ft notification area. The references to T Bailey and Skagit Land Trust's habitat management plan would be removed and instead direct applicants to develop a habitat management plan based on WDFW

guidance. Anacortes planning staff have recommended a 984 ft (300 meter) year-round buffer for the March Point Heronry following WDFW guidance: “birds in an urban area that exhibit behavior indicative of a low tolerance to people, assign the 300-meter (984 ft) buffer regardless of setting”. Other colonies in the City would have WDFW recommended urban buffers applied.

**5. There were comments stating that it appears heron response to noise is dependent on the situation.**

Answer: Herons’ response to noises is variable which is why WDFW recommends different buffers for different colony types. Nesting herons frequently respond to unusually loud noises by flying off their nests, leaving their eggs or chicks vulnerable to predators and to hypothermia. Foraging herons frequently respond to unusually loud noises by briefly halting their foraging or by flying to a new foraging spot. Of note, Skagit Land Trust’s proposal to the County only applies to nesting colonies, not to foraging areas or herons scattered around the country-side.

**6. Who determines what the normal ambient noise level is for a particular heronry? Who would do the noise measurements, and how would they be recorded? Where would the measurements be taken, and how would we know they are accurate?**

Answer: WDFW’s recommended buffers are based on observed heron tolerance variations associated with land use levels. As long as noise-generating activities within the buffers meet WDFW guidance, this guidance can be used for general planning purposes. However, since each project is different – and may require mitigation - WDFW also recommends the following:

When planning a project, WDFW recommends that noise levels should be similar to what the colony is used to. Outside of the breeding and nesting season, a landowner near a heronry should gather baseline information (including local knowledge) such as ambient noise levels in different parts of the heronry. Based on this specific data, along with WDFW general guidance, the sound aspects of the habitat management plan would be articulated by the landowner. The plan would propose maximum noise levels that would be acceptable at the outer edge of the heronry during the nesting season.

A monitoring study before and during specific development or construction activities can also be done. T Bailey Inc, for example, hired an environmental consultant to do sound and activity monitoring as part of their initial management planning process in 2003. Because their circumstances required some construction within the 1000 ft buffer during certain months of the nesting season, they monitored for any impacts of construction on heron activity. They measured noise with a sound level meter and data logger set up on the edge of the heronry. An observer took detailed notes 2 X weekly. They had protocol in place should the



herons flush. This system ensured that their activities did not disturb the herons. It has also has given them baseline data for what noise levels and activities this particular heronry seems to tolerate.

WDFW emphasizes that when permitting buffer restricted activities, “It is important to avoid new activities that add to the intensity of disturbance a colony has historically tolerated.” If a proposed activity within a buffer has shown no disturbance to the herons over the years, it would not be restricted.

However, if a new activity that might generate more noise or movement was proposed, that activity within the buffer would require mitigation based on WDFW’s mitigation sequence. For example, T Bailey is building a new building within the year-round buffer that has large roof vents that can produce a lot of noise. They have insulated these vents and put dampers on them as mitigations (for herons and workers) but they are also currently taking sound measurements at the edge of the heron colony to ensure sound levels from these vents when operating (a “new activity”) do not exceed the level agreed to in their Management Plan.

#### **7. Where are the 92 decibels for the seasonal buffer measured?**

Answer: WDFW defines unusually loud activities that would be restricted within the **seasonal** buffer (656 ft beyond the year-round buffer) during the breeding and nesting season as any activity taking place within the buffer that “generates sounds exceeding 92 decibels when the sound reaches the outer boundary of the nesting colony.”

#### **8. It was commented that a WDFW guidance document doesn’t have the force of law to regulate unless it is adopted into code. If it is not adopted into code, is its function solely educational?**

Answer: Existing Skagit County Code 14.24.520(4) says:

“Great Blue Herons should be protected on a case-by-case basis by means of a habitat management plan. **The plan should be based on the Washington State Priority Habitat and Species (PHS) program.**”

Their inclusion in existing Skagit County Code demonstrates that WDFW’s management guidelines are not solely educational. In Skagit County’s current code, these guidelines have a regulatory function. However, the guidelines are not operationalized in Skagit County Code. Skagit Land Trust is asking that WDFW’s recommendations be codified into Skagit County code so that they are understood, and easier for landowners to work with, and for the County to enforce.

Skagit Land Trust has given educational presentations to the public about Great Blue Herons and the importance of avoiding activities that disturb their nesting colonies during the breeding and nesting season for many years. However, education alone does not work to protect nesting herons from human disturbance. For example, the Samish Island heronry, an almost century old mega-colony, was abandoned over a 2 to 3-week period during which a number of disturbing human activities took place in the vicinity of the nesting colony. Incorporating WDFW's recommendations into County code will provide the enforceable regulation needed to prevent the types of activities that can, and do, result in the abandonment of heronries.

In another example, T Bailey Inc was not aware of the heronry when they purchased the adjacent to the March Point Heronry. Anacortes did not have any detailed code for creating a management plan for the heronry at that time. T Bailey had to create a management plan based on science and agreed to by Skagit Land Trust and the City before they could begin construction. Operationalizing the current code would make it easier for landowners to plan construction activities, and protect the nesting areas.

#### **9. How is the perimeter of a colony defined?**

Answer: Great Blue Herons nest close together in colonies. In Skagit County these colonies are located in mature coastal forests near good foraging areas. The nests are built 50 feet or more above the ground in firs, cedars, maples, alders and cottonwoods. A tree may have up to 20 or more nests in it. At the end of each nesting season, the locations of nest trees are recorded with GPS. A map is created with the tree locations and a line is drawn that connects the outer nests. WDFW receives this colony data.

#### **10. The definition of an “undeveloped setting” in 3A-1 is confusing as WDFW defines an undeveloped setting as having 0 - 2% of the area within a ¼ mile of the nesting colony as built, so there may actually be development within the undeveloped setting.**

Answer: Yes, undeveloped settings can have some development, but the vast majority of the area is “Undeveloped”. This is WDFW's language.



November 18, 2019

Skagit County Planning & Development Services  
Mount Vernon, WA 98273

RE: 2019 Docket Item C-5 Habitat Restoration

Dear Skagit County Planning Department,

The Skagit County Agricultural Advisory Board (AAB) has reviewed the 2019 Comprehensive Plan Amendments and advises the following edits to Docket Item C-5, Habitat Restoration.

A Special Use Permit should be required for SCC 14.16.300 Rural Intermediate (RI) and SCC 14.16.430 Rural Resource – Natural Resource Lands (RRc-NRL). These two zonings typically border SSC 14.16.400 Agricultural—Natural Resource Lands (Ag-NRL). Outright permitting of Habitat Restoration in these two zones would impact surrounding properties zoned Ag-NRL.

Most other permitted uses within RI, RRc-NRL and Ag-NRL zones are similar. It would be advisable that these two zonings would also require any habitat restoration be special hearing and not outright permitted use.

Sincerely,

Michael Hughes  
Chairman Agricultural Advisory Board

**From:** [Michael Cerbone](#)  
**To:** [Kimberly Adams](#)  
**Subject:** FW: PDS Comments  
**Date:** Monday, January 27, 2020 10:46:11 AM

---

Michael Cerbone, AICP  
(360) 416-1336

---

**From:** Lori Anderson <[loria@co.skagit.wa.us](mailto:loria@co.skagit.wa.us)> **On Behalf Of** Planning & Development Services  
**Sent:** Monday, January 27, 2020 10:46 AM  
**To:** Peter Gill <[pgill@co.skagit.wa.us](mailto:pgill@co.skagit.wa.us)>; Michael Cerbone <[mcerbone@co.skagit.wa.us](mailto:mcerbone@co.skagit.wa.us)>; Betsy D. Stevenson <[betsyds@co.skagit.wa.us](mailto:betsyds@co.skagit.wa.us)>  
**Subject:** FW: PDS Comments

From dept email

**From:** [website@co.skagit.wa.us](mailto:website@co.skagit.wa.us) <[website@co.skagit.wa.us](mailto:website@co.skagit.wa.us)>  
**Sent:** Thursday, January 23, 2020 9:15 AM  
**To:** Planning & Development Services <[planning@co.skagit.wa.us](mailto:planning@co.skagit.wa.us)>  
**Subject:** PDS Comments

Name : Gary Wickman  
Address : 26544 Old Day Creek Road  
City : Sedro Woolley  
State : WA  
Zip : 98284  
email : [Gwickman1@gmail.com](mailto:Gwickman1@gmail.com)

PermitProposal : Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

Comments : The best available science should include local knowledge. Skagit Land Trust has over 20 years of stewarding and observing the March Point and Samish Island heronries. Data has been recorded throughout the breeding and nesting seasons. Currently the Trust submits requested information to Washington State Department of Fish and Wildlife (WDFW.) I support Skagit Land Trust's P-4 proposal that is based on the best available science and decades of local knowledge. I would add the Planning Departments specific additions to the Skagit Land Trusts proposal.

Thanks for taking my comment.

From Host Address: 50.34.181.90

Date and time received: 1/23/2020 9:11:21 AM

**From:** [Peter Gill](#)  
**To:** [Kimberly Adams](#)  
**Cc:** [Michael Cerbone](#)  
**Subject:** FW: PDS Comments  
**Date:** Monday, January 27, 2020 11:57:41 AM  
**Attachments:** [image001.png](#)

---

I didn't see this one in your list. I could have missed it?

**Peter Gill, Long Range Planning Manager**

Skagit County, Planning & Development Services  
1800 Continental Place  
Mount Vernon, WA 98273  
(360) 416-1320



---

**From:** Lori Anderson <loria@co.skagit.wa.us> **On Behalf Of** Planning & Development Services  
**Sent:** Monday, January 27, 2020 10:35 AM  
**To:** Peter Gill <pgill@co.skagit.wa.us>; Michael Cerbone <mcerbone@co.skagit.wa.us>; Hal Hart <hhart@co.skagit.wa.us>; Betsy D. Stevenson <betsyds@co.skagit.wa.us>  
**Subject:** FW: PDS Comments

From dept email

**From:** [website@co.skagit.wa.us](mailto:website@co.skagit.wa.us) <[website@co.skagit.wa.us](mailto:website@co.skagit.wa.us)>  
**Sent:** Wednesday, January 22, 2020 6:50 PM  
**To:** Planning & Development Services <[planning@co.skagit.wa.us](mailto:planning@co.skagit.wa.us)>  
**Subject:** PDS Comments

Name : Paula Shafransky  
Address : 22461 Prairie Rd  
City : Sedro Woolley  
State : Washington  
Zip : 98284-8586  
email : [pshafransky@gmail.com](mailto:pshafransky@gmail.com)

PermitProposal : Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

Comments : I am writing to say I support Skagit Land Trust's P-4 proposal that is based on the best available science and decades of local knowledge. In addition I support both year round and seasonal buffers as recommended by WDFW as well as the inclusion of SLT's P-4 amendment into our County Critical Areas

Ordinance because it clearly details how to protect heronries. As stewards of the land we need to protect these nesting areas to the full extent of our laws and codes.

Thank you for your consideration in this matter.

From Host Address: 172.92.213.103

Date and time received: 1/22/2020 6:45:50 PM

**From:** [Jerry Ross](#)  
**To:** [PDS comments](#)  
**Subject:** "2019 Docket"  
**Date:** Wednesday, January 22, 2020 3:19:13 PM

---

“Skagit County’s 2019 Docket of Proposed Policy, Code, and Map Amendments”

Dear Skagit County,

I am writing to express my support for The code amendment titled **P-1** that would make the process to permit rainwater catchment systems easier, and perhaps less expensive.

I feel that as we move forward all should be able to have Rain water catchment systems serve as a primary source as well as viable secondary source of water.

The issues of salt water intrusion and aquifer health are ongoing and will continue to pose problems in the future.

Any new construction should have the affordable option of installing catchment, and I hope the county will do all it can to ease the process of obtaining affordable catchment solutions.

Thank you in advance for your support with this.

Sincerely, Jerry Ross

Jerry Ross  
4837 Guemes Island Road  
Anacortes, WA 98221  
[jross13@mac.com](mailto:jross13@mac.com)  
c 310-990-1006

**From:** [Joan Palmer](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 :Docket  
**Date:** Thursday, January 23, 2020 5:23:01 PM

---

**To:** Skagit County Planning Commission:  
**Subject:** P-1 and P-2 Code Amendments

As a full time Guemes Island Resident since 1975, I am writing to support the following code amendments



**From:** [Marlene Finley](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket - Evergreen Islands  
**Date:** Thursday, January 23, 2020 4:00:27 PM  
**Attachments:** [EvergreenIslands\\_SkagitCoTrails\\_01212020\\_final.pdf](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

re: proposed C-4 Modification

Here is a copy of the letter I submitted at the Public Hearing on 1-21-2020 for Evergreen Islands.

Marlene Finley, Vice President  
Evergreen Islands  
P.O. Box 223  
Anacortes, WA 98221

**From:** [Kathy Whitman](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Thursday, January 23, 2020 11:04:44 AM

---

I am writing to express strong support for the proposed legislation that will benefit residents of Guemes Island. There is a clear need for rainwater catchment and the protection of the aquifer. I believe that there is a strong scientific-based need for these urgent actions. Please do not delay.

P-1 Make rainwater catchment systems easier to permit

P-2 Enforce existing regulations to inspect all potential well sites prior to drilling and existing requirements for hydrogeological reviews to be conducted prior to drilling

Kathy Whitman  
7822 South Beach Lane (Guemes Island)  
Anacortes, WA 98221  
1-206-334-1573  
kmdwhitman@msn.com

**From:** [Michael Cerbone](#)  
**To:** [PDS comments](#)  
**Cc:** [Kimberly Adams](#); [Peter Gill](#)  
**Subject:** 2019 Docket Comments  
**Date:** Friday, January 24, 2020 7:52:35 AM  
**Attachments:** [2019 Docket Comments.pdf](#)

---

**From:** Chamberlain, David <David.Chamberlain@weyerhaeuser.com>  
**Sent:** Thursday, January 23, 2020 4:50 PM  
**To:** Michael Cerbone <mcerbone@co.skagit.wa.us>  
**Cc:** 'innovative.environments@gmail.com' <innovative.environments@gmail.com>  
**Subject:** 2019 Docket Comments

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Michael,

Attached are comments from the FAB regarding the 2019 Comprehensive Plan Docket.

Dave Chamberlain  
Forest Engineering Specialist  
North Cascade Tree Farm  
Weyerhaeuser Company  
500 Metcalf Street  
Building F-5E  
Sedro-Woolley, WA 98284  
Office 360-424-2014  
Cell 360-941-9745

**From:** [Phyllis Bravinder](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Friday, January 24, 2020 1:34:32 PM

---

Back in 1961 my husband and I (newly married) came to Guemes Island to visit my parents. They were in the process of completing their retirement home here on Guemes. While here and admiring our surroundings, we decided to look at property. We looked at two lots, one on West Beach and one on Section Avenue. We could afford only the latter and bought it planning to build a small place for summer visits. The next year we joined the Peace Corps and spent most of the decade in Africa as PC volunteers and staff.

It was not until 2006 (45 years after purchase) that I had retired and came up here to begin arranging for having a house built. What made sense to me was having a well drilled in order to know whether or not I should proceed with this plan. I hired Hayes drilling (and a local person to clear the area where Hayes planned to drill) and had a well installed as far from the bank as possible. The lot is 600 - 800 feet deep. Potable water was found at something like 110 feet (now 5787 Section Avenue which is high bank). Since I was not ready to start my building plans until I knew I had an adequate supply of potable water, the county was not involved in the drilling of my well. I did not apply for a building permit until two years later.

I was totally unaware of "critical areas," possible seawater intrusion, issues such as "senior" water rights, or the notions of causing someone else's well to fail. I knew only a very few people on the island, none of whom mentioned any of these issues. I would have been horrified to learn after the fact that I had caused someone else's well to fail.

With what I now know, I certainly support the ideas put forth in P-2. All wells should be pre-approved by the county in order to curtail possible well failures. This could save people not only money but anguish.

As far as P-1 and rainwater catchment, perhaps I have been naive in thinking that it is a "no brainer" and why didn't I think of it. From current experiences and substantive data here and elsewhere, it appears to be a viable approach for the mandated protection of our "sole source aquifer," as well as honoring the protection of critical areas, senior water rights, and seawater intrusion.

A little over 600 feet from my property on Section Avenue there is a case of well-failure. Initially the homeowners addressed this by installing a reverse osmosis system which is a very expensive proposition. Not a bad idea; however, there was a flaw. They were drawing their water from the old well for osmosis. Therefore, our aquifer was given no reprieve from further saltwater intrusion. As time went on, they realized that their only viable approach was rainwater catchment. Thus they were able to work out with Skagit County the first permitted rainwater catchment system on Guemes Island. At last!

Thus, I fully support the approval of P-2 as well as P-1 which makes ever so much sense and would help maintain the availability of water to Guemes Islanders, and the property values as well. These are of enormous value to following, in particular, the advice of the Department of Ecology back in 1994, and abiding by the Washington State Growth Management Act.

I applaud the many years of focused, professional and relevant attention that GIPAC has given to these issues. It is my hope and supported opinion that Skagit County should approve such critical issues facing the future of Guemes Island.

Phyllis D Bravinder  
5787 Section Avenue  
Anacortes, WA 98221

**From:** [Joan Palmer](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Thursday, January 23, 2020 5:57:29 PM

---

TO: Planning and Development Services

I am in full support of the following two code amendments as proposed by the Guemes Island Planning and Advisory Committee (GIPAC):

Amendment P-1: rainwater catchment systems - make the permit process easier which would reduce the cost of implementing the system.

Amendment P-2: Enforce existing code which requires the county to review. ALL new wells in a seawater intrusion area prior to drilling. ALL of Guemes Island is classified as a saltwater intrusion area. I do not want my well or any others on this island to be at risk for salt contamination. I have implemented a costly filtration system to purify my well water which is constantly at risk. Safe water is a precious and valuable resource which must be protected.

I hold the members of the GIPAC committee in high esteem and thank them for their hours of hard work to protect our environment.

Sincerely,  
Joan H. Palmer 6132 S Shore Rd, Anacortes WA (Guemes Island resident since 1974)

**From:** [dyvon.havens@gmail.com](mailto:dyvon.havens@gmail.com)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Thursday, January 23, 2020 2:00:23 PM

---

I am in **support** of the following Code Amendments to the Skagit County Comprehensive plan:

**P-1** making easier the process to permit rainwater catchment systems; and

**P-2** requesting the county enforce existing code that requires the county to review all new wells in a seawater intrusion area prior to drilling. Many of our Guemes Island residents have experienced seawater intrusion in their wells. Enforcement of existing regulations would help prevent destruction of our sole source aquifer and potential degradation of neighboring wells with senior water rights.

Thank you.

Dyvon Havens  
4709 South Shore Drive  
Anacortes WA 98221

**From:** [jepburdock48@gmail.com](mailto:jepburdock48@gmail.com)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Thursday, January 23, 2020 11:43:55 AM

---

I live on Guemes hyland, I am in favor of the amendments P1 and P2 that are in front of you to vote on concerning our island and it's waters. I live at 5117 S. Shore Dr., Anacortes Washington and my name is Joseph Burdock.  
Thank you

Sent from my iPhone

**From:** [Gary Curtis](#)  
**To:** [PDS comments](#)  
**Cc:** [Hal Rooks](#); [Edith Walden](#)  
**Subject:** 2019 Docket  
**Date:** Thursday, January 23, 2020 9:10:56 AM

---

Directed to the attention of the Skagit County Planning Commission and Staff

While attending the recent Planning Commission meeting (Jan 21, 2020) the legal opinion prepared by the County Attorney was presented supporting denial of item P-2; represented as a sheet of black paper. There were no references to County or State Codes or Ordinances attached as basis. For all we know there was nothing behind the redactions either. This cannot be the basis of the Commission decision. If there was information there how can it be secret? Isn't there some requirement for transparency in government?

I know that GIPAC has thoroughly studied the County and State governing documents and there are those of us living on Guemes who would like to compare the County's basis in fact with what GIPAC has observed.

Gary N. Curtis, SE  
4792 West Shore Road  
Anacortes WA 98221

Sent from my iPad



**From:** [Anne Passarelli](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Wednesday, January 22, 2020 7:59:43 PM

---

We are writing as Guemes Island homeowners and residents to voice our strong support for the GIPAC proposed amendments #2 and #3 regarding water use on the island. Several wells in our immediate neighborhood have experienced salt water intrusion so we hope that use of rainwater for cooking and drinking will be possible in the near future. In addition, careful monitoring of any proposed new wells on the island is vital for the protection of our sole source aquifer.

Thank you for your attention to our concerns.

Donald and Anne Passarelli  
6124 South Shore Road, Guemes Island

**From:** [Connie Snell](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Wednesday, January 22, 2020 1:48:12 PM

---

Dear Commissioners,

It is my hope that you will do what lies within your power to protect the water on Guemes Island. GIPAC has presented 2 well thought out proposals based on common sense. We have resided on S Shore RD for 25 years & are well aware of the dangers of salt water intrusion. The costs of not protecting our water will come at a high price, from declining property values to permanently damaging our sole source aquifer. GIPAC's proposals are sound and well researched. I would hope that you would find a way to move them forward.

Sincerely,

Constance Snell

5889 S Shore RD

Anacortes WA 98221

Sent from my iPhone

**From:** [Bill Clark](#)  
**To:** [PDS comments](#)  
**Subject:** 2019 Docket  
**Date:** Friday, January 24, 2020 3:15:57 PM

---

Dear Sirs,

Reference 2019 Docket

I support code amendment P1 and P2 in their entirety as presented by the Guemes Island Planning and Advisory Committee. As a resident property owner on Guemes Island, I recognize and fully support the need for this legislation.

Thank you,

William E. Clark  
5651 Section Avenue  
Anacortes, WA 98221  
[bclark8760@gmail.com](mailto:bclark8760@gmail.com)

**From:** [Hal & Hella Lee](#)  
**To:** [PDS comments](#)  
**Subject:** C-5 Classification of Habit Management  
**Date:** Thursday, January 23, 2020 4:47:07 PM

---

I have been involved in various conservation projects as a volunteer for several organizations over a number of years, and am writing in favor of C-5: SCC 14.16. My understanding is that if this amendment is passed, "Habitat Restoration" would be an allowed use in all zones outside of AG-NRL zone. This does not mean that permits wouldn't be required for aquatic projects for example, but that the project wouldn't need to have a public hearing before a hearing examiner.

Thank you,

Harold Lee  
2500 S. 18<sup>th</sup>  
Mount Vernon, WA 98274

**From:** [nativegarden@fidalgo.net](mailto:nativegarden@fidalgo.net)  
**To:** [PDS comments](#)  
**Subject:** Comment on Comprehensive Plan update - C-5  
**Date:** Friday, January 24, 2020 4:06:42 PM

---

Dear Planning Commission,

Please accept the changes to the permitting of Habitat Restoration as presented and recommended by the Planning Department staff, requiring special use permits only in the Ag-NRL. There are many landowners in the other Rural zones who wish to have their properties contribute to the overall health of the Skagit River watershed by planting trees and restoring wetlands that were destroyed during construction of homes or other infrastructures. These projects are valuable to the entire community, as they help filter runoff and keep our waters clean in a sort “crowd-sourcing” way. Many people doing the work for the benefit of all. This is likely to be more and more important as we contend with higher rainfalls in the winter and drought conditions in summer. Please do not place additional financial burdens on this important work by adding special use permit requirements.

Thank you for considering my comment,  
Brenda Cunningham  
1218 South 13<sup>th</sup> Street  
Mount Vernon, WA 98274

**From:** [nativegarden@fidalgo.net](mailto:nativegarden@fidalgo.net)  
**To:** [PDS comments](#)  
**Subject:** Comment on update to Comprehensive Plan, P-4  
**Date:** Friday, January 24, 2020 3:59:57 PM

---

Dear Planning Commission,

I support the adoption of the Critical Areas Ordinance proposed in P-4. This is a well-researched and reasonable ordinance that would demonstrate a strong effort on the part of the county to protect Great Blue Heron colonies. Future generations in Skagit County deserve to have a chance to see and enjoy the presence of these birds. We need to take reasonable measures, such as adopting this ordinance, to ensure that the children of tomorrow will be as familiar with these birds as we are. I have helped with heron nest counts since the early 1990s and have been alarmed at how many small heronries have disappeared, concentrating most of the nesting animals into just a few large heronries. This makes protection for these heronries all that more important for the survival of the species in Skagit County. Please take this opportunity to help future children of the county know these animals as more than just pictures in a book.

Thank you for taking the time to accept my comment,  
Brenda Cunningham  
1218 South 13<sup>th</sup> Street  
Mount Vernon, WA 98274

**From:** [Carol Steffy](#)  
**To:** [PDS comments](#)  
**Subject:** Docket 2019  
**Date:** Saturday, January 25, 2020 11:25:21 AM

---

Dear County Commissioners,

We Guemians depend on our water source to keep our homes and land viable for habitation out here. Water catchment would add a needed water resource for gardens, drinking, household usage, it should be a cheap and easy to do way to use the water falling as rain each year. Please help us by checking well permits to assess there viability and not precipitate seawater intrusion.

The code amendment titled **P-1** would make the process to permit rainwater catchment systems easier, and perhaps less expensive.

The second code amendment, **P-2**, asks the county to enforce existing code that requires the county to review all new wells in a seawater intrusion area prior to drilling, in order to prevent seawater intrusion from destroying our sole source aquifer and potential degradation of neighboring wells with senior water rights.

All of Guemes Island is designated as a sole source aquifer, meaning that it is the primary source of drinking water for most islanders. All of Guemes Island is classified as a seawater intrusion area, which means that known pollution of saltwater has occurred in Guemes Island wells. In fact, GIPAC has documented evidence that more than 65 island residences have suffered well failures.

Thanks for listening! Now please pass these amendments.

Sincerely,

Carol Steffy

7027 Holiday Blvd,

Anacortes, WA 98221

**From:** [bullman31971@gmail.com](mailto:bullman31971@gmail.com)  
**To:** [PDS comments](#)  
**Subject:** FW: Skagit County"s 2019 Docket of Proposed Policy, Code, and Map Amendments -- with my full address  
**Date:** Wednesday, January 22, 2020 10:27:56 AM

---

I am writing to address the proposals by the Guemes Island Planning Advisory Committee to address the serious groundwater problem on Guemes Island. Nobody contends this is not a real, significant problem – grist for the Planning Commission’s mill. I appreciate your attention to this important matter.

It simply cannot be the case that the County is powerless to address this problem by better evaluating the profound impact of proposed new wells. You should find that outcome unacceptable. And, I would hope you find it inconsistent with your reasons for volunteering for this challenging role as public servants. Such an outcome is incompatible with the designation of the island as a Critical Area and with the Growth Management Act’s aquifer protection requirements.

The problem worsens as inaction persists.

The proposals designated P-1 and P-2 are thoughtful, cautious plans to address a very real problem. The proposals are put forward not by people seeking to line their pockets but by sincere citizens seeking to protect their homes. They warrant your support.

Carl Ullman, 5162 West Shore Road, Guemes Island, Anacortes, WA 98221



**From:** [Ellen&Bruce Johnson](#)  
**To:** [PDS comments](#)  
**Subject:** Great Blue Heron protection  
**Date:** Friday, January 24, 2020 1:31:06 PM

---

Skagit County Planning Commission

I support both year-round and seasonal buffers for our Great Blue Heron heronies as recommended by WDFW. Therefore i recommend the Skagit County planning commission include the Skagit Land Trust (SLT) P-4 amendment in our County Critical Area Ordinance recommendations to the County Commissioners. SLT's amendment is based on the best available science and their better than 20 years of stewarding the March Point and Samish Island heronies .

Thank you for your consideration of my recommendation.

Bruce Johnson

32603 S Lyman Ferry Rd  
Sedro-Woolley, WA  
98284

---

Urologist Tells Men To "Fix" Their ED With This New Trick!  
Med Journal  
<http://thirdpartyoffers.juno.com/TGL3141/5e2b61fbe5fe561f44a28st03duc>

**From:** [Nancy Lazara](#)  
**To:** [PDS comments](#)  
**Subject:** guemes water  
**Date:** Friday, January 24, 2020 5:14:11 PM

---

I hope you will address the water issues on guemes, including cachement systems (should be legal!) and salt water intrusions.

nancy cushing  
5344 beechnut tree lane  
guemes island, wa  
2059728979

[Sent from Yahoo Mail for iPhone](#)

**From:** [tdixrainier@frontier.com](mailto:tdixrainier@frontier.com)  
**To:** [PDS comments](#)  
**Subject:** p-4 amendment CAO  
**Date:** Wednesday, January 22, 2020 11:35:10 AM

---

Skagit County Planning Services  
Docket of Proposal Policy Code and Map Amendment

To the Planning Commission,

I am writing to ask you to support the expanded protections to the forests that contain the nesting and breeding areas for the Great Blue Heron. Please recommend to the Skagit County Commissioners that the county adopt Skagit Land Trust's P-4 amendment as part of the county's Critical Areas Ordinance. P-4 will protect the heron from encroaching development and establish buffers to protect the Herons from disturbance throughout the breeding and nesting season.

Thank you supporting the P-4 amendment. These birds and their habitat must be protected because they are beautiful beings and bring so much life and joy to this community.

Sincerely,

Teresa Dix  
3124 Dakota Dr.  
Mount Vernon, Wa  
98274  
360 428 8875

**From:** [dilabiog dilabiog](#)  
**To:** [PDS comments](#)  
**Subject:** Please support P-4 amendment to county critical areas ordinance  
**Date:** Wednesday, January 22, 2020 12:02:25 PM

---

Skagit County Planning Services  
Docket of Proposal Policy Code and Map Amendment

Dear Members of the Planning Commission:

As a long-time birder and member of the Audubon Society I greatly appreciate the excellent birding Skagit Valley affords and it was part of my decision to move here. The great blue heron is an iconic species of this area and I'd like see it flourish.

Therefore, I ask you to support the expanded protections to the forests that contain the nesting and breeding areas for the great blue heron. Please recommend to the Skagit County Commissioners that the county adopt Skagit Land Trust's P-4 amendment as part of the county's Critical Areas Ordinance. P-4 will protect the heron from encroaching development and establish buffers to protect the Herons from disturbance throughout the critical breeding and nesting season.

Thank you for your support of the P-4 amendment.

Sincerely,

Gena DiLabio  
3124 Dakota Drive  
Mount Vernon, WA 98274

**From:** [Stacey Curtis](#)  
**To:** [PDS comments](#)  
**Subject:** Public comment on Amendment C-4 to SCC 14.16.500(3) and (4): Trails in the OSRSI  
**Date:** Thursday, January 23, 2020 10:56:41 AM

---

Hello,

This email provides a public comment on proposed Amendment C-4 to the Skagit County Comprehensive Plan - an amendment that is described in a December 11, 2019 Skagit County Planning Department staff report to the Skagit County Planning Commission. ("C-4: Modify SCC 14.16.500(3) and (4): Trails in the OSRSI.").

As a Skagit County citizen, I am strongly opposed to the amendment and its ultimate effect of excluding the public from awareness and ability to comment in advance on the potential addition of new trails in our most-important public open spaces.

Additionally I am opposed to adding a new definition of "trails" via this amendment as was discussed by the Planning Commission in prior meetings during fall 2019 - a change that seems to quietly introduce a new, sweeping assumed right of use by bicycles to all new trails. There is no benefit to the public from making such dramatic change of uses without additional socialization, analysis, and input.

The staff report suggests that the amendment will address an "existing conflict" in the Comprehensive Plan, but there is no conflict identified. **Leaving OSRI zone areas with "administrative special use" permit protection before having trails carved through them \*does not prevent them from trail development and does not stand in the way of satisfying Comprehensive Plan goals\* of recreational development.** The need for park developers to go through the process of getting a special use permit before building more trails in regionally-significant natural areas is an intended protection that only maintains a degree of public transparency and input into the continued development of these largely-public spaces.

Every trail that is added potentially conflicts with the Countywide Planning Policy "Open space corridors within and between urban growth areas shall be identified; these areas shall include lands useful for recreation, fish and wildlife habitat, trails, and connection of critical areas." Trails should not be whimsically added - they should be part of a methodical, well-analyzed plan that satisfies and balances public goals that include the preservation of open spaces, the creation of wildlife corridors based on movement patterns and sensitivities of local fauna, and the development of OSRI lands for human active recreation such as bicycling. The public has a right to expect demonstrated balance of priorities, transparency, and the right to comment, as the special use permit process currently offers.

Thank you for protecting the citizens and the remaining significant natural public spaces of our county from unrestricted new trail development.

Regards,  
-Stacey Curtis  
2414 Forest Park Ln  
Anacortes, WA 98221  
January 23, 2020



**From:** [Marcus Merrow](#)  
**To:** [PDS comments](#)  
**Subject:** Rainwater  
**Date:** Thursday, January 23, 2020 10:57:58 AM

---

I think we need to encourage, and make easier the capturing of rainwater on Guemes Island. With the ongoing construction on the island, and LIMITED water available from the aquifer, catching rainwater for use as a potable water supply, only makes sense. Please reconsider your decision. Thank you.

Marcus Merrow  
4812 W Shore Rd  
Anacortes, WA 98221  
(360) 202-4609  
mjmerrow@gmail.com

Sent from my iPad

**From:** [jepburdock48@gmail.com](mailto:jepburdock48@gmail.com)  
**To:** [PDS comments](#)  
**Subject:** Re:  
**Date:** Sunday, January 19, 2020 4:27:35 PM

---

I support the amendments P1 and P2 in total. Please take these into consideration. From Joseph burdock at 5117 South Shore Dr. Anacortes, WA 98221 thank you

Sent from my iPhone

> On Jan 16, 2020, at 8:42 PM, jepburdock48@gmail.com wrote:

>

>

>

> Sent from my iPhone



**From:** [Tim Trohovich](mailto:Tim.Trohovich)  
**To:** [PDS comments](mailto:pds.comments)  
**Subject:** RE: Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 3:55:05 PM  
**Attachments:** [image001.png](#)  
[image004.png](#)  
[image007.png](#)  
[image009.png](#)  
[image018.png](#)  
[image019.png](#)  
[image020.png](#)  
[image021.png](#)  
[image022.png](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Hi:

Here is the plain text I promised. Again, if you need anything else, please let me know.

January 21, 2020

Skagit County Planning Commission  
Planning and Development Services  
1800 Continental Place  
Mount Vernon, Washington 98273

Dear Sirs and Madams:

**Subject:** Comments on Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments in support of amendment P2.  
Send via email to: [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us)

Thank you for the opportunity to comment on Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments. We urge you to adopt amendment P2.

RCW 36.70A.060(2) requires that "[e]ach county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170." This includes areas with a critical recharging effect on aquifers used for potable water. RCW 36.70A.030(5); RCW 36.70A.170(1)(d). The Western Washington Growth Management Hearings Board has held that the Growth Management Act requires counties to designate vulnerable seawater intrusion areas as critical aquifer recharge areas. *Olympic Environmental Council v. Jefferson County*, Western Washington Growth Management Hearings Board (WWGMHB) Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*8 & \*16 *motion for reconsideration denied Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Order Denying Motion for Reconsideration (Feb. 8, 2002), at \*3. The Board also held that counties must adopt development regulations "to protect aquifers used for potable water from further seawater degradation." *Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*15.

The State of Washington Department of Ecology has identified all of Guemes Island as having the potential for saltwater intrusion. State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability Lower Skagit Watershed, WRIA 3* p. 5 (Publication Number: 11-11-008: Nov. 2016). Accessed on Jan. 21, 2019 at: <https://fortress.wa.gov/ecy/publications/publications/1111008.pdf>. So, in my legal opinion, Skagit County is required to regulate well construction and use on Guemes Island to prevent further saltwater intrusion.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 Ext. 102 and email: [tim@futurewise.org](mailto:tim@futurewise.org).

Very Truly Yours,

Tim Trohovich, AICP, WSBA No. 22367  
**Director of Planning & Law**

Enclosure

Tim Trohovich, AICP  
Director of Planning & Law

  
816 Second Avenue, Suite 200  
Seattle, WA 98104-1530  
206 343-0681 Ex 102  
[tim@futurewise.org](mailto:tim@futurewise.org)  
connect   
[futurewise.org](http://futurewise.org)

---

**From:** Tim Trohovich  
**Sent:** Wednesday, January 22, 2020 3:48 PM  
**To:** [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

Dear Sirs and Madams:

I have been told that Skagit County prefers electronic communications, but does not accept email enclosures. Yesterday I submitted this letter and document as an email enclosure, I apologize. I am now submitting it in the body of the email. I am also just submitting it as editable text in a separate email.

Thank you for considering our comments. Please contact me if you require anything else.



816 Second Ave, Suite 200, Seattle, WA 98104  
 p. (206) 343-0681  
 futurewise.org

January 21, 2020

Skagit County Planning Commission  
 Planning and Development Services  
 1800 Continental Place  
 Mount Vernon, Washington 98273

Dear Sirs and Madams:

**Subject: Comments on Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments in support of amendment P2.**  
 Send via email to: [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us)

Thank you for the opportunity to comment on Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments. We urge you to adopt amendment P2.

RCW 36.70A.060(2) requires that "[e]ach county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170." This includes areas with a critical recharging effect on aquifers used for potable water. RCW 36.70A.030(5); RCW 36.70A.170(1)(d). The Western Washington Growth Management Hearings Board has held that the Growth Management Act requires counties to designate vulnerable sewerage intrusion areas as critical aquifer recharge areas. *Olympic Environmental Council v. Jefferson County*, Western Washington Growth Management Hearings Board (WWGMHB) Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*8 & \*16 *motion for reconsideration denied Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Order Denying Motion for Reconsideration (Feb. 8, 2002), at \*3. The Board also held that counties must adopt development regulations "to protect aquifers used for potable water from further sewerage degradation." *Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*15.

The State of Washington Department of Ecology has identified all of Guemes Island as having the potential for saltwater intrusion. State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability Lower Skagit Watershed*, WRLA 3 p. 5 (Publication Number: 11-11-008; Nov. 2016).<sup>1</sup> So, in my legal opinion, Skagit County is required to regulate well construction and use on Guemes Island to prevent further saltwater intrusion.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 Ext. 102 and email: [tim@futurewise.org](mailto:tim@futurewise.org).

<sup>1</sup> Accessed on Jan. 21, 2019 at: <https://fortress.wa.gov/ecy/publications/publications/1111008.pdf> and enclosed with this letter.

Skagit County Planning Commission RE: Comments on Skagit County's 2019 Docket  
 January 21, 2019  
 Page 2

Very Truly Yours,

Tim Trohimovich, AICP, WSBA No. 22367  
 Director of Planning & Law

Enclosure

## Lower Skagit Watershed, WRIA 3

This focus sheet provides information on the availability of water for new uses in the Lower Skagit Watershed. This information provides a starting point for potential water users in determining the best strategies for securing water for a future project or proposal in this area.



The Lower Skagit Watershed, also known as Water Resource Inventory Area 3 (WRIA 3), is situated in the northern part of Puget Sound east of the San Juan Islands. It comprises the western part of Skagit County and small portions of Snohomish and Whatcom Counties. Fidalgo, Guemes, Cypress and other smaller offshore islands are also included in the WRIA 3 watershed.

In addition to the Skagit River and its delta, the watershed includes Lake Samish and the Samish River watersheds. These watersheds are not subject to the instream flows set for the Skagit River and its various smaller tributary streams, such as Fisher, Carpenter, Jones and Day Creeks.

Water from the Skagit River basin supports a robust agricultural economy, hydroelectric generation and growing cities and towns. The Skagit River is the only large river system in Washington that contains healthy populations of all five native salmon species. To preserve these fish runs, the state has set instream flows to protect and preserve water flow in the river and its tributaries.

Yearly precipitation ranges from as little as 15-20 inches in the coastal area to over 70 inches in the Cultus Mountains. Most of this precipitation arrives during the winter months when water demand is low. Demand for water is high during the summer months when stream flows are naturally low due to little precipitation. Stream flows, especially in tributary creeks, are dependent on groundwater. This means that groundwater and surface water are least available when water demands are the highest.

### Factors affecting water availability

#### Instream Resources Protection Program rule

Much of the water in the Lower Skagit Watershed is already legally spoken for. Increasing demands for water from population growth,

#### Definitions

**Consumptive use:** A use of water that diminishes the quantity or quality of water in the water source.

**Instream flow rule:** Establishes a water right for streams in a particular watershed. The rule specifies the amount of water needed in a particular place for a defined time for each stream. Typical instream flow rules now include broader water management strategies.

**Mitigation plan:** A scientifically-sound plan intended to avoid impairment to existing water rights or capturing water from a closed source.

**Non-consumptive use:** A use of water that does not diminish the quantity of water in the water source, such as power generation.

**Permit-exempt well:** The state Ground Water Code allows for certain uses of small quantities of groundwater without obtaining a permit from Ecology (RCW 90.44.050).

**Reservation:** A reservation of water is a one-time finite amount of water set aside for specific future uses. Reservations typically provide year-round water and have conditions of use required to access them.

Publication Number: 11-11-008

1

08/11; rev 11/16

declining groundwater levels in some areas, and the impacts of climate change have added to the challenge of finding water for new uses in WRIA 3. The Lower Skagit Watershed lacks water when and where it is needed, particularly during the summer months.

WRIA 3 has an Instream Resources Protection Program rule ([WAC 173-503](#)), often referred to as the Skagit instream flow rule. It was effective on April 14, 2001, to protect senior water rights and maintain a healthy ecosystem. Such rules are required by state law ([RCW 90.54](#)). This rule applies only to the Skagit River and its tributaries. It does not apply to the Samish River basin or Fidalgo, Cypress, Guemes, Hope and Goat Islands.

An instream flow rule is essentially a water right for the river. Once the rule is established, all water uses established after the rule are interruptible. Instream flows in the Skagit River are not met on average 100 days out of the year. Stream flows fall below the instream flow levels during some days of almost every month of the year, but the low-flow periods are most concentrated during the end of the dry season in late summer and early fall.

**Interruptible water right:** A water right that is junior in priority to other water rights, including instream flow levels. The water use can be forced to shut off until senior water rights are fulfilled. An interruptible water right generally cannot be used for uses requiring a continuous water supply, such as domestic water use.

#### Reservations created in 2006 amendment; Supreme Court overrules in 2013

Ecology revised the Skagit River Instream Flow Rule in 2006 to establish finite "reservations" of surface and groundwater for future out-of-stream uses. The reservations provided uninterruptible water supplies for future water users that could be legally used even if flows in the Skagit River fell below the regulatory flow levels. The water reserves were divided among 25 different tributaries and stretches of the Skagit River.

On Oct. 3, 2013, the Washington State Supreme Court ruled that Ecology exceeded its authority to create reservations through rulemaking where water was set aside to support stream flows for fish. As a result of the Court's decision, all water uses established after April 14, 2001 in the Skagit River basin and its tributaries are junior to the instream flows and are subject to curtailment when instream flow levels are not met. All new water uses requiring a continuous and reliable source of water, including permit-exempt wells, must be mitigated to prevent impairment of the instream flows.

For more information, see Ecology publication "Frequently Asked Questions: Water Availability for Skagit basin landowners" <https://fortress.wa.gov/ecy/publications/publications/1311006.pdf>

#### Indian Tribe Reservations

The Swinomish Indian Reservation and Upper Skagit Reservation lands are located within WRIA 3. Federally-reserved rights are not quantified at this time and therefore the legal availability of water in these areas is undetermined.

#### Wild and Scenic Rivers

The Skagit River and the Cascade, Sauk, and Suiattle tributaries are designated as Wild and Scenic Rivers

Publication Number: 11-11-008

2

 Please reuse and recycle

by the [U.S. Wild and Scenic Rivers Act \(16 USC 1271-1287\)](#). Any water withdrawals that would interrupt the free flowing condition of these rivers, such as run-of-the-river hydropower projects, would not be approved.

#### Coastal areas of Puget Sound

Any proposed water withdrawals in the coastal areas of Puget Sound are evaluated for the risk of seawater intrusion into fresh groundwater supplies. Coastal applicants may need to develop an adequate mitigation plan to address the risk of seawater intrusion. Guemes Island has experienced significant seawater intrusion along its northern coast and in limited areas of its southern coast.

#### Samish River basin

As stated earlier, WAC 173-503 does not include the Samish River basin. At this time it is not known whether water is available for future uses in this area. The Department of Fish and Wildlife has recommended closing much of the basin to new consumptive water uses.

#### Water currently available for new uses

Water for non-consumptive uses (such as power generation) and water uses that can be interruptible may be approved, subject to interruption during low flows of the Skagit River and designated tributaries.

#### Working towards water solutions in the Skagit Watershed

Ecology and the state legislature recognize that water is needed to support homes, farms and businesses in the Skagit River Watershed. In April 2012, the Washington state Legislature provided funding to Ecology to develop mitigation programs that balance instream and out-of-stream benefits in the Skagit. This is much like the agency has been doing with the successful Office of Columbia River Program in eastern Washington.

Ecology is working on mitigation projects and programs that will provide legally-secure water supplies for existing and future water uses in the Skagit River basin while protecting instream flows. Projects in development include purchase of senior water rights that can be reallocated to out-of-stream and instream uses, and stream flow enhancement through timed releases of water. Ecology is working with local government and tribal leaders, landowners and other stakeholders to determine the best and most cost-effective package of actions to address both instream and out-of-stream needs.

For more information see the Skagit Water Solutions web page:  
<http://www.ecy.wa.gov/programs/wr/instream-flows/173503-sol.html>

#### Additional options for obtaining water

Skagit basin landowners who wish to use a well -- but did not establish use of a well before the April 14, 2001 effective date of the Skagit Instream Flow Rule -- have several options they can pursue. The availability of the following options will vary based on location and other factors:

- Hook up to the Skagit PUD or another local public water system.
- Acquire and transfer a senior water right within the same basin as your proposed project.

Publication Number: 11-11-008

3

 Please reuse and recycle

- Develop a rainwater catchment system or obtain a trucked water supply to serve your domestic or commercial needs.
- Mitigate: landowners can develop an individual mitigation proposal, or wait for Ecology to establish basin-wide mitigation options.

#### Pending water right applications in this watershed

At this time, Ecology is not processing any new water right applications and is focusing on developing mitigation programs in the Skagit basin. However, landowners who wish to acquire a water right can still submit an application with Ecology.

Washington water law is based on the "prior appropriation" system, often called "first in time, first in right." Applications for water from the same source must be processed in the order they are received. (There are certain exceptions, see "Additional options for processing water right applications".)

Ecology asks anyone who needs a water right (new, change, or transfer) to submit the pre-application consultation form and meet with us to review your water supply needs and project proposal.

- [Apply for a New Water Right](#)
- [Apply to Change or Transfer a Water Right or Claim](#)

The map on the last page shows some of the factors that will be considered when evaluating water right permit applications. Here are some additional information sources to assist you with your research:

- [Locate and research water rights on land parcels anywhere in the state](#) (Water Resource Explorer)
- [Pending Water Right Applications by County](#)
- [Subscribe to a water right application RSS feed for a county or WRIA](#)
- [WRIA map showing the total number of water right claims, certificates, permits and applications](#)
- [Search and view well reports using a map or text search tools](#) (WA State Well Log Viewer)

#### For more information

Northwest Regional Office  
 Water Resources Program  
 3190 160th Ave. SE  
 Bellevue WA 98008  
 425-649-7000

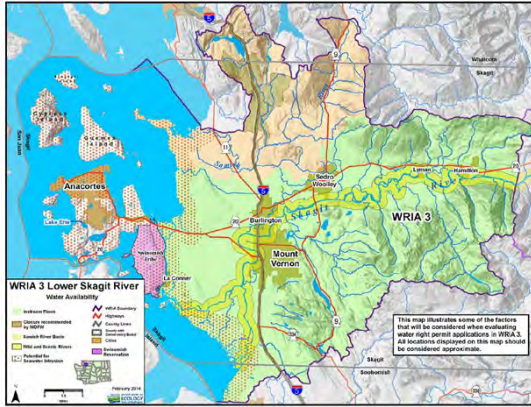
*If you need this document in a version for the visually impaired, call the Water Resources Program at 360-467-6872. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

Publication Number: 11-11-008

4

 Please reuse and recycle

**Skagit Instream Flow Rule:  
Affected Areas and Water Availability**



Tim Trohimovich, AICP  
Director of Planning & Law

**future wise**  
816 Second Avenue, Suite 200  
Seattle, WA 98104-1530  
206 343-0681 Ex 102  
[tim@futurewise.org](mailto:tim@futurewise.org)  
connect:   
[futurewise.org](http://futurewise.org)

**From:** [Susan Deighton](#)  
**To:** [PDS comments](#)  
**Subject:** regulations to benefit blue herons  
**Date:** Wednesday, January 15, 2020 12:40:53 PM

---

I am responding to a letter from the Skagit County Planning and Development Services concerning the Proposed Development Regulations to Benefit Blue Herons. (Docket Item P-4) I will be out of town on the day of the public hearing so am responding in writing.

Dan and Susan Deighton's property is at 11138 Rasar Dr. Bow WA. Our property is next to the old heron site on Samish Island.

Before any regulations are put into place I suggest that it be determined first why the rookery was abandoned in 2017. Three items come to my mind that should be addressed before there are regulations.

1. The cottonwood trees that the nests were in are mature and beginning to fall over. Ever winter several trees go down. In addition, many of the tree in the vicinity are dying off. We estimate a third to half the cedar trees on our 10 acres are dead or dying. All of the birch are in the process of dying and the white fir are also dying. At the current rate, there won't be any good nesting trees for the herons even if all other conditions are met.
2. The eagle population has increased a lot!! We never used to have eagles swooping low to the ground over our house and yard. Now there are some time 3 or 4 at a time swooshing through. Has anyone done a count of the eagle population on the island?
3. During the month of July the fireworks on Samish Island, particularly on North Beach, have increased to the point that I am very concerned about our woods catching on fire. Noise, I understand, can be a problem with nesting herons. The noise on the 4th is like a war zone. The fireworks being set off are NOT legal. I don't think a chain saw or weed eater, etc. make any where near the noise that the fireworks make. There are already regulations in place to control the noise of the fireworks.

Thank you for considering my concerns. We are sad to lose the herons and we miss them. But any new regulations should be based on facts, not emotions.

Susan E. Deighton  
11138 Rasar Dr.  
Bow, WA 98232

**From:** [Mary Ruth Holder](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 11:57:07 AM

---

Comment re: Skagit County 2019 Docket of Proposed Policy, Code, and Map Amendments

I am writing to **strongly** urge the Planning Commission to recommend adoption of Skagit Land Trust's P-4 amendments to the County Critical Areas Ordinance (CAO) to protect herons now and into the future. I further **strongly** urge the County to adopt P-4, the Skagit Land Trust's proposed amendment to the CAO that will strengthen protections for Great Blue Heron nesting habitat in Skagit County.

The iconic Great Blue Herons play a leading role in the natural heritage of Skagit's bays, estuaries and wetlands. The herons depend on Skagit's unique environment to thrive. Their heronries are of statewide and US significance. The March Point mega-colony is not only the largest in the Salish Sea region and one of the largest on the entire U.S west coast but it is also of international significance.

For over 20 years the Skagit Land Trust, their partners and their volunteer citizen scientists have stewarded and observed the March Point, Samish Island and Barney Lake heronries. The trust has gathered and recorded data over the breeding and nesting periods and submits information to the Washington Department of Fish and Wildlife. The best available science includes these decades of local knowledge.

The Great Blue Herons are known to be very sensitive to human activities during the breeding and nesting season. Sadly, they are known to have abandoned nesting sites (Samish Island - second largest -heronry, abandoned in 2017) in response to unusual human disturbances like noises and lights. The current Skagit County code has minimal guidance on how to protect Great Blue Heron nesting sites from human disturbances. The Skagit Land Trust requested P-4 amendment details how to protect heronries and must be part of our County CAO.

I support both year-round and seasonal buffers recommended by the Department of Fish and Wildlife and extended protections for forests that contain nest trees from encroaching development. I request that the Planning Commission recommend the Skagit Land Trust's P-4 Amendment as part of our county CAO and that the County adopt this Amendment to provide strong protections for Skagit's iconic Great Blue Heron's now and in the future.

Thank you for taking my comment into consideration,  
Mary Ruth Holder, 201 S. 7th St., Mount Vernon, WA.

**From:** [Carolyn Gastellum](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County 2019 Docket  
**Date:** Thursday, January 23, 2020 2:59:55 PM

---

I support Skagit County PDS staff's proposal that C-5:SCC 14.16 Classification of Habitat Management be adopted into the Critical Areas Ordinance.

Habitat restoration should be an allowed use. The benefits include helping to meet county, state, and federal goals included in the Growth Management Act, Shorelines Management Plans, and so forth. There are clear benefits to local restoration projects which already go through a substantial permitting process. Aquatic restoration is critical to healthy salmon runs and the people and wildlife who all depend on salmon as a source of food and recreation. Aquatic restoration benefits both marine and freshwater ecosystems.

There is no need to take these types of projects to a Hearing Examiner as that would work against the County's intent to allow habitat restoration in general and aquatic habitat restoration in particular.

Thank you.  
Carolyn Gastellum  
14451 Ashley Place  
Anacortes, WA 98221



**From:** [Tom Stapp](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County 2019 Docket; County's Comprehensive Plan.  
**Date:** Friday, January 24, 2020 3:57:40 PM

---

Thomas & Christine Stapp, at 6056 Section Avenue, Anacortes, Wa. 98221. I would like to include my input to the necessity of considering adoption of the P1 and P2 amendments before the County. Guemes Island residents need a less bureaucratic approach to securing potable water on the island. Rainwater collection is a viable option that should be self regulated. Well resources should continue to be inspected, and studied where seawater intrusion occurs. We expect the County to make reasoned decisions on whether the sole source aquifer can sustain Additional drilled wells.

Sent from my Verizon, Samsung Galaxy smartphone

**From:** [Evergreen.Islands@comcast.net](mailto:Evergreen.Islands@comcast.net)  
**To:** [PDS comments](#); [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 4:25:38 PM  
**Attachments:** [image002.png](#)  
[image004.png](#)  
**Importance:** High

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**



# EVERGREEN ISLANDS

PO Box 223, Anacortes, WA 98221

January 24, 2020

**To:** Skagit County Planning Commission  
(Kathy Mitchell, Mark Lundsten, Ann Marie Lohman, Amy Hughes,  
Joe Woodmansee, Tim Raschko, Tammy Candler, Martha Rose)  
**cc:** Hal Hart, Director of Planning and Development Services  
City of Anacortes  
1800 Continental Place  
Mount Vernon, WA. 98273  
**cc:** Evergreen Islands Board of Directors,  
Guemes Island Planning Advisory Committee

## Evergreen Islands Board of Directors

Tom Glade  
President

Marlene Finley  
Vice President

Wim Houppermans  
Secretary

Jan Heald Robinson  
Treasurer

Kathryn Alexandra  
Director

Rich Bergner  
Director

Brenda Lavender  
Director

Mark Lundsten  
Director

Maureen Scheetz  
Director

Brian Wetcher  
Director

*mailing address*  
P.O. Box 223 Anacortes  
WA 98221

*web address*  
[evergreenislands.org](http://evergreenislands.org)

## Re: Skagit County's 2019 Docket of Proposed Policy, Code, & and Map Amendments: P-1 Rainwater Catchment and P-2: Guemes Island Wells

### INTRODUCTION

At the Tuesday, January 21 Planning Commission Hearing, I testified that Evergreen Islands supports the adoption of both amendments, P-1: Rainwater Catchment and P-2: Guemes Island Wells. My final comment was a question why Skagit County has procrastinated adopting language that allows rainwater catchment on Guemes Island when San Juan County had adopted language that allowed rainwater catchment years ago!

In his January 21, 2020 letter, Steve Orsini submitted the following comments:  
The Guemes Island Planning Advisory Committee, (GIPAC) has, since 2016 proposed two code amendments, now labeled P-1 and P-2, which address the damaging and polluting inadequacies of the Skagit County Code. It is unfortunate that Planning Commission staff is kicking the can down the road on P-1 by advising further study of a rainwater catchment guidance document and that Skagit legal has issued an 11th hour opinion that implies they cannot regulate all wells on Guemes, despite its Critical Area designation, and that they adequately regulate building permit related wells- of course, after they are drilled

On December 8, 2016 – over 3 years ago - Evergreen Islands submitted a comment to Skagit County Board of Commissioners regarding the “Proposed 2017 Docket of Comprehensive Plan, Map, and Code Amendments.” Our comments, included below, referred to a 1994 letter from the Washington State Department of Ecology to Skagit County Department of Health – letter that was submitted to the County twenty-five and a half (25-1/2) years ago. Our final comment was **“The time is long overdue that Skagit County must protect the residents with senior water rights from pilfering of those water rights by the**

*tax deductions*  
Evergreen Islands is a 501(c)  
(3) organization.  
Your contributions are  
tax-deductible.

**continued allowance of exempt wells that have hydraulic connectivity to Guemes Islands sole-source aquifer.**

***Evergreen Islands Comments – December 8, 2016***

In 1994, over 20 years ago, the supervisors of Ecology's Water Resources and Water Quality Programs of Ecology submitted a letter<sup>1</sup> regarding ground water withdrawal on Guemes Island. Their joint letter included the following remarks:

Several areas of the island are experiencing elevated chloride levels in ground water wells. The data indicate that some parts of the island are experiencing significant sea water intrusion.

We are particularly concerned about the north end of the island, specifically that part lying within Township 36 North. Ground water sampling data indicate consistently high chloride values often exceeding 100 mg/l.

The cumulative effect of numerous withdrawals will eventually cause large scale saline intrusion of the coastal aquifer. The Antidegradation Policy, as stated in the Water Quality Standards for Ground Waters, Washington Administrative Code (WAC) 173-200-030, ensures the purity of the state's ground waters and protects the natural environment. Permitting saline intrusion into fresh water aquifers could be a violation of the state's Antidegradation Policy, and can cause adverse water quality effects in existing wells

For these reasons, we would recommend limiting new well construction on the north end of the island. We would encourage no well site approval or plat approval for developments planning on using ground water from this part of the island, unless they have a valid permit from Ecology.

In summary, we have concerns regarding how the County can make findings of adequacy of water in this part of Guemes Island under Section 63 of the Growth Management Act. With this in mind, we would encourage you to deny well site approvals until a site-specific management program is in place.

**The time is long overdue that Skagit County must protect the residents with senior water rights from pilfering of those water rights by the continued allowance of exempt wells that have hydraulic connectivity to Guemes Islands sole-source aquifer.**

<sup>1</sup> "Concerns Held by the Water Resources and Water Quality Programs of Ecology Regarding Ground Water Withdrawal on Guemes Island," Washington State Department of Ecology to Skagit County Department of Health, Stephen Hirsche & John Glynn to John Thayer, May 27, 1994

**DISCUSSION**

San Juan County Water Resource Management Plan includes the following statement:

**San Juan County residents have long used rainwater catchment (or harvesting) as a means of supplementing limited groundwater supplies. This practice was officially incorporated into county code in 1998.**

If Skagit County had shown the wisdom to allow rainwater catchment on Guemes Island, the residents of Guemes Island would have been spared a lot of both physical harm and financial harm.

**CONCLUSION**

Evergreen Islands once again urges Skagit County to adopt both Amendments and P-1 Rainwater Catchment and P-2: Guemes Island Wells

Since San Juan County has already laid the groundwork for allowing rainwater catchment for all their

saltwater islands, Skagit County can and must take advantage of their work. To that end, Attachment 1 includes extracts from the San Juan County Comprehensive Plan, the San Juan County Water Resource Management Plan, and the San Juan County Development Code

Respectfully yours,



Tom Glade  
President, Evergreen Islands  
C: (360) 202-1901

## ATTACHMENT 1

### Rainwater Catchment: San Juan County's Policies & Code

#### Extracts from San Juan County's Comprehensive Plan San Juan County Water Resource Management Plan, & Development Code

#### San Juan County Comprehensive Plan, Section B, Element 4 – Water Resources

<https://www.sanjuanco.com/DocumentCenter/View/1057/Water-Resources-Section-B-Element-4>

##### General Policies:

1. Promote water conservation as a means to ensure the availability of fresh water resources. Encourage the reuse of gray-water, rainwater catchment, and land application of treated wastewater as conservation practices. (p.1)

10. Maintain a local water resource management program through the San Juan County Water Resource Management Committee.

a. **Establish a program that addresses all water use, including use of** exempt wells and alternative sources, such as desalination and **rainwater catchment**, and that includes decision-making based on long-term development and analysis of resource information. (p.2)

19. **Encourage voluntary enhancement such as rain water catchment**, stormwater retention & other technologies that will benefit water quality and quantity related to this element. (p.3)

##### Water Supply Development Policies:

7. **Alternative sources of water, such as rainwater catchment** and desalinization, should be allowed for existing residential and agricultural parcels provided they meet all County and State department of health requirements and environmental impacts can be addressed. (p.4)

#### SAN JUAN COUNTY CODE

<https://www.codepublishing.com/WA/SanJuanCounty/>

#### 8.06.070 Definitions.

"Alternative water source" means any source of water for an individual single-family use other than a legally constructed well that produces more than 200 gallons per day

per residence or an approved community water system that has the capacity to serve the intended use of the structure. **These include but are not limited to: rainwater catchment**, hauled water, seawater treatment, wells producing less than or equal to 200 gallons per day per residence, and well water requiring treatment or monitoring.

C. The applicant for any building permit which requires a certificate of water availability shall provide sufficient information to allow the health officer to make a determination of water availability. Sufficient evidence shall consist of one of the following:

**3. Alternative Water Sources.** Alternative water sources will be permitted for single-family residential use. A combination of sources and systems may be used to fulfill the quantity and quality requirements for a single-family residential building permit. There must be no cross-connection between potable and non-potable water supplies.

Alternative sources will not be allowed for subdivision approval, except seawater treatment. Alternative water sources must be approved by the health officer. These sources include:

d. Rainwater catchment **design meeting County guidelines** (Appendix A). **If the water is intended for domestic use, the applicant must submit a design by a qualified engineer or water system designer, and record on the property title a statement that the system is alternative and a description of operation and maintenance requirements. An owner may design a system for their own use.**

### **13.04.130 Clean water service charge adjustments.**

The following parcels may receive an adjustment to the clean water service charges in this chapter:

A. In accordance with RCW 36.89.080, ***the charge to be imposed shall be reduced by a minimum of 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system*** that is properly sized to utilize the available roof surface of the building. ***The service charge structure shall consider rate reductions in excess of 10 percent depending upon the amount of rainwater harvested.***

### **18.60.020 Water supplies.**

A. All development must conform to the standards set by SJCC Title 8, Health and Safety, and must satisfy the policies of Element 4 of the Comprehensive Plan (Water Resources) regarding the availability and adequacy of the water resource, the protection of water quality, and the control or avoidance of pollution, and conservation of water.

B. Each new use of land that requires potable or nonpotable water or any major new use of water unrelated to new land use (***the collection of rainwater for nonpotable use is exempt from this requirement***) and for which the County has approval authority, shall

San Juan County Water Resource Management Plan

<https://www.sanjuanco.com/DocumentCenter/View/869/Water-Resource-Management-Plan-2004-PDF>

## CHAPTER 1, BACKGROUND AND INTRODUCTION

### Water resource planning

San Juan County has been involved in cycles of water resource study and planning since the early 1970s. The WRMC began the current planning process with the determination to build on past efforts and produce results. While a county-wide water resource assessment<sup>1</sup> and recharge analysis were being completed, the committee decided to initiate ***two early implementation projects in order to address known problems: legal status for the use of rainwater catchment*** and a more detailed assessment and coordination plan for Lopez Village. As a result, this plan is based on experience with a successful approach to local decision-making, and experience developing a working partnership with the Department of Ecology. The resulting recommendations form the foundation for a locally-driven, science-based decision-making process. (Chapter 1, p. 2)

### Outcome of early implementation and additional studies:

#### Rainwater harvesting

***San Juan County residents have long used rainwater catchment (or harvesting) as a means of supplementing limited groundwater supplies. This practice was officially incorporated into county code in 1998.*** However, all waters of the state, including rainwater, require a water right in order to be put to beneficial use. This requirement puts county practice and code in conflict with state law. Efforts to resolve this issue as an early implementation project were initially frustrating, due to statewide concerns and hopes for a legislative bill to address the issue. Eventually, the WRMC and Ecology agreed to the recommendation to pursue a general permit for use of rainwater harvesting county-wide. The documentation to support this permit is contained in Appendix B, Rainwater catchment analysis. (Chapter 1, p.7)

## CHAPTER 2, SUMMARY OF ISSUES

### Rainwater use, wastewater reuse, desalinization and hauled water

***Rainwater catchment, in an area with limited water resources, the capture of rainfall is a practical approach to providing water for irrigation and individual domestic use<sup>9</sup>.*** This practice has been used for decades in San Juan County, especially in the form of pond catchment on farms. It has been an official policy in San Juan County to allow rainwater systems as a source of water for individual domestic use for over a decade. This use of rainwater, however, requires a water right permit, just like any other water source.

### Rainwater use, wastewater reuse, desalinization and hauled water

#### Rainwater catchment

***In an area with limited water resources, the capture of rainfall is a practical approach to providing water for irrigation and individual domestic use<sup>9</sup>.*** This practice has been used for decades in San Juan County, especially in the form of pond catchment on farms. ***It has been an official policy in San Juan County to allow rainwater systems as a source of water for individual domestic use for over a decade.*** This use of rainwater, however, requires a water right permit, just like any other water source.

In 1999, Ecology issued a preliminary/temporary permit authorizing the collection and use of rainwater for non-potable use to Camp Norwester on Johns Island, stating: "The location and geology of the San Juan Islands create an area of limited surface and ground water supply. Your proposal presents a unique opportunity to test the feasibility of rainwater collection as an alternative source of potable water supply." In May, 2001, the San Juan County Board of Commissioners adopted a resolution

requesting that Ecology to set a policy that would make rainwater use exempt from the requirement for a water right permit, similar to their policy for the use of seawater. Because of state wide implications, Ecology is not willing to make the use of rainwater exempt from the permit process, but has proposed a general county-wide permit, with an allocation set aside for rainwater harvesting by sub-area. Currently, use of rain barrels to promote water conservation is a common practice state-wide, and several counties allow the use of rainwater for potable and/or non-potable use, including King County. Bills have been introduced in the state legislature to allow an exemption for limited rainwater harvesting, but have failed to date to generate sufficient interest to allow passage. ***This plan recommends following through with the general permit process in order to make rainwater use a realistic alternative in water-poor areas and continued efforts to develop legislation.***

***Rooftop collections systems are considered a surface water source for purposes of determining appropriate water quality treatment and monitoring requirements.*** For individuals using catchment systems, ongoing maintenance is essential to assure safety. Group A and B water systems with households also using catchment systems, must protect their distribution system from potential cross-connections. (See Appendix B, Rainwater catchment analysis)  
(Chapter 2, p. 16)

**From:** [Evergreen.Islands@comcast.net](mailto:Evergreen.Islands@comcast.net)  
**To:** [PDS comments](#); [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 4:22:58 PM  
**Attachments:** [image002.png](#)  
[image004.png](#)  
**Importance:** High

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

# EVERGREEN ISLANDS

January 24, 2020



## Evergreen Islands Board of Directors

Tom Glade  
President

Marlene Finley  
Vice President

Wim Houppermans  
Secretary

Jan Heald Robinson  
Treasurer

Kathryn Alexandra  
Director

Rich Bergner  
Director

Brenda Lavender  
Director

Mark Lundsten  
Director

Maureen Scheetz  
Director

Brian Wetcher  
Director

*mailing address*  
P.O. Box 223 Anacortes  
WA 98221

*web address*  
[evergreenislands.org](http://evergreenislands.org)

**To:** Skagit County Planning Commission  
(Kathy Mitchell, Mark Lundsten, Ann Marie Lohman, Amy Hughes,  
Joe Woodmansee, Tim Raschko, Tammy Candler, Martha Rose)  
**cc:** Hal Hart, Director of Planning and Development Services  
City of Anacortes  
1800 Continental Place  
Mount Vernon, WA. 98273  
**cc:** Evergreen Islands Board of Directors,  
Guemes Island Planning Advisory Committee

## **Re: Skagit County's 2019 Docket of Proposed Policy, Code, & and Map Amendments: P-1 Rainwater Catchment and P-2: Guemes Island Wells**

### INTRODUCTION

At the Tuesday, January 21 Planning Commission Hearing, I testified that Evergreen Islands supports the adoption of both amendments, P-1: Rainwater Catchment and P-2: Guemes Island Wells. My final comment was a question why Skagit County has procrastinated adopting language that allows rainwater catchment on Guemes Island when San Juan County had adopted language that allowed rainwater catchment years ago!

In his January 21, 2020 letter, Steve Orsini submitted the following comments: The Guemes Island Planning Advisory Committee, (GIPAC) has, since 2016 proposed two code amendments, now labeled P-1 and P-2, which address the damaging and polluting inadequacies of the Skagit County Code. It is unfortunate that Planning Commission staff is kicking the can down the road on P-1 by advising further study of a rainwater catchment guidance document and that Skagit legal has issued an 11th hour opinion that implies they cannot regulate all wells on Guemes, despite its Critical Area designation, and that they adequately regulate building permit related wells- of course, after they are drilled

On December 8, 2016 – over 3 years ago - Evergreen Islands submitted a comment to Skagit County Board of Commissioners regarding the “Proposed 2017 Docket of Comprehensive Plan, Map, and Code Amendments.” Our comments, included below, referred to a 1994 letter from the Washington State Department of Ecology to Skagit County Department of Health – letter that was submitted to the County twenty-five and a half (25-1/2) years ago. Our final comment was **“The time is long overdue that Skagit County must protect the residents with senior water rights from pilfering of those water rights by the continued allowance of exempt wells that have hydraulic connectivity to**



*tax deductions*  
Evergreen Islands is a 501(c)  
(3) organization.  
Your contributions are  
tax-deductible.

## **Guemes Islands sole-source aquifer.**

### ***Evergreen Islands Comments – December 8, 2016***

In 1994, over 20 years ago, the supervisors of Ecology's Water Resources and Water Quality Programs of Ecology submitted a letter<sup>1</sup> regarding ground water withdrawal on Guemes Island. Their joint letter included the following remarks:

Several areas of the island are experiencing elevated chloride levels in ground water wells. The data indicate that some parts of the island are experiencing significant sea water intrusion.

We are particularly concerned about the north end of the island, specifically that part lying within Township 36 North. Ground water sampling data indicate consistently high chloride values often exceeding 100 mg/l.

The cumulative effect of numerous withdrawals will eventually cause large scale saline intrusion of the coastal aquifer. The Antidegradation Policy, as stated in the Water Quality Standards for Ground Waters, Washington Administrative Code (WAC) 173-200-030, ensures the purity of the state's ground waters and protects the natural environment. Permitting saline intrusion into fresh water aquifers could be a violation of the state's Antidegradation Policy, and can cause adverse water quality effects in existing wells

For these reasons, we would recommend limiting new well construction on the north end of the island. We would encourage no well site approval or plat approval for developments planning on using ground water from this part of the island, unless they have a valid permit from Ecology.

In summary, we have concerns regarding how the County can make findings of adequacy of water in this part of Guemes Island under Section 63 of the Growth Management Act. With this in mind, we would encourage you to deny well site approvals until a site-specific management program is in place.

**The time is long overdue that Skagit County must protect the residents with senior water rights from pilfering of those water rights by the continued allowance of exempt wells that have hydraulic connectivity to Guemes Islands sole-source aquifer.**

<sup>1</sup> "Concerns Held by the Water Resources and Water Quality Programs of Ecology Regarding Ground Water Withdrawal on Guemes Island," Washington State Department of Ecology to Skagit County Department of Health, Stephen Hirsche & John Glynn to John Thayer, May 27, 1994

## **DISCUSSION**

San Juan County Water Resource Management Plan includes the following statement:

**San Juan County residents have long used rainwater catchment (or harvesting) as a means of supplementing limited groundwater supplies. This practice was officially incorporated into county code in 1998.**

If Skagit County had shown the wisdom to allow rainwater catchment on Guemes Island, the residents of Guemes Island would have been spared a lot of both physical harm and financial harm.

## **CONCLUSION**

Evergreen Islands once again urges Skagit County to adopt both Amendments and P-1 Rainwater Catchment and P-2: Guemes Island Wells

Since San Juan County has already laid the groundwork for allowing rainwater catchment for all their

saltwater islands, Skagit County can and must take advantage of their work. To that end, Attachment 1 includes extracts from the San Juan County Comprehensive Plan, the San Juan County Water Resource Management Plan, and the San Juan County Development Code

Respectfully yours,



Tom Glade  
President, Evergreen Islands  
C: (360) 202-1901

## ATTACHMENT 1

### Rainwater Catchment: San Juan County's Policies & Code

#### Extracts from San Juan County's Comprehensive Plan San Juan County Water Resource Management Plan, & Development Code

#### San Juan County Comprehensive Plan, Section B, Element 4 – Water Resources

<https://www.sanjuanco.com/DocumentCenter/View/1057/Water-Resources-Section-B-Element-4>

##### General Policies:

1. Promote water conservation as a means to ensure the availability of fresh water resources. Encourage the reuse of gray-water, rainwater catchment, and land application of treated wastewater as conservation practices. (p.1)

10. Maintain a local water resource management program through the San Juan County Water Resource Management Committee.

a. **Establish a program that addresses all water use, including use of** exempt wells and alternative sources, such as desalination and **rainwater catchment**, and that includes decision-making based on long-term development and analysis of resource information. (p.2)

19. **Encourage voluntary enhancement such as rain water catchment**, stormwater retention & other technologies that will benefit water quality and quantity related to this element. (p.3)

##### Water Supply Development Policies:

7. **Alternative sources of water, such as rainwater catchment** and desalinization, should be allowed for existing residential and agricultural parcels provided they meet all County and State department of health requirements and environmental impacts can be addressed. (p.4)

#### SAN JUAN COUNTY CODE

<https://www.codepublishing.com/WA/SanJuanCounty/>

#### 8.06.070 Definitions.

“Alternative water source” means any source of water for an individual single-family use other than a legally constructed well that produces more than 200 gallons per day

per residence or an approved community water system that has the capacity to serve the intended use of the structure. **These include but are not limited to: rainwater catchment**, hauled water, seawater treatment, wells producing less than or equal to 200 gallons per day per residence, and well water requiring treatment or monitoring.

C. The applicant for any building permit which requires a certificate of water availability shall provide sufficient information to allow the health officer to make a determination of water availability. Sufficient evidence shall consist of one of the following:

**3. Alternative Water Sources.** Alternative water sources will be permitted for single-family residential use. A combination of sources and systems may be used to fulfill the quantity and quality requirements for a single-family residential building permit. There must be no cross-connection between potable and non-potable water supplies.

Alternative sources will not be allowed for subdivision approval, except seawater treatment. Alternative water sources must be approved by the health officer. These sources include:

d. Rainwater catchment **design meeting County guidelines** (Appendix A). **If the water is intended for domestic use, the applicant must submit a design by a qualified engineer or water system designer, and record on the property title a statement that the system is alternative and a description of operation and maintenance requirements. An owner may design a system for their own use.**

### **13.04.130 Clean water service charge adjustments.**

The following parcels may receive an adjustment to the clean water service charges in this chapter:

A. In accordance with RCW 36.89.080, ***the charge to be imposed shall be reduced by a minimum of 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system*** that is properly sized to utilize the available roof surface of the building. ***The service charge structure shall consider rate reductions in excess of 10 percent depending upon the amount of rainwater harvested.***

### **18.60.020 Water supplies.**

A. All development must conform to the standards set by SJCC Title 8, Health and Safety, and must satisfy the policies of [Element 4 of the Comprehensive Plan \(Water Resources\)](#) regarding the availability and adequacy of the water resource, the protection of water quality, and the control or avoidance of pollution, and conservation of water.

B. Each new use of land that requires potable or nonpotable water or any major new use of water unrelated to new land use (***the collection of rainwater for nonpotable use is exempt from this requirement***) and for which the County has approval authority, shall

San Juan County Water Resource Management Plan

<https://www.sanjuanco.com/DocumentCenter/View/869/Water-Resource-Management-Plan-2004-PDF>

## CHAPTER 1, BACKGROUND AND INTRODUCTION

### Water resource planning

San Juan County has been involved in cycles of water resource study and planning since the early 1970s. The WRMC began the current planning process with the determination to build on past efforts and produce results. While a county-wide water resource assessment<sup>1</sup> and recharge analysis were being completed, the committee decided to initiate **two early implementation projects in order to address known problems: legal status for the use of rainwater catchment** and a more detailed assessment and coordination plan for Lopez Village. As a result, this plan is based on experience with a successful approach to local decision-making, and experience developing a working partnership with the Department of Ecology. The resulting recommendations form the foundation for a locally-driven, science-based decision-making process. (Chapter 1, p. 2)

### Outcome of early implementation and additional studies:

#### Rainwater harvesting

**San Juan County residents have long used rainwater catchment (or harvesting) as a means of supplementing limited groundwater supplies. This practice was officially incorporated into county code in 1998.** However, all waters of the state, including rainwater, require a water right in order to be put to beneficial use. This requirement puts county practice and code in conflict with state law. Efforts to resolve this issue as an early implementation project were initially frustrating, due to statewide concerns and hopes for a legislative bill to address the issue. Eventually, the WRMC and Ecology agreed to the recommendation to pursue a general permit for use of rainwater harvesting county-wide. The documentation to support this permit is contained in Appendix B, Rainwater catchment analysis. (Chapter 1, p.7)

## CHAPTER 2, SUMMARY OF ISSUES

### Rainwater use, wastewater reuse, desalinization and hauled water

**Rainwater catchment, in an area with limited water resources, the capture of rainfall is a practical approach to providing water for irrigation and individual domestic use<sup>9</sup>.** This practice has been used for decades in San Juan County, especially in the form of pond catchment on farms. It has been an official policy in San Juan County to allow rainwater systems as a source of water for individual domestic use for over a decade. This use of rainwater, however, requires a water right permit, just like any other water source.

### Rainwater use, wastewater reuse, desalinization and hauled water

#### Rainwater catchment

**In an area with limited water resources, the capture of rainfall is a practical approach to providing water for irrigation and individual domestic use<sup>9</sup>.** This practice has been used for decades in San Juan County, especially in the form of pond catchment on farms. **It has been an official policy in San Juan County to allow rainwater systems as a source of water for individual domestic use for over a decade.** This use of rainwater, however, requires a water right permit, just like any other water source.

In 1999, Ecology issued a preliminary/temporary permit authorizing the collection and use of rainwater for non-potable use to Camp Nor'wester on Johns Island, stating: "The location and geology of the San Juan Islands create an area of limited surface and ground water supply. Your proposal presents a unique opportunity to test the feasibility of rainwater collection as an alternative source of potable water supply." In

May, 2001, the San Juan County Board of Commissioners adopted a resolution requesting that Ecology to set a policy that would make rainwater use exempt from the requirement for a water right permit, similar to their policy for the use of seawater. Because of state wide implications, Ecology is not willing to make the use of rainwater exempt from the permit process, but has proposed a general county-wide permit, with an allocation set aside for rainwater harvesting by sub-area. Currently, use of rain barrels to promote water conservation is a common practice state-wide, and several counties allow the use of rainwater for potable and/or non-potable use, including King County. Bills have been introduced in the state legislature to allow an exemption for limited rainwater harvesting, but have failed to date to generate sufficient interest to allow passage. ***This plan recommends following through with the general permit process in order to make rainwater use a realistic alternative in water-poor areas and continued efforts to develop legislation.***

***Rooftop collections systems are considered a surface water source for purposes of determining appropriate water quality treatment and monitoring requirements.*** For individuals using catchment systems, ongoing maintenance is essential to assure safety. Group A and B water systems with households also using catchment systems, must protect their distribution system from potential cross-connections. (See Appendix B, Rainwater catchment analysis)  
(Chapter 2, p. 16)

**From:** [Richard Brocksmith](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 3:59:31 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Reference C-5 Classification of Habitat Management

Thank you for the staff proposal to allow habitat restoration as an allowed use in all zones outside of Ag-NRL. Many of our 44 member organizations are conducting multiple-benefit, voluntary, grant-funded, habitat restoration projects in the Skagit and Samish Watersheds as part of a coordinated recovery program for salmon recovery. These projects already meet all the specifications, permissions, and permits required by the federal, state, and local governments, so it is unclear what additional need is met or expert review is provided by hearing examiner via special use permit review. Being strictly voluntary in nature, our salmon habitat restoration projects are designed through multiple stages (feasibility, preliminary, final) and both incorporate and require landowner and stakeholder input at each of these stages. The value that additional reviews might bring should be weighed against the expense to the government and non-profit funds used to conduct this work, which would make our projects more expensive and thus reduce the amount of benefit that could be gained and the likelihood of being successful through a voluntary approach.

The members of the Skagit Watershed Council pride themselves on developing common-sense habitat restoration projects that not only provide the most benefit possible to salmon recovery, but often reduce other problems for local communities such as flood risk, infrastructure replacement, and obligations for meeting other regulatory “mandates” (e.g. TMDL-listed stream regulations and Voluntary Stewardship restoration goals). Not adopting the staff proposal would continue the barriers that exist to implementing these common-sense solutions.

Thank you for your consideration,  
Richard

---

Richard Brocksmith  
Executive Director, [Skagit Watershed Council](#)  
P: 360.419.9326 | C: 360.826.2164



**From:** [Anne Winkes](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 2:44:09 PM

---

Dear Planning Commission,

I am writing to express my full support of the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Restoration.

C-5 would allow all “Habitat enhancement and/or restoration projects, except mitigation banks as defined by SCC 14.04.020” as a permitted use in all County land use zones except Ag-NRL. Proposed restoration projects in Ag-NRL lands would still have to go before a hearing examiner.

Habitat enhancement and restoration projects are important to maintaining and improving the health of the County’s diverse ecosystems. Habitat enhancement and restoration will benefit Skagit County’s wildlife, fish, insects, water, air, and soil. In turn, Skagit County ecosystems will improve the well-being of our communities, providing economic benefits as well as opportunities to experience the natural world.

Please recommend the adoption of C-5 into County code.

Thank you,

Anne Winkes

PO Box 586

Conway, Wa

98238

[annewinkes@gmail.com](mailto:annewinkes@gmail.com)

360-445-6914





**From:** [mollyd@skagitlandtrust.org](mailto:mollyd@skagitlandtrust.org)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments, P-4 Great Blue Heron Nesting Sites  
**Date:** Friday, January 24, 2020 2:16:16 PM

---

Submitted by:

Molly Doran  
Executive Director  
Skagit Land Trust  
1020 S 3<sup>rd</sup>  
Mount Vernon WA  
98273

Currently there are three heronries in the County that would fall under P-4, Skagit Land Trust's proposed amendment to the County Critical Areas Ordinance to protect Great Blue Heron Nesting sites. Skagit Land Trust has a land holding in or around each of these heronries but we are not the only landowner. Our specific code language, option 2, identifies restricted activities, particularly during the nesting season, but they do not preclude landowners from developing their properties. In fact, our code language identifies mitigation options directly based on WDFW guidance. They allow a landowner to develop parts of their property when specified considerations are followed.

For example, if there is no other location on a particular property that is outside of the year-round buffer where the proposed development could occur, construction projects should be sited as far as possible from nests. They should be located where the nests will receive the greatest visual screening possible from all project disturbance.

Our option 2 provides more detailed guidance than either option 1 or the Planning Department staff's option 3. We feel this degree of detail provides important clarity for landowners making plans for their land. It will help the staff issuing permits. More detail makes it more likely that everyone understands the parameters and less likely that permitting errors and/or conflicts occur.

We appreciate the planning staff's willingness to work collaboratively with the land trust in refining our proposal so that it is written as proposed code. As the County's permitting agency for development and construction activities, the Planning Department is the only agency that can regulate and enforce these activities so that they abide by the County's Critical Areas Ordinances.

We recognize that the Staff's option 3 contains an important notification and regulatory component lacking in our option. Option 3, establishes a 1,000-foot area around known colony nesting sites that would be used to notify landowners and regulate development. It would require development permit applicants to submit a critical areas site assessment and habitat plan consistent with WDFW recommendations and best available science. It also requires notification of conservation organizations that manage heronries in Skagit County of any such development application. These are excellent additions.

With the loss of coastal nesting habitat and urbanization, heron nesting areas are shown signs

of stress and disturbance. Skagit Land Trust is concerned that without articulated, clearer protections, this charismatic and much-loved bird could face an uncertain future in Skagit County and beyond. We feel that the strongest protection for Skagit County's Great Blue Herons would be code that contains our option 2 amendment language plus the Staff's option 3 regulatory and notification language. With this level of detail, landowners and heronries can be compatible neighbors, living side by side harmoniously in the Skagit.

**From:** [mollyd.skagitlandtrust.org](mailto:mollyd@skagitlandtrust.org)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments ; C-5: SCC 14.16: Classification of Habitat Management  
**Date:** Friday, January 24, 2020 1:54:28 PM

---

**From:** mollyd@skagitlandtrust.org  
**Sent:** Friday, January 24, 2020 1:52 PM  
**To:** pdscomments@co.skagit.wa.us  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

**Submitted by**

Skagit Land Trust  
Molly Doran, Executive Director  
1020 S 3<sup>rd</sup> Street  
Mount Vernon, WA 98273

**Skagit Land Trust supports the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Management.**

**Given the goals of the County's Critical Area Ordinances, the Growth Management Act, the Shorelines Management Plans etc. habitat restoration should be an allowed use in all the zones outlined in this proposal.** Habitat restoration directly helps meet County, State and Federal goals. Habitat restoration provides numerous benefits locally. These include: providing quality habitat for at-risk species; filtering pollutants to assist with clean water; helping to recharge groundwater; lowering flood risk; helping to maintain the rural character of the County; assisting tourism ; providing open space for recreation and scientific study; providing natural solutions for climate change adaption, and much more. Not only is habitat restoration environmentally beneficial, but this kind of restoration provides great economic benefit to the county and its residents. As an allowed use, habitat restoration projects would still require all the relevant approval processes and permits in order to take place. There are many such requirements. They are detailed and look at all aspects of a project and its possible impacts. **Skagit Land Trust fully supports the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Management.**

**From:** [mollyd@skagitlandtrust.org](mailto:mollyd@skagitlandtrust.org)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:51:51 PM

---

**Submitted by**

Skagit Land Trust  
Molly Doran, Executive Director  
1020 S 3<sup>rd</sup> Street  
Mount Vernon, WA 98273

**Skagit Land Trust supports the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Management.**

**Given the goals of the County's Critical Area Ordinances, the Growth Management Act, the Shorelines Management Plans etc. habitat restoration should be an allowed use in all the zones outlined in this proposal.** Habitat restoration directly helps meet County, State and Federal goals. Habitat restoration provides numerous benefits locally. These include: providing quality habitat for at-risk species; filtering pollutants to assist with clean water; helping to recharge groundwater; lowering flood risk; helping to maintain the rural character of the County; assisting tourism ; providing open space for recreation and scientific study; providing natural solutions for climate change adaption, and much more. Not only is habitat restoration environmentally beneficial, but this kind of restoration provides great economic benefit to the county and its residents. As an allowed use, habitat restoration projects would still require all the relevant approval processes and permits in order to take place. There are many such requirements. They are detailed and look at all aspects of a project and its possible impacts. **Skagit Land Trust fully supports the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Management.**

**From:** [Nancy Fox](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:35:16 PM

---

[Again, with complete mailing address]

My name is Nancy Fox and I am a Guemes resident writing in support of code amendments P-1 (rainwater catchment) and P-2 (county review of new wells) as proposed by the Guemes Island Planning Advisory Committee (GIPAC). My address is 7202 Channel View Drive, Anacortes, WA 98221.

I've been working with GIPAC for many years to research and address the island's water issues. My interest began ten-plus years ago when my husband and I bought our 3-acre property on Guemes and started to become informed about water limitations on the island and options for providing safe water to our house.

When we purchased our property we were largely ignorant about our water supply, like many new homebuyers on the island. We knew we had running water to the house and barn, and we knew we had two working, dug wells on the property. We didn't know whether the wells produced enough water year-round for our needs (they did not) or whether the water was safe (it was not).

When we applied for a building permit, we learned what improvements the county would require. For over a year, the county insisted that we close our working wells and drill a new deep well, presumably into the aquifer. Eventually they relented and agreed to upgrades of our existing dug wells. They required water treatment of our choosing, which was a very good idea! We determined that our irrigation needs could not be met by our wells, and so set out to design and build a rainwater catchment system with approximately 8,500 gallons of storage. And we had once thought all we had to do was turn on the tap ...

I offer our experience because it was the beginning of my water education. I learned some lessons that inform my support for code amendments P-1 and P-2:

1. Rainwater catchment is pretty simple and reliable, even at a relatively large scale. (Our system is not for potable water, but could be converted with county approval in the future.) We did our own calculations about how much water storage we would need for irrigation during the dry months, not a complicated math problem. We used local talent to build and design the system, with an engineer involved only in structural specifications for the pad holding our above-ground tank. After learning about water limitations on Guemes, and having success with our rainwater system, we came to feel strongly that rainwater catchment should be available as an economical and viable alternative to well drilling on the island, the goal of code amendment P-1.
2. County code and practice have long favored drilled wells over any other source of water supply, as we learned when we proposed continued use of our dug wells. The code "discourages" rainwater catchment and other alternative water sources for potable water and even requires the drilling of a test well to prove a drilled well is not viable. On Guemes Island, with seawater intrusion documented in various areas and many red flags raised by regulatory agencies, this makes no sense. The priority should be reversed

so that rainwater catchment is preferred, or at least considered on equal footing with drilled wells. When new wells are proposed, the county should follow its own code and make sure that hydrogeologic impacts will not further degrade the aquifer or undermine existing wells. Code amendment P-2 will help accomplish this.

GIPAC has worked to educate islanders about island hydrology, the value of rainwater catchment, and the need for water conservation on Guemes. We are working with USGS and other agencies to arrange funding for an updated analysis of the aquifer so that it can be better managed. We need the county to step up to its role and fix the code so that rainwater catchment becomes a viable option and so that new wells are prevented from further degrading the aquifer that most islanders depend on.

Please approve P-1 and P-2 to help us protect this invaluable island resource.

Thank you for your consideration. — Nancy Fox

**From:** [Nancy Fox](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:29:45 PM

---

My name is Nancy Fox and I am a Guemes resident writing in support of code amendments P-1 (rainwater catchment) and P-2 (county review of new wells) as proposed by the Guemes Island Planning Advisory Committee (GIPAC). My address is 7202 Channel View Drive.

I've been working with GIPAC for many years to research and address the island's water issues. My interest began ten-plus years ago when my husband and I bought our 3-acre property on Guemes and started to become informed about water limitations on the island and options for providing safe water to our house.

When we purchased our property we were largely ignorant about our water supply, like many new homebuyers on the island. We knew we had running water to the house and barn, and we knew we had two working, dug wells on the property. We didn't know whether the wells produced enough water year-round for our needs (they did not) or whether the water was safe (it was not).

When we applied for a building permit, we learned what improvements the county would require. For over a year, the county insisted that we close our working wells and drill a new deep well, presumably into the aquifer. Eventually they relented and agreed to upgrades of our existing dug wells. They required water treatment of our choosing, which was a very good idea! We determined that our irrigation needs could not be met by our wells, and so set out to design and build a rainwater catchment system with approximately 8,500 gallons of storage. And we had once thought all we had to do was turn on the tap ...

I offer our experience because it was the beginning of my water education. I learned some lessons that inform my support for code amendments P-1 and P-2:

1. Rainwater catchment is pretty simple and reliable, even at a relatively large scale. (Our system is not for potable water, but could be converted with county approval in the future.) We did our own calculations about how much water storage we would need for irrigation during the dry months, not a complicated math problem. We used local talent to build and design the system, with an engineer involved only in structural specifications for the pad holding our above-ground tank. After learning about water limitations on Guemes, and having success with our rainwater system, we came to feel strongly that rainwater catchment should be available as an economical and viable alternative to well drilling on the island, the goal of code amendment P-1.
2. County code and practice have long favored drilled wells over any other source of water supply, as we learned when we proposed continued use of our dug wells. The code "discourages" rainwater catchment and other alternative water sources for potable water and even requires the drilling of a test well to prove a drilled well is not viable. On Guemes Island, with seawater intrusion documented in various areas and many red flags raised by regulatory agencies, this makes no sense. The priority should be reversed so that rainwater catchment is preferred, or at least considered on equal footing with drilled wells. When new wells are proposed, the county should follow its own code and make sure that hydrogeologic impacts will not further degrade the aquifer or undermine

existing wells. Code amendment P-2 will help accomplish this.

GIPAC has worked to educate islanders about island hydrology, the value of rainwater catchment, and the need for water conservation on Guemes. We are working with USGS and other agencies to arrange funding for an updated analysis of the aquifer so that it can be better managed. We need the county to step up to its role and fix the code so that rainwater catchment becomes a viable option and so that new wells are prevented from further degrading the aquifer that most islanders depend on.

Please approve P-1 and P-2 to help us protect this invaluable island resource.

Thank you for your consideration. — Nancy Fox



**From:** [Anne Winkes](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:16:19 PM

---

Dear Planning Commission,

I spoke at the Public Hearing before the Planning Commission on 2/21/2020 about 2019 docketed item P-4-Great Blue Herons. This is an expanded comment that more fully expresses why I support the adoption of Skagit Land Trust's 2019 docketed item P-4 into Skagit County Critical Areas (CAO) Ordinance, and why I believe the best code amendment language will contain the protective language of Skagit Land Trust's option 2 and the regulatory and notification language of the Planning Staff's, option 3.

Following the abandonment of the almost 100 year old Samish Island heronry midway through the nesting season in June of 2017, it became clear that the continued existence of heronries in Skagit County should not be taken for granted. Many disturbing human activities took place in the vicinity of the Samish heronry during the time the abandonment took place, leaving no doubt that Skagit County's heronries needed better protection than was provided in Skagit County Critical Areas Ordinance.

Great Blue Herons are colonial nesters. They gather together in what is called "staging" in areas outside of, but nearby, the heronries for a week or two prior to beginning courtship in late February or early March. Once courtship begins they enter the heronries and the males build new nests or reinforce old nests.

The nests are built over 50 feet above the ground. In Skagit County the nests are in mature firs, cedars, maples, cottonwoods and alders. The nests are relatively close together within the established heronries. Some are on a horizontal plane along the branches, others are vertically placed one above the other, apartment style. At the March Point heronry I have counted over 25 nests in a single large maple.

Given this style of colonial nesting, Skagit County's great blue herons select large stands of mature coastal forest in which to build their heronries. Large forests give nesting herons protection as the outer trees buffer the nests from wind and extreme weather events and also screen them from disturbing human activities. As Skagit County's population has increased, so has development. This is a problem for the herons as more and more large coastal forest stands have been logged to make way for needed construction.

Skagit County's resident great blue herons are a subspecies that prefer foraging in eelgrass beds during the nesting season. The expansive eelgrass beds of Padilla Bay and Samish Bay provide superb foraging habitat for great blue herons which is why the largest heronry in the Salish Sea with over 700 nests is at March Point, and the almost 100 year old heronry prior to its abandonment in 2017 was on Samish Island.

Washington Department of Fish and Wildlife's (WDFW) 2012 Management Recommendations for Great Blue Herons says that forest stands appropriate for nesting herons should have at least 10 acres of mature coastal forest with dominant trees at least 56 ft high, within 2 miles of productive foraging habitat. Few large forest stands with mature trees over fifty feet tall, close to good heron foraging areas, remain in Skagit County.

Great Blue Herons respond to disturbance by flushing-- flying off their nests and then circling high above the heronry. Sometimes they return to the nests, sometimes they abandon them completely. Until chicks are 3 weeks they are unable to regulate their own bodies' temperature. Nearly naked (at hatching they have only a few fluffs of feathers), they quickly die from hypothermia without the protective warmth of the parent heron's body and feathers. Additionally, each time the adults leave the nests, their young are left unguarded and they are easy prey for bald eagles.

It is not uncommon for many herons to flush at the same time in response to what they perceive as threats. WDFW cited studies have documented herons flushing and abandoning their nests in response to the sight of humans as far away as 820 feet.

At March Point I have witnessed herons flush and fly away from their nests whenever I took just a single step into the heronry forest. Other observers have described the same response if they approach the March Point heronry too closely. Because of this, Skagit Land Trust citizen science volunteers observe the nesting herons from the road through binoculars and spotting scopes rather than from within the heronry.

I'm often asked how the March Point herons can be so sensitive to humans when their heronry is next to heavy industry and busy highway 20. If you ever visit the March Point heronry you will understand their sensitivity. March Point heronry is isolated from the busy and noisy human activities that surround it by its position high on a hill above the traffic on highway 20 and above T.Bailey's heavy manufacturing complex. Additionally the density of the heronry forest, effectively mutes the noises below. It is very quiet within the depths of the heronry where the herons have built their nests.

The super sensitivity to humans displayed by the March Point herons is particularly problematic as following the abandonment of the Samish Island heronry, the majority of the breeding population of great blue herons in Skagit County became concentrated at March Point, now Skagit County's only active megacolony.

A megacolony is defined by Ann Eissinger in her comprehensive "Technical Report 2007-06 Great Blue Herons in Puget Sound" as a colony with over 200 nests. Ms. Eissinger is an internationally recognized heron biologist who began monitoring the herons in Skagit County almost 30 years ago. Any disturbance in a megacolony causing large numbers of herons to abandon their nesting attempts, will result in the loss of a large number of offspring.

It is of utmost importance to recognize that the March Point heronry isn't just any megacolony--with over 700 nests it is the largest megacolony in the Salish Sea. It plays a key role in providing genetic diversity to the subspecies of great blue herons living in Skagit County and the surrounding Salish Sea.

Skagit Land Trust's option 2 and County Planning staff's option 3 define by size the heronries that should be protected by Skagit County's CAO. Both options make a clear distinction between heronries with 20 or more nests and megacolonyes, in recognition of the unique vulnerability of megacolonyes to disturbance and their tremendous importance in sustaining the subspecies of heron found in Skagit County.

Following WDFW's guidelines, both options 2 and 3 say that heronries with over 20 nests and megacolonyes should have year round and seasonal buffers to shield them from disturbing development and construction activities.

The buffer size both options 2 and 3 assign to heronries with over 20 nests aligns with WDFW recommendation that buffer size be based on the amount of development in the area within a ¼ mile of a particular heronry. Thus colonies in an urban area would have a year round buffer of 197 feet, rural colonies a buffer of 656 feet, and colonies in undeveloped areas a buffer of 984 feet.

However, both options 2 and 3, in recognition of the importance of megacolonyes in sustaining genetically diverse great blue heron populations, and in recognition of the extreme sensitivity in particular of the March Point herons to human intrusion, say that megacolonyes should have a 1,000 feet year round buffer. This is consistent with WDFW's recommendation that herons showing a "low tolerance to people" should be assigned the largest possible buffer.

Assigning megacolonyes the largest possible buffer is also consistent with current Skagit County policies that say the CAO should be based on best available science. Certainly the local knowledge Skagit Land Trust has gained from over 20 years experience stewarding megacolonyes, and from their database gathered by citizen science volunteers under the guidance of Ann Eissinger, recognized internationally for her expertise in the behavior of great blue herons, is best available science. In fact, WDFW uses this data for documenting the number of nests in each Skagit County heronry and for mapping their locations.

Skagit Land Trust has worked hard to protect Skagit County's heronries by educating the public about them and by acquisition. It owns the land on which the Barney Lake heronry sits and much of the land on which the March Point heronry sits. It holds a Conservation Easement on the land on which the Samish Island now abandoned heronry sits. But education and conservation easement were not enough to protect the Samish Island heronry from abandonment.

As you consider which of P-4's four options to recommend to the County for adoption, I hope that you will carefully analyze the impact of each on Skagit County's resident great blue herons.

Option 1, the take-no-action option, must be rejected. Option 1 would allow current Skagit County code language to remain in place. Current code language says that heronries should be protected based on WDFW's 2012 Management Recommendations for Great Blue Herons. However, that language is too vague to be protective.

- <!--[if !supportLists]-->• <!--[endif]-->It does not indicate what constitutes a heronry
- <!--[if !supportLists]-->• <!--[endif]-->It fails to identify what lands are affected.
- <!--[if !supportLists]-->• <!--[endif]-->It provides no guidance for landowners on how to create a habitat management plan.
- <!--[if !supportLists]-->• <!--[endif]-->It provides no systematic way for Planning Department staff to understand or enforce the code.

If option 1 is adopted, actions that negatively impact our County's heronries will continue to take place because landowners and County permitting staff will remain unaware of what is supposed to happen to protect them.

Option 2, Skagit Land Trust's amendment language, states clearly the specific protections it

will provide designated Skagit County heronries. Informed by WDFW’s guidelines, best available science and local knowledge, it does what option 1 does not.

- <!--[if !supportLists]-->• <!--[endif]-->It makes it easy to understand what lands are affected
- <!--[if !supportLists]-->• <!--[endif]-->It explains what landowners should do before developing their property
- <!--[if !supportLists]-->• <!--[endif]-->It spells out the size of heronry that should be protected
- <!--[if !supportLists]-->• <!--[endif]-->It gives special recognition to megacolonyes
- <!--[if !supportLists]-->• <!--[endif]-->It identifies what year-round and seasonal buffers should apply.
- <!--[if !supportLists]-->• <!--[endif]-->It specifies restricted activities in year-round and seasonal buffers
- <!--[if !supportLists]-->• <!--[endif]-->It details common sense mitigation measures that allow landowners to develop their property within the year round buffer without disturbing nesting herons.

Option 2 is clearly protective and provides sufficient detail to ensure understanding by both County Planning staff and landowners.

It is important to note that March Point heronry falls partly under the County’s jurisdiction and partly under that of the City of Anacortes. Option 2 will help align County regulations with those of the City of Anacortes concerning the March Point heronry.

Option 3, the County Planning staff’s code language, is similar to option 2 in many ways. Like option 2,

- <!--[if !supportLists]-->• <!--[endif]-->It makes it easy to understand what lands are affected
- <!--[if !supportLists]-->• <!--[endif]-->It explains what landowners should do before developing their property
- <!--[if !supportLists]-->• <!--[endif]-->It spells out the size of heronry that should be protected
- <!--[if !supportLists]-->• <!--[endif]-->It gives special recognition to megacolonyes
- <!--[if !supportLists]-->• <!--[endif]-->It says protective year-round and seasonal

buffers should apply.

• It specifies restricted activities in year-round and seasonal buffers

However, option 3 lacks the detail found in option 2. More detail provides added clarity for both planning department staff as they make permitting decisions, and for landowners as they prepare habitat management plans.

In particular option 3 does not spell out, as option 2 does, the WDFW based mitigation steps that give landowners specific guidance on conditions they must address when considering development within the year-round buffers. The same WDFW based mitigation steps give planning department staff specific guidelines to follow when considering permitting development on property within year-round buffers.

Option 3 does contain important regulatory language that option 2 lacks. Option 3 requires any proposal for development within a 1,000 feet of the outer boundary of a heronry to “submit a critical areas site assessment and habitat management plan demonstrating how the proposed activities will be conducted consistent with” WDFW’s management recommendations and best available science. It further specifies that the habitat management plan be developed in cooperation with WDFW whenever “activities that alter habitat are proposed.”

Additionally option 3 provides for notification of all conservation organizations that manage heron nesting colonies in Skagit County whenever development applications within 1,000 feet of the outer boundary of a great blue heron colony or megacolony are received.

Combining option 2’s clear and detailed protection language and option 3’s important regulatory and notification language would provide the much needed heronry protection that current code language lacks.

I urge you to recommend the County adopt such language.

Thank you,

Anne Winkes

PO Box 586

Conway, WA

98238

[annewinkes@gmail.com](mailto:annewinkes@gmail.com)

360-445-6914

**From:** [mollyd@skagitlandtrust.org](mailto:mollyd@skagitlandtrust.org)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 11:47:40 AM

---

Skagit Land Trust supports the staff initiated proposal **C-5: SCC 14.16: Classification of Habitat Management.**

**Given the goals of the County's Critical Area Ordinances, the Growth Management Act, the Shorelines Management Plans etc. habitat restoration should be an allowed use in all the zones outlined in this proposal.** Habitat restoration directly helps meet County, State and Federal goals.

Habitat restoration provides numerous benefits locally. These include: providing quality habitat for at-risk species; filtering pollutants to assist with clean water; helping to recharge groundwater; lowering flood risk; helping to maintain the rural character of the County; assisting tourism ; providing open space for recreation and scientific study; providing natural solutions for climate change adaption, and much more. Not only is habitat restoration environmentally beneficial, but this kind of restoration provides great economic benefit to the county and its residents. As an allowed use, habitat restoration projects would still require all the relevant approval processes and permits in order to take place. There are many such requirements. They are detailed and look at all aspects of a project and its possible impacts. **Skagit Land Trust fully supports the staff initiated proposal C-5: SCC 14.16: Classification of Habitat Management.**



**From:** [Gina Johnson](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments)  
**Date:** Friday, January 24, 2020 9:32:05 AM

---

Hello,

As a volunteer Citizen Scientist with the Salish Sea Stewards and as a member of Skagit Land Trust, I'm very concerned about conserving critical areas to Great Blue heron nesting and feeding areas. We saw the 2017 collapse of the Samish rookery and desperately need to prevent further degradation of areas vitally important to this species.

I support;

- 1) Skagit Land Trust's P-4 proposal based on best available science and decades of research.
- 2) year round and seasonal buffers as recommended by WDFW, in particular the colonies such as March Point (a mega colony of international significance) that exhibit behavior indicative of low tolerance for people.

Thank you.

Respectfully,  
Gina Johnson  
2017 Salish Sea Steward / volunteer  
Anacortes WA  
518.584.3233

**From:** [4s3@wavecable.com](mailto:4s3@wavecable.com)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 7:28:11 AM

---

I am writing in support of staff-proposed amendments C-5: SCC 14.16: Classification of Habitat Restoration. Habitat restoration as a permitted use is encouraged by the goals of Skagit County's Comprehensive Plan and would be further supported by these amendments. Burdening habitat restoration projects with the expense and delay of special use hearings will thwart Skagit County efforts to achieve its environmental protection goals.

Mark Hitchcock  
9620 Samish Island Road  
Bow, WA 98232  
(360) 766-6500

**From:** [Barbara Schnabel](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendment  
**Date:** Friday, January 24, 2020 6:52:34 AM

---

As a full-time resident of Guemes Island I am very concerned about our water supply. I urge you to move forward with rainwater catchment and I support a critical areas review be required for new wells in a seawater intrusion area. These water issues are vitally important.

Yours truly,  
Barbara M. Schnabel  
5270 South Shore Drive  
Anacortes, WA. 98221  
(360) 293-7192

**From:** [Barbara Ohms](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Thursday, January 23, 2020 10:04:27 PM

---

Attn: Planning and Development Services.

I am a resident of Guemes Island, Skagit County, WA. Living on an island makes one extremely conscious of our natural resources, especially our water. Guemes is designated as a critical area, a sensitive area and has a single source aquifer providing most of the potable water to our residents. The two code amendments, P-1 and P-2, proposed by our Guemes Island Planning Advisory Committee will help to ensure the protection of this most valuable resource, water.

Please consider approving the amendments as presented.

Thank you.

Barbara Ohms  
6420 Section Ave  
Guemes Island  
Anacortes, WA 98221

**From:** [Marcus Merrow](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Thursday, January 23, 2020 11:10:25 AM

---

I think we need to encourage, and make easier the catching of rainwater on Guemes Island. With the ongoing construction on the island, and a LIMITED source of water.....our aquifer, catching rainwater as a source for potable water only makes sense. Please reconsider your decision, regarding rainwater catchment. Thank you.

Marcus Merrow  
4812 W Shore Rd  
Anacortes, WA 98221  
(360)202-4609  
mjmerrow@gmail.com

Sent from my iPad

**From:** [Jack Hartt](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments -  
**Date:** Thursday, January 23, 2020 11:03:07 AM

---

## Reference C-5 Classification Of Habitat Management

Dear friends who keep our county at its best:

I am writing to you to recommend the adoption of staff-proposed changes to allow Habitat Restoration as an allowed use in all zones outside of Ag-NRL zone (where it is currently, and would remain, a hearing examiner special use).

An allowed use simply means it can be done if all the specifications, permissions and permits etc. work out. Given the goals of the County's Critical Area Ordinances, the Growth Management Act, the Shorelines Management Plans etc. habitat restoration should be considered an allowed use. It directly helps meet County, State and Federal goals and provides large benefit locally. Like building a home or factory, habitat restoration projects would still require all the relevant permits and approval processes in order to begin. However, having habitat restoration project be a "hearing examiner special use" in many zones would mean having a public hearing (at landowners or conservation group's expense) in front of hearing examiner who would make then make the decision before the project could proceed with permits and other permission processes.

If you look at county code and see the level of allowed uses in many of the rural zones- you will get an idea of how unbalanced it is that habitat restoration is not yet an allowed use. For example, in Rural Resource zone, some allowed uses are aquaculture, commercial greenhouses, forest product industries, packing plants, houses and co-housing, day cares, extracting 3 acres of sand and gravel for roads for forest owners, all types of agriculture and drainage systems. In Rural reserve, allowed uses include housing, road building, most types of forestry and agriculture, home-based businesses, drainage systems of all kinds for ag, etc.

I think many people believe that having it be an allowed use means that these projects would not get thoroughly examined. Habitat Restoration projects have many, many permit hoops and permission sequences -- they are not automatically allowed by any means. In fact for aquatic projects there are so many permits required from so many agencies, that federal, state and local agencies joined together to create one application for aquatic resource projects to help streamline things, called a JARPA. Subsequently requiring a hearing examiner for all such projects at the County level would take permitting aquatic habitat restoration the opposite way of this state-wide intention.

Please approve and adopt your staff-proposed changes. Your staff know the details better than anyone. They have made common-sense recommendations based on a reasoned analysis. We appreciate their knowledge and insights, and dedication to making our county the best it can be.

Jack Hartt  
1106 Rita St  
Sedro Woolley, WA 98284

[skagitjack@outlook.com](mailto:skagitjack@outlook.com)

**From:** [Stephen Orsini](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 6:35:45 PM

---

Please note my name and full address have been added.

Stephen Orsini  
4971 Guemes Island Road  
Anacortes, WA 98221

Testimony for Skagit County Planning Commission, January 21, 2020

Submitted by Stephen Orsini

1. My name is Stephen Orsini. I reside on Guemes Island at 4971 Guemes Island Rd. The comments here are my personal observations which are neither endorsed nor opposed by the Guemes Island Planning Advisory Committee (GIPAC). 4971 is our ancestral home since its purchase in 1954. I grew up on Guemes Island. My immediate family and I have lived at this North Beach property full-time since 1988. For over fifty years, the well on this property supplied us with potable fresh water without fail.
2. In 1995, the United States Geological Survey(USGS) published its baseline study of the Island's fresh water in its *Hydrogeology and Quality of Ground Water on Guemes Island*. The study concluded that large areas of the island are susceptible to seawater intrusion.
3. When in the period 1994-1998, 7 new wells were drilled inland within half a mile of our well, it was not surprising that our well became fully polluted by seawater with chlorides above the maximum contaminant level of 250 mg/l. During this time 8 other wells along North Beach failed as did two wells servicing 19 homes in the Potlatch II development on West Beach.
4. The USGS study showed that when you add more wells that reduce the head height of the island's aquifers 1 foot, seawater elevates 40 feet in the water table. As the new wells ruin the older wells, they effectively transfer the senior water rights to the new junior water right wells. The senior rights owners are not compensated for their loss of potable water nor for the cost to develop a new source of fresh water.
5. The way the Skagit County Code is currently implemented, there is no evaluation of the impact of a new well on existing wells. Particularly in a Critical Area like Guemes Island this is not just shortsighted but very unfair to well-dependent neighbors. And it is proven to degrade the island's Sole-Source aquifer. Nonetheless, 250 new wells have been drilled since the USGS study, and the problem only gets worse.



6. The Guemes Island Planning Advisory Committee, (GIPAC) has, since 2016 proposed two sensible, carefully crafted code amendments, now labeled P-1 and P-2, to address this real problem. For its part, P-2 offers a reasonable, effective remedy for the real problems the County faces. It simply cannot be the case that the County is helpless to address a problem that continues to degrade the Sole-Source aquifer on the Critical Area that is all of Guemes Island.

7. P2, and P1 as it provides remedy for possible denial of a new well, should be adopted by Skagit County at this time as they fairly address the real, long-identified problems faced by well-dependent citizens on Guemes Island.

From: [Tim Trochimovich](#)  
To: [EIS comments](#)  
Subject: Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
Date: Wednesday, January 22, 2020 3:40:19 PM  
Attachments: [image003.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image011.png](#)  
[image014.png](#)  
[image015.png](#)  
[image017.png](#)  
[image024.png](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Dear Sirs and Madams:

I have been told that Skagit County prefers electronic communications, but does not accept email enclosures. Yesterday I submitted this letter and document as an email enclosure. I apologize. I am now submitting it in the body of the email. I am also just submitting it as editable text in a separate email.

Thank you for considering our comments. Please contact me if you require anything else.



816 Second Ave, Suite 200, Seattle, WA 98104  
p. (206) 343-0681  
futurewise.org

January 21, 2020

Skagit County Planning Commission  
Planning and Development Services  
1800 Continental Place  
Mount Vernon, Washington 98273

Dear Sirs and Madams:

**Subject: Comments on Skagit County’s 2019 Docket of Proposed Policy, Code, and Map Amendments in support of amendment P2.**

Send via email to: [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us)

Thank you for the opportunity to comment on Skagit County’s 2019 Docket of Proposed Policy, Code, and Map Amendments. We urge you to adopt amendment P2.

RCW 36.70A.060(2) requires that “[e]ach county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170.” This includes areas with a critical recharging effect on aquifers used for potable water. RCW 36.70A.030(5); RCW 36.70A.170(1)(d). The Western Washington Growth Management Hearings Board has held that the Growth Management Act requires counties to designate vulnerable seawater intrusion areas as critical aquifer recharge areas. *Olympic Environmental Council v. Jefferson County*, Western Washington Growth Management Hearings Board (WWGMHB) Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*8 & \*16 *motion for reconsideration denied Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Order Denying Motion for Reconsideration (Feb. 8, 2002), at \*3. The Board also held that counties must adopt development regulations “to protect aquifers used for potable water from further seawater degradation.” *Olympic Environmental Council v. Jefferson County*, WWGMHB Case No. 01-2-0015, Final Decision and Order (Jan. 10, 2002), at \*15.

The State of Washington Department of Ecology has identified all of Guemes Island as having the potential for saltwater intrusion. State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability Lower Skagit Watershed, WRLA 3* p. 5 (Publication Number: 11-11-008; Nov. 2016).<sup>1</sup> So, in my legal opinion, Skagit County is required to regulate well construction and use on Guemes Island to prevent further saltwater intrusion.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 Ext. 102 and email: [tim@futurewise.org](mailto:tim@futurewise.org).

---

<sup>1</sup> Accessed on Jan. 21, 2019 at: <https://fortress.wa.gov/ecy/publications/publications/1111008.pdf> and enclosed with this letter.

Skagit County Planning Commission RE: Comments on Skagit County's 2019 Docket  
January 21, 2019  
Page 2



Very Truly Yours,

A handwritten signature in blue ink, consisting of two large, stylized, overlapping loops.

Tim Trohimovich, AICP, WSBA No. 22367  
**Director of Planning & Law**

Enclosure

## Lower Skagit Watershed, WRIA 3

This focus sheet provides information on the availability of water for new uses in the Lower Skagit Watershed. This information provides a starting point for potential water users in determining the best strategies for securing water for a future project or proposal in this area.

The Lower Skagit Watershed, also known as Water Resource Inventory Area 3 (WRIA 3), is situated in the northern part of Puget Sound east of the San Juan Islands. It comprises the western part of Skagit County and small portions of Snohomish and Whatcom Counties. Fidalgo, Guemes, Cypress and other smaller offshore islands are also included in the WRIA 3 watershed.

In addition to the Skagit River and its delta, the watershed includes Lake Samish and the Samish River watersheds. These watersheds are not subject to the instream flows set for the Skagit River and its various smaller tributary streams, such as Fisher, Carpenter, Jones and Day Creeks.

Water from the Skagit River basin supports a robust agricultural economy, hydroelectric generation and growing cities and towns. The Skagit River is the only large river system in Washington that contains healthy populations of all five native salmon species. To preserve these fish runs, the state has set instream flows to protect and preserve water flow in the river and its tributaries.

Yearly precipitation ranges from as little as 15-20 inches in the coastal area to over 70 inches in the Cultus Mountains. Most of this precipitation arrives during the winter months when water demand is low. Demand for water is high during the summer months when stream flows are naturally low due to little precipitation. Stream flows, especially in tributary creeks, are dependent on groundwater. This means that groundwater and surface water are least available when water demands are the highest.

### Factors affecting water availability

#### Instream Resources Protection Program rule

Much of the water in the Lower Skagit Watershed is already legally spoken for. Increasing demands for water from population growth,



#### Definitions

**Consumptive use:** A use of water that diminishes the quantity or quality of water in the water source.

**Instream flow rule:** Establishes a water right for streams in a particular watershed. The rule specifies the amount of water needed in a particular place for a defined time for each stream. Typical instream flow rules now include broader water management strategies.

**Mitigation plan:** A scientifically-sound plan intended to avoid impairment to existing water rights or capturing water from a closed source.

**Non-consumptive use:** A use of water that does not diminish the quantity of water in the water source, such as power generation.

**Permit-exempt well:** The state Ground Water Code allows for certain uses of small quantities of groundwater without obtaining a permit from Ecology. (RCW 90.44.050)

**Reservation:** A reservation of water is a one-time finite amount of water set aside for specific future uses. Reservations typically provide year-round water and have conditions of use required to access them.

declining groundwater levels in some areas, and the impacts of climate change have added to the challenge of finding water for new uses in WRIA 3. The Lower Skagit Watershed lacks water when and where it is needed, particularly during the summer months.

WRIA 3 has an Instream Resources Protection Program rule ([WAC 173-503](#)), often referred to as the Skagit instream flow rule. It was effective on April 14, 2001, to protect senior water rights and maintain a healthy ecosystem. Such rules are required by state law ([RCW 90.54](#)). This rule applies only to the Skagit River and its tributaries. It does not apply to the Samish River basin or Fidalgo, Cypress, Guemes, Hope and Goat Islands.

An instream flow rule is essentially a water right for the river. Once the rule is established, all water uses established after the rule are interruptible. Instream flows in the Skagit River are not met on average 100 days out of the year. Stream flows fall below the instream flow levels during some days of almost every month of the year, but the low-flow periods are most concentrated during the end of the dry season in late summer and early fall.

**Interruptible water right:** A water right that is junior in priority to other water rights, including instream flow levels. The water use can be forced to shut off until senior water rights are fulfilled. An interruptible water right generally cannot be used for uses requiring a continuous water supply, such as domestic water use.

#### *Reservations created in 2006 amendment; Supreme Court overturns in 2013*

Ecology revised the Skagit River Instream Flow Rule in 2006 to establish finite “reservations” of surface and groundwater for future out-of-stream uses. The reservations provided uninterruptible water supplies for future water users that could be legally used even if flows in the Skagit River fell below the regulatory flow levels. The water reserves were divided among 25 different tributaries and stretches of the Skagit River.

On Oct. 3, 2013, the Washington State Supreme Court ruled that Ecology exceeded its authority to create reservations through rulemaking where water was set aside to support stream flows for fish. As a result of the Court’s decision, all water uses established after April 14, 2001 in the Skagit River basin and its tributaries are junior to the instream flows and are subject to curtailment when instream flow levels are not met. All new water uses requiring a continuous and reliable source of water, including permit-exempt wells, must be mitigated to prevent impairment of the instream flows.

**For more information,** see Ecology publication “Frequently Asked Questions: Water Availability for Skagit basin landowners” <https://fortress.wa.gov/ecy/publications/publications/1311006.pdf>

#### **Indian Tribe Reservations**

The Swinomish Indian Reservation and Upper Skagit Reservation lands are located within WRIA 3. Federally- reserved rights are not quantified at this time and therefore the legal availability of water in these areas is undetermined.

#### **Wild and Scenic Rivers**

The Skagit River and the Cascade, Sauk, and Suiattle tributaries are designated as Wild and Scenic Rivers

by the U.S. Wild and Scenic Rivers Act (16 USC 1271-1287). Any water withdrawals that would interrupt the free flowing condition of these rivers, such as run-of-the-river hydropower projects, would not be approved.

#### **Coastal areas of Puget Sound**

Any proposed water withdrawals in the coastal areas of Puget Sound are evaluated for the risk of seawater intrusion into fresh groundwater supplies. Coastal applicants may need to develop an adequate mitigation plan to address the risk of seawater intrusion. Guemes Island has experienced significant seawater intrusion along its northern coast and in limited areas of its southern coast.

#### **Samish River basin**

As stated earlier, WAC 173-503 does not include the Samish River basin. At this time it is not known whether water is available for future uses in this area. The Department of Fish and Wildlife has recommended closing much of the basin to new consumptive water uses.

#### **Water currently available for new uses**

**Water for non-consumptive uses** (such as power generation) and **water uses that can be interruptible** may be approved, subject to interruption during low flows of the Skagit River and designated tributaries.

#### **Working towards water solutions in the Skagit Watershed**

Ecology and the state legislature recognize that water is needed to support homes, farms and businesses in the Skagit River Watershed. In April 2012, the Washington state Legislature provided funding to Ecology to develop mitigation programs that balance instream and out-of-stream benefits in the Skagit. This is much like the agency has been doing with the successful Office of Columbia River Program in eastern Washington.

Ecology is working on mitigation projects and programs that will provide legally-secure water supplies for existing and future water uses in the Skagit River basin while protecting instream flows. Projects in development include purchase of senior water rights that can be reallocated to out-of-stream and instream uses, and stream flow enhancement through timed releases of water. Ecology is working with local government and tribal leaders, landowners and other stakeholders to determine the best and most cost-effective package of actions to address both instream and out-of-stream needs.

For more information see the Skagit Water Solutions web page:  
<http://www.ecy.wa.gov/programs/wr/instream-flows/173503-sol.html>

#### **Additional options for obtaining water**

Skagit basin landowners who wish to use a well -- but did not establish use of a well before the April 14, 2001 effective date of the Skagit Instream Flow Rule -- have several options they can pursue. The availability of the following options will vary based on location and other factors:

- Hook up to the Skagit PUD or another local public water system.
- Acquire and transfer a senior water right within the same basin as your proposed project.

- Develop a rainwater catchment system or obtain a trucked water supply to serve your domestic or commercial needs.
- Mitigate: landowners can develop an individual mitigation proposal, or wait for Ecology to establish basin-wide mitigation options.

### **Pending water right applications in this watershed**

At this time, Ecology is not processing any new water right applications and is focusing on developing mitigation programs in the Skagit basin. However, landowners who wish to acquire a water right can still submit an application with Ecology.

Washington water law is based on the “prior appropriation” system, often called “first in time, first in right.” Applications for water from the same source must be processed in the order they are received. (There are certain exceptions, see “Additional options for processing water right applications”.)

Ecology asks anyone who needs a water right (new, change, or transfer) to submit the pre-application consultation form and meet with us to review your water supply needs and project proposal.

- [Apply for a New Water Right](#)
- [Apply to Change or Transfer a Water Right or Claim](#)

The map on the last page shows some of the factors that will be considered when evaluating water right permit applications. Here are some additional information sources to assist you with your research:

- [Locate and research water rights on land parcels anywhere in the state](#) (Water Resource Explorer)
- [Pending Water Right Applications by County](#)
- [Subscribe to a water right application RSS feed for a county or WRIA](#)
- [WRIA map showing the total number of water right claims, certificates, permits and applications](#)
- [Search and view well reports using a map or text search tools](#) (WA State Well Log Viewer)

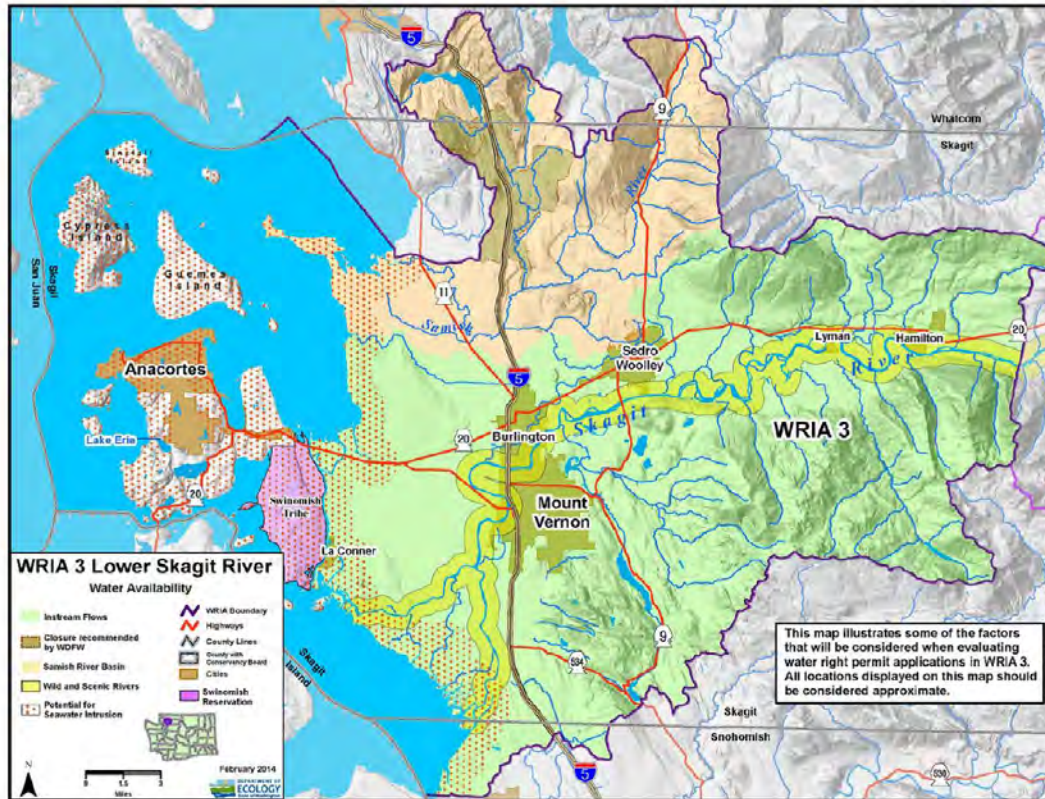
### **For more information**

Northwest Regional Office  
Water Resources Program  
3190 160th Ave. SE  
Bellevue WA 98008  
425-649-7000

*If you need this document in a version for the visually impaired, call the Water Resources Program at 360-407-6872. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*



### Skagit Instream Flow Rule: Affected Areas and Water Availability



**From:** [Stephen Orsini](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 9:32:35 AM

---

## Testimony for Skagit County Planning Commission, January 21, 2020

Submitted by Stephen Orsini

1. My name is Stephen Orsini. I reside on Guemes Island at 4971 Guemes Island Rd. The comments here are my personal observations which are neither endorsed nor opposed by the Guemes Island Planning Advisory Committee (GIPAC). 4971 is our ancestral home since its purchase in 1954. I grew up on Guemes Island. My immediate family and I have lived at this North Beach property full-time since 1988. For over fifty years, the well on this property supplied us with potable fresh water without fail.

2. In 1995, the United States Geological Survey(USGS) published its baseline study of the Island's fresh water in its *Hydrogeology and Quality of Ground Water on Guemes Island*. The study concluded that large areas of the island are susceptible to seawater intrusion.

3. When in the period 1994-1998, 7 new wells were drilled inland within half a mile of our well, it was not surprising that our well became fully polluted by seawater with chlorides above the maximum contaminant level of 250 mg/l. During this time 8 other wells along North Beach failed as did two wells servicing 19 homes in the Potlatch II development on West Beach.

4. The USGS study showed that when you add more wells that reduce the head height of the island's aquifers 1 foot, seawater elevates 40 feet in the water table. As the new wells ruin the older wells, they effectively transfer the senior water rights to the new junior water right wells. The senior rights owners are not compensated for their loss of potable water nor for the cost to develop a new source of fresh water.

5. The way the Skagit County Code is currently implemented, there is no evaluation of the impact of a new well on existing wells. Particularly in a Critical Area like Guemes Island this is not just shortsighted but very unfair to well-dependent neighbors. And it is proven to degrade the island's Sole-Source aquifer. Nonetheless, 250 new wells have been drilled since the USGS study, and the problem only gets worse.

6. The Guemes Island Planning Advisory Committee, (GIPAC) has, since 2016 proposed two sensible, carefully crafted code amendments, now labeled P-1 and P-2, to address this real problem. For its part, P-2 offers a reasonable, effective remedy for the real problems the County faces. It simply cannot be the case that the County is helpless to address a problem that continues to degrade the Sole-Source aquifer on the Critical Area that is all of Guemes Island.

7. P2, and P1 as it provides remedy for possible denial of a new well, should be adopted by Skagit County at this time as they fairly address the real, long-identified problems faced by well-dependent citizens on Guemes Island.

**From:** [Allen Bush](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 5:53:41 AM

---

My name is Allen Bush, 6628 West Shore Drive. I am writing in support of the Guemes Island Planning Advisory Committee's P2 Code Amendment. The proposed amendment seeks to enforce existing Skagit County regulations and requirements to inspect all potential well sites and have a hydrogeological review prior to drilling on Guemes Island.

It is the intent of the P2 amendment to clarify that all well construction on Guemes Island is indeed development. A thorough review of all new wells prior to drilling would satisfy Skagit County's own Critical Area Ordinance which states any development within a critical area must be reviewed. On page 6 of Skagit County's Water Review Application specifically outlines:

### **Seawater Intrusion Areas**

All applications in areas of potential seawater intrusion must comply with additional rules. To determine whether you are in a seawater intrusion area, answer the questions below:<sup>8</sup>

A. Is your project within one-half mile of a marine shoreline?  Yes  No

B. Is your project anywhere on Guemes, Sinclair, Cypress, or Vendovi islands?  Yes  No

If you are proposing a new well in a seawater intrusion area, you must submit the following and obtain approval **before** you drill the new well:<sup>11</sup>

- A drilling plan;
- A site plan to scale, including:
  - (A) a dedicated inland well site location.
  - (B) estimated depth of proposed well. Ideally, the well depth should not be lower than sea level.
  - (C) an estimated land elevation of the proposed well. If the proposed well is within 250 feet of the shoreline, or if determined by the County Hydrogeologist, the elevation of the well must be surveyed by a licensed surveyor.
  - (D) depth and chloride levels of surrounding wells (for Guemes Island, see [map](#)).

As referenced above, I am in support of the Guemes Island Planning Advisory Committee's P2 Code Amendment as it seeks to enforce existing Skagit County regulations and requirements.

Thank you

Allen Bush

**From:** [Tim Trohimovich](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Tuesday, January 21, 2020 4:02:16 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[Futurewise Coms on Skagit Co Com Plan & Dev Reg Amendments Jan 21 2020.pdf](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Dear Sirs and Madams:


Enclosed please find Futurewise's comments on Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments in support of amendment P2. Please contact if you require anything else.

Thank you for considering our comments.

Tim Trohimovich, AICP  
Director of Planning & Law



**future  
wise** 

816 Second Avenue, Suite 200  
Seattle, WA 98104-1530  
206 343-0681 Ex 102  
tim@futurewise.org  
connect:    
[futurewise.org](http://futurewise.org)

**From:** [Sally Balmer](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Tuesday, January 21, 2020 3:40:09 PM

---

[am re-sending as previously didn't include address]

Dear Planning Commissioners of Skagit County—

I write with concern about the recent recommendation by the Planning and Development Services to deny the Skagit County Comprehensive Plan code amendments (P1 and P2) recommended by the Guemes Island Planning Advisory Committee (GIPAC).

The first amendment, P1, regards rain catchments on Guemes island. From what I gather, a document has been produced that will at least somewhat help further the possibility on Guemes. One of the first things about Guemes I learned nearly seven years ago was that some persons had intelligently set up some catchment systems (others hoped to do so) partly as a way to deal with growing concerns of seawater. I would like to think that the county will do all it can to support these efforts to make rainwater usable and safe.

My biggest concern is that apparently the second amendment (P2) for up-to-code well inspection and a determination of the well's ability to not further seawater intrusion has been rejected. While I do not live on the island, I regularly ferry over. It is easy to see all kinds of new construction happening. The concerns of seawater intrusion have been exacerbated by a surge of growth and new building in recent years. It is easy to conclude that the PDS simply decided to growth 'run its course'—letting new wells have whatever effect they may on others who currently reside on the island. It is difficult to do anything other than believe the decision is unconcerned— if not irresponsible-- about future life for all on the island. Matters of fresh water affect everything. I urge you to reconsider the denial of the code amendment.

Thank you for considering the needs of current Guemes residents with the care and concern due our wonderful Skagit communities.

Most Sincerely,

Sally Balmer

418 4th Street  
Anacortes, WA 98221

[Rev. Sally Balmer](#)  
cell: 360-708-7922

[Guemes Island Community Church](#) Rev. Sally Balmer

**From:** [Sally Balmer](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Tuesday, January 21, 2020 11:21:21 AM

---

Dear Planning Commissioners of Skagit County—

I write with concern about the recent recommendation by the Planning and Development Services to deny the Skagit County Comprehensive Plan code amendments (P1 and P2) recommended by the Guemes Island Planning Advisory Committee (GIPAC).

The first amendment, P1, regards rain catchments on Guemes island. From what I gather, a document has been produced that will at least somewhat help further the possibility on Guemes. One of the first things about Guemes I learned nearly seven years ago was that some persons had intelligently set up some catchment systems (others hoped to do so) partly as a way to deal with growing concerns of seawater. I would like to think that the county will do all it can to support these efforts to make rainwater usable and safe.

My biggest concern is that apparently the second amendment (P2) for up-to-code well inspection and a determination of the well's ability to not further seawater intrusion has been rejected. While I do not live on the island, I regularly ferry over. It is easy to see all kinds of new construction happening. The concerns of seawater intrusion have been exacerbated by a surge of growth and new building in recent years. It is easy to conclude that the PDS simply decided to growth 'run its course'—letting new wells have whatever effect they may on others who currently reside on the island. It is difficult to do anything other than believe the decision is unconcerned— if not irresponsible-- about future life for all on the island. Matters of fresh water affect everything. I urge you to reconsider the denial of the code amendment.

Thank you for considering the needs of current Guemes residents with the care and concern due our wonderful Skagit communities.

Most Sincerely,

Sally Balmer

[Rev. Sally Balmer](#)  
[cell: 360-708-7922](#)

[Guemes Island Community Church](#)

**From:** [Beverly James](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 4:43:03 PM

---

Hello

I have always been impressed by Skagit County's approach to resource management. I live on Guemes Island and believe that we should be doing everything possible to save our aquifer. That includes using rainwater catchment when possible.

The time to act on this is now- there is really not time to waste when it comes to our changing environment.

Thank you!

Beverly James  
7365 Guemes Place  
Anacortes, WA 98221  
206-660-1447



**From:** [Kay Walter](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 2:28:26 PM

---

I recommend that the county adopt P-4, Skagit Land Trust's proposed amendment.

I support year round and seasonal buffers as recommended by WDFW. This proposal will protect forests that contain nest trees from encroaching development and establish buffers to protect herons.

Thank you.

Kay Walter

--

Sent from myMail app for Android

**From:** [Gail](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 2:35:07 PM

---

Skagit County Commissioners,

A reliable source of water is a more important to Guemes residents than even the ferry. Many residents have long ago installed rainwater catchment systems to water our gardens, greenhouses, and even house plants. Uncertainty about possible well failure, or seawater intrusion makes potable rainwater perhaps our only hope.

P-1. We appreciate that you have made establishing a rainwater catchment system simpler for us on Guemes. However since safe potable rainwater catchment systems have been operating safely for decades if not centuries and still are operating the world over, we feel that being required to hire an engineer to design a system is unnecessary for us but very beneficial financially for the design engineer. We hope that you will reconsider this requirement.

P-2. Guemes is designated a critical as well as a seawater intrusion area. If seawater intrusion continues as the number of wells on the island increases, it's possible that our two sole source aquifers could fail. Many wells on the island have already failed, seawater intrusion has already impacted at least 64 residences, and 860 new residences can still be built on the island. The Growth Management Act mandates the protection of our sole source aquifers because they are currently our only source of potable water. Therefore we believe that the county should mandate that before any potential well is drilled, the well site should be inspected and a hydrogeological review completed.

Thank you for consideration of our comments.

Richard T. Nicolls, M.D.

Gail Moore Nicolls

7802 West Shore Drive

Guemes Island

**From:** [Nick Allison](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:47:11 PM

---

My name is Nick Allison and my address is 7202 Channel View Drive, Anacortes, WA 98221, on Guemes Island. I am writing in support of code amendments P-1 and P-2.

I have followed the work of the Guemes Island Planning Advisory Committee (GIPAC) on island water issues since my wife and I became property owners over ten years ago. I realize this makes us relative newcomers, and that island organizations have been working on seawater intrusion and other issues for many, many years before we came to the island.

I've been continually impressed with the hard work and determination that GIPAC has brought to understanding our aquifer and identifying ways to protect it. They've done important research and brought credible analyses to the table. They've hosted community forums with experts in the field, which have been very educational to islanders like myself. GIPAC's recommendations deserve our support.

Please approve GIPAC's proposed code amendments P-1 and P-2.

Nick Allison

**From:** [Timothy Manns](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 1:19:48 PM

---

January 24, 2020

Skagit Audubon Society  
P.O. Box 1101  
Mount Vernon, WA

98274

Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon WA 98273

Re: Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

Dear Director Hart:

I am writing on behalf of Skagit Audubon Society to support the adoption of "C-5: SCC 14.16: Classification of Habitat Restoration" in the current 2019 docket of proposed policy, code, and map amendments to Skagit County's Comprehensive Plan.

Skagit Audubon, the local chapter of National Audubon Society, has 270 member families. We share an interest in birds and other wildlife and a strong desire to see wildlife habitat restored and protected in Skagit County. The presence of wildlife here and opportunities to observe birds and other animals are very important to our quality of life.

We understand that item C-5 in the docket of proposed changes was initiated by your staff to clarify that habitat restoration is an allowed use in all zones except Ag-NRL. We understand that if C-5 is adopted, habitat restoration in Ag-NRL would remain as a hearing examiner special use. While we may disagree about the latter, we definitely support habitat restoration being an allowed use in all other zones with no requirement for a hearing before the examiner. As your staff points out in the docket report, making the C-5 clarification in the code is consistent with the goals of the county's Comprehensive Plan, Shoreline Master Program, and other planning documents. We support those goals.

We appreciate that your staff has identified the need for this clarification and has gone to the trouble of bringing it before the Planning Commission.

As mentioned in Skagit Audubon's comments on P-4 at the Planning Commission hearing on January 21<sup>st</sup>, we support Skagit Land Trust's proposal for better protecting heronries under the Critical Areas Ordinance. The proposal's degree of detail provides a clear and convenient description of the requirements which will be helpful to landowners and to the county in implementation.

Sincerely,

/s/ Jeff Osmundson

Jeff Osmundson  
President, Skagit Audubon Society

**From:** [Sally Stapp](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 12:04:33 PM

---

To: Skagit County Planning and Development Services

We are Philip and Anne McCracken. We have lived on Guemes for 54 years, currently at 5029 Guemes Island Road.

When we are in a climate crisis it's a godsend when a community works to protect their environment - particularly the fragile fresh aquifer. Too many wells drilled into a sole source aquifer makes no sense if there are alternate possibilities. We are blessed with 27,000 gallons of rainwater every time an inch of rain falls on one acre of land. Multiply that by the 5,505 Guemes acres.

We enthusiastically support the work of our GIPAC group and support their Proposal 1, concerning rainwater catchment and Proposal 2 to enforce existing regulations to inspect all potential well sites prior to drilling.

Sincerely, Anne & Phil McCracken

\*I, Sally Stapp live at 5191 Lewis Lane, across the street from Philip & Anne McCracken. I offered to send their comment to your offices since they do not do computers. I plan to copy this letter out for them to sign as well and mail it in. Thank you.

Sally Stapp

**From:** [Michael-JoAnne Gray](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Friday, January 24, 2020 11:34:50 AM

---

Dear Planning and Development Committee Members:

We are writing this email as Skagit County registered voters and property owners living full time on Guemes Island. We and/or our family have been taxpayers on our property located at 4898 N Indian Village Lane since 1959.

The purpose of this email is to express our strenuous objection to the denial by Skagit County's Planning Commission of Proposed Amendment P-2 as set forth by the Guemes Island Planning Advisory Committee. The substance of which reads to: *Enforce existing regulations to inspect all potential well sites prior to drilling and existing requirements for hydro-geological reviews to be conducted prior to drilling.*

As citizens and taxpayers this denial appears to us as conscious disregard for existing regulations and in doing so puts us at risk. Enforcing the regulations would serve to safeguard potable water availability for current and future Guemes Island property owners including full time and part time residents. We most strenuously object to this denial.

Although neither of us are voting/elected members of GIPAC or for that matter other key volunteer organizations (e.g. the Guemes Island Ferry Committee) we have in the past spoken up publicly on matters that concern us. For instance, we have spoken out in support of county plans for the Guemes Ferry and as such we were not in agreement with some members of the islands volunteer committees. However, In this case we wish to offer GIPAC our full support to be expressed however they wish to force Skagit County to follow its own rules.

Our objection to the Planning Commission's denial is based on the following observations and concerns:

- Since 1995 more than fifty of our west beach and north end Guemes Island neighbors have experienced increased seawater intrusion and in some cases their wells have failed. Although the extent of sea water intrusion in our well does not, at this time, constitute a health risk to us personally, we are very concerned. Drilling of new wells without first evaluating their impact wells nearby could result in an infringement on our water rights and degrade the quality of our well water. It is our intent that our home and property remain available for our family for the future. We wish to make every effort to preserve this for them.
- Currently much of the property inland from our home to the east/southeast of West Shore Drive is privately owned and undeveloped. Our neighbors and/or their heirs whom currently own the property have stated to us that in the past, that they opted not to sell because keeping their land undeveloped (and thus well free) does, in their words "protect the wells" from having more water taken from the aquifer. More recent comments from their heirs or likely-heirs indicate that it is quite possible they will wish to

sell their undeveloped property in the future. If this is the case, their undeveloped property will become vulnerable to drilling. If Skagit County allows this to happen without a study assessing the impact on adjacent waterfront properties, their water source could become compromised.

- If existing property owner's potable water sources become compromised so does the value of the property. Thus the real estate and hence the taxable value of properties would also be reduced.

Respectfully,

Michael and JoAnne Gray

Sent from [Mail](#) for Windows 10

**From:** [Judith Akins](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code and Map Amendments  
**Date:** Thursday, January 23, 2020 8:52:45 PM

---

## **Mt Baker Group**

### **Washington State Chapter Sierra Club**

[MtBaker@washington.sierraclub.org](mailto:MtBaker@washington.sierraclub.org)



To: Skagit County Planning Commission

Date: January 23, 2020

The Mt Baker Group of the WA Chapter Sierra Club (MBG SC) is asking the Skagit County Planning Commission to support and recommend to the County Commissioners that they adopt Skagit Land Trust's P-4 amendment as part of Skagit County's Critical Areas Ordinance (CAO). The MBG SC represents our members in Whatcom, Skagit and San Juan Counties with over 600 members in Skagit County alone. We are dedicated to the protection of the environment and all species that live in these areas. We fully support the Skagit Land Trust's amendments for several reasons.

We are losing bird species and need to protect those we have. A [study](#) published in the *Journal of Science* September 19, 2019 estimates that North America is home to



nearly three billion fewer birds today compared to 1970—that’s more than 1 in 4 birds that have disappeared from the landscape in a mere half a century. “This was an astounding result, even to us,” says lead author and Cornell Lab of Ornithology conservation scientist Ken Rosenberg.”

During the breeding and nesting season Great Blue Herons are very sensitive to human activities, and as you are aware, in 2017 the Samish Island heronry was abandoned halfway through the nesting season. The current code has minimal guidance on how to protect sites such as this.

The Sierra Club uses scientific knowledge to support our positions and we know that the Skagit Land Trust has for over 20 years been stewarding and observing the heronries at Samish Island and March Point. Their proposal of year-round and seasonal buffers as recommended by Washington Department of Fish and Wildlife (WDFW) is justified. The heronry at March Point is of particular concern because of its size, over 700 nests, and its being close to heavy industry and for these reasons should be assigned the largest buffer possible. This will protect the forests that are used for nests from encroaching development. We support in particular the language that allows for seasonal and yearly adjustments to buffers as heronry space needs may change over time. Indeed GBH have been known to return to once-used sites and the 10 year protection of sites should be strongly considered. If not, and development is allowed in these areas, we will effectively diminish environments that can sustain these populations in Skagit County. Both WDFW and Skagit County have recognized the GBH as a priority species and one of local importance.

In conclusion, the MBG SC asks that the Planning Commission recommend the proposed Skagit Land Trust amendments to the CAO (SCC 14.24.500) P-4, which further protects Great Blue Herons and heronries, be accepted and sent to Skagit County Commissioners for adoption.

Sincerely,

Judith Akins

Chairperson Judith Akins

Secretary Lynn Colson

Skagit County Representative William Gregory

Vice-Chairperson Rick Eggerth

Treasurer Ron Colson

Judith Akins  
Chairperson Mt Baker Group  
WA Chapter Sierra Club

360-982-8599  
2174 E Birch St  
Bellingham, WA  
98229-4558

**From:** [Carolyn Gastellum](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Thursday, January 23, 2020 3:26:03 PM

---

January 23, 2020

Skagit County's 2019 docket of Proposed Policy, Code, and Map Amendments

Great Blue Heron protections

I urge adoption of Skagit Land Trust's P-4, option 2 amendment plus Skagit County PDS staff's option 3 regulatory language on Great Blue Heron protections into the County Critical Areas Ordinance.

Skagit Land Trust has based its P-4, option 2 amendment on both local knowledge, and best available science.

I can't imagine Skagit Valley without Great Blue Herons. Whether they look elegant or grumpy, standing still as a sculpture or stalking a meal, these birds truly are iconic in our area and need the best possible protections so they will continue to thrive.

The value of local knowledge has been significant in understanding the sensitivity of the March Point herons to humans coming too close. This sensitivity was unexpected because the March Point heronry is located in a busy urban area. Cars zoom by on highway 20, fireworks explode around the 4<sup>th</sup> of July, neighboring T Bailey's heavy manufacturing is noisy.

The heronry, however, is isolated on a forested hilltop, high above all the human bustle. Humans rarely enter the heronry. There is no construction within the heronry or surrounding forest. The sounds of passing vehicles are muted by the trees and the hilltop location, creating a white noise effect. It is amazingly and surprisingly quiet. If you've ever been in the March Point heronry, you know what I'm talking about.

The unexpected sensitivity to humans of the March Point herons and the relative isolation of their heronry in an urban area illustrate the value of local knowledge, and why local knowledge is recognized as an important part of best-available science.

Every year Skagit Land Trust adds more information to its database of local knowledge. This knowledge has been gathered over many years of stewarding the March Point and Samish Island heronries. Citizen scientists under the guidance of renown heron biologist, Ann Eissinger, have been observing and documenting herons' behavior throughout the breeding and nesting seasons. This work is on-going.

The Trust's database has provided Washington Department of Fish and Wildlife with nest count numbers and heronry location coordinates for mapping. WDFW guidelines are specifically detailed in SLT's proposal which will inform both county staff and property owners about year round and seasonal buffers for Skagit heronries with 20 or more nests. There are also heronry specific guidelines assigning the widest possible year-round buffer for mega-colonies of more than 200 nests. Currently March Point is the only active mega-colony. SLT's option 2 combined with regulatory language in the

county staff's option 3 should be adopted into the CAO to provide important protections to Great Blue Herons based on best available science.

Thank you.

Carolyn Gastellum  
14451 Ashley Place  
Anacortes, WA 982221

**From:** [Matt Kerschbaum](#)  
**To:** [PDS comments](#)  
**Cc:** [Matthias Kerschbaum](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Thursday, January 23, 2020 1:41:48 PM  
**Attachments:** [clip\\_image001.png](#)  
[Skagit Co. Planning Comm CAO Comments.docx](#)

---

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

**To:** Skagit County Planning Commission  
Skagit County 2019 Docket of Proposed Policy, Code and Map Amendments  
Planning and Development Services  
1800 Continental Place, Mount Vernon, WA 98273

**From:** Matthias A. Kerschbaum

1801 9<sup>th</sup> Street  
Anacortes, WA 98221  
360.333.4119

**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments

I wish to make the following comments in support of the proposed update to Skagit County's Critical Areas Ordinance (CAO) to protect Great Blue Herons in Skagit County. My comments have a dual focus – protection for both the Great Blue Heron Breeding Colonies and Great Blue Heron Foraging Habitat.

THE GREAT BLUE HERON IS A HIGHLY VISIBLE, CELEBRATED, AND IMPORTANT SPECIES IN SKAGIT COUNTY. Ann Eissinger, a professional biologist and acknowledged expert on Great Blue Herons has worked with this species in the Salish Sea area for over 30 years. In personal communication, Ann describes the importance of Skagit County for herons in this way:

***“Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea. This concentration is centered around Padilla Bay in Skagit County, where the largest eelgrass meadow in the region is located.”***

HERON COLONIES AND THEIR CORRESPONDING BREEDING SEASON FORAGING HABITATS FUNCTION AS AN INSEPARABLE UNIT IN THE LIFE HISTORY OF THE GREAT BLUE HERON.

On page 3 of the following referenced report (***Azerrad, J. M. 2012. Management recommendations for Washington's priority species: Great Blue Heron. Washington***

**Department of Fish and Wildlife, Olympia, Washington**), Jeffrey M Azerrad discusses in detail heron breeding season foraging habitat and points out the vital connection between heron colonies and their associated foraging habitat.

Likewise Ann Eissinger has stated that heron colonies and their associated foraging habitats function as a unit. There is an inseparable link between the heron colonies of Skagit County and foraging sites where adult herons obtain food not only for themselves, but also for their young, thereby assuring sustainability of the colony and the heron population as a whole. For that reason, that portion of the Skagit County Critical Areas Ordinance dealing with Great Blue Herons should consider and provide proper protection for both nesting herons and their foraging habitats.

#### Great Blue Heron Nesting Habitat in Skagit County.

Background: Skagit Land Trust (SLT) has proposed an update to Skagit County's Critical Areas Ordinance (CAO) to protect Great Blue Herons – an iconic local species with a unique presence in the county. SLT is concerned that without articulated, clearer protections included in the Skagit County CAO, this charismatic and much-loved bird could face an uncertain future in the County.

It is of great concern that the second largest and the oldest heronry in Skagit County, on Samish Island, was abandoned partway through the nesting season in 2017. Although the exact cause of the abandonment is not known for certain, we do know that heronries are vulnerable to many types of human disturbance.

Skagit Land Trust recommends the County adopt P-4, Skagit Land Trust's proposed amendment. This amendment is informed and supported by the Washington Dept. of Fish & Wildlife (WDFW) Management Recommendations for Great Blue Herons and takes into account conditions unique to Skagit County. This will strengthen the Critical Areas Ordinance protections of Great Blue Herons. I support this recommendation.

Skagit County has several important Great Blue Heron colonies, including: Barney Lake, an active colony of 20 nests, Samish Island Colony historically had over 200 nests but was abandoned in June 2017, and March Point Heron Colony, an active colony with over 700 nests.

- The best available science should be used to develop or amend the CAO. This would include use of information from local sources of knowledge, i.e. Skagit Land Trust. Skagit Land Trust has over 20 years of stewardship, monitoring, and study of the March Point and Samish Island heronries. Data have been recorded here throughout the breeding and nesting seasons. Currently the Trust submits requested information to Washington State Department of Fish and Wildlife (WDFW.) I support Skagit Land Trust's P-4 proposal that is based on the best available science and decades of local knowledge.
- I support both year-round and seasonal buffers as recommended by WDFW. In particular, colonies like March Point that exhibit behavior indicative of a low tolerance to people should be assigned the largest buffer possible. March Point, as a mega-colony of international significance, should receive this level of protection.
- During the breeding and nesting season Great Blue Herons are very sensitive to human activities. They are known to have abandoned nesting sites in response to unusual disturbances like noises and lights. Our current County code has minimal guidance on how to protect Great Blue Heron nesting sites from human disturbances. Therefore, I fully support the inclusion of SLT's P-4 amendment into our County Critical Areas

Ordinance because it clearly details how to protect heronries.

- With well over 700 nests, the March Point mega-colony heronry is the largest in the Salish Sea region and one of the largest on the entire west coast of the United States. Expanded protections with year-round and seasonal buffers are essential because we know we cannot take the existence of these mega-colonies for granted. In 2017, the second largest heronry on Samish Island was abandoned. According to WDFW guidelines, this heronry must be protected for ten years in case herons return. The Barney Lake heronry currently has over 20 nests and must also be protected. I urge the Planning Commission to recommend adoption of Skagit Land Trust's P-4 amendments to the County Critical Areas Ordinance to protect herons now and into the future.
- The proposal will protect the forests that contain nest trees from encroaching development and establish buffers to protect herons from disturbances throughout the breeding and nesting season. I support these expanded protections and ask that the Planning Commission recommend that the County Commissioners adopt Skagit Land Trust's P-4 amendment as part of our county CAO.

I support the Skagit Land Trusts proposed update to Skagit County's CAO and recommend that Skagit County adopt P-4 Skagit Land Trust's proposed amendment.

#### Great Blue Heron Foraging Habitat in Skagit County

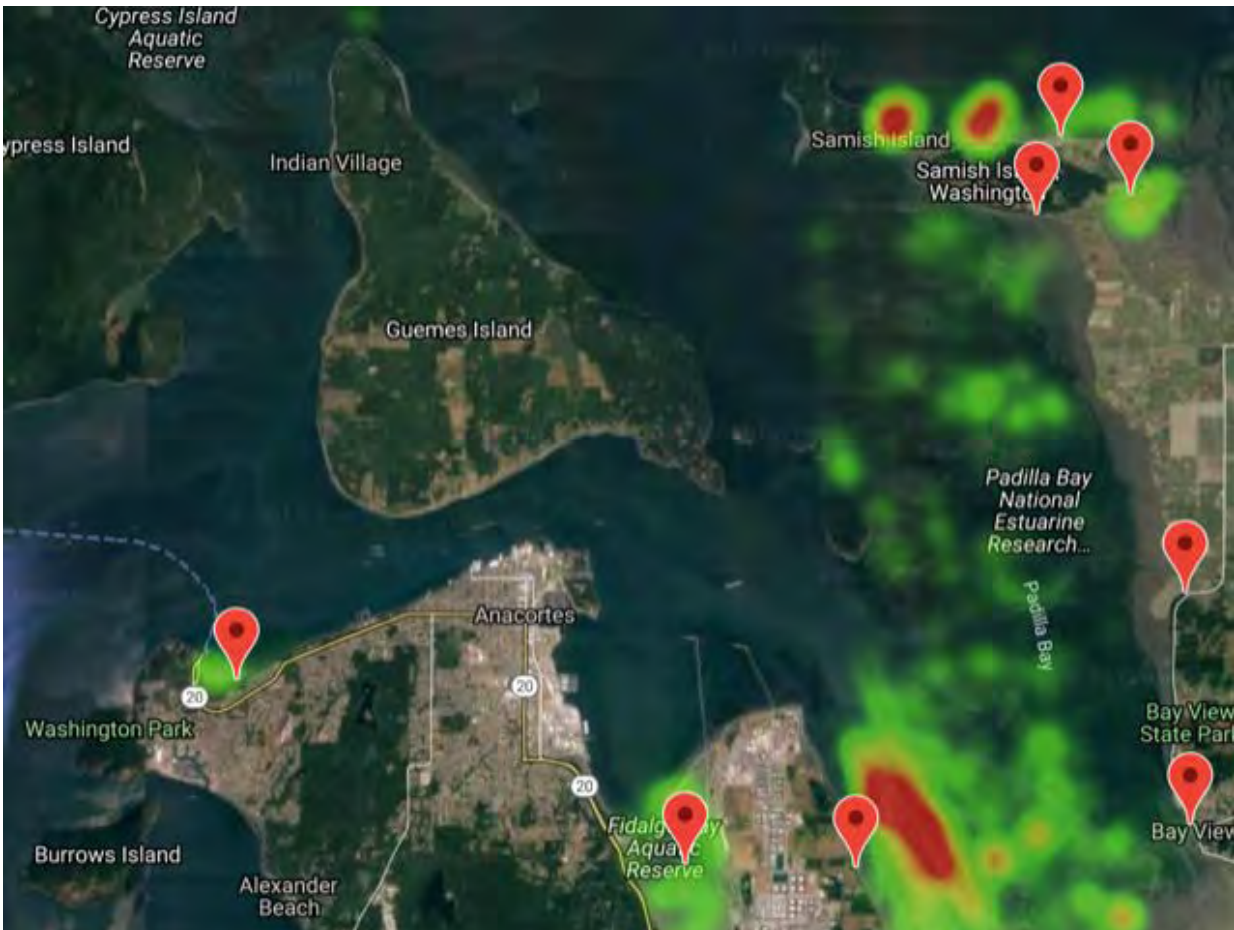
As stated above there is a critically important relationship between heron colonies and foraging sites, Ann Eissinger (cited above) developed a protocol to study foraging herons and the habitat sites they use in Skagit County, using a team of trained Citizen Scientists to collect data. This is an active and on-going study and at the present time there are 18 citizen scientists participating in this study, guided by Ann Eissinger herself. I am one of these 18 citizen scientists and have worked on this study since its inception.

In her personal communication cited above, Ann describes a brief history and outline of the Skagit Heron Foraging Study as follows:

***“Due to this concentration of breeding herons, an effort was launched in 2014 to document heron foraging near the two largest colonies located on Samish Island and March Point. The Skagit Heron Foraging Study is a Citizen-Science project, led by heron biologist Ann Eissinger, utilizing trained volunteers to record heron numbers from specified shoreline observation points at Samish Bay, Padilla Bay, Fidalgo Bay and Ship Harbor.***

***The heron foraging study has continued over six seasons with data collected over 4-5 months each year to coincide with the heron nesting season. The data collected is expressed in a spatial format using a “heat map” of the study area. Concentrations of herons are visible on the map in a color gradient from green to red – with red as the highest concentration. The results are both visually useful for tracking heron feeding movement over the study area, and for identifying feeding concentrations. In addition, the underlying numerical data provide the actual number of herons at each location indicated on the map. For example, for one site near March Pt., 631 herons were recorded in one observation. High numbers like these reflect both significant heron aggregations, and also high concentrations of marine fish and other organisms which support the heron's reproduction. As an ecological indicator, the Great Blue Heron serves a vital role.”***

The “heat map” Ann describes above is shown below and includes data from 2014 through 2019. From this map we can see important heron foraging habitat is present at Ship Harbor, Fidalgo Bay, Padilla Bay, Alice Bay, and Samish Bay. The Ship Harbor, Fidalgo Bay and west side of Padilla Bay sites are located with the city limits of Anacortes. This list is not all inclusive and there may be other foraging sites identified in the future through continuation of the study and related observations.



**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

The Skagit Heron Foraging Study (SHFS) has been developed for the collection of long-term heron foraging data which over time continues to locate heron foraging sites and identify trends in foraging use. With six years of data collected, entered and plotted into a database, the study already has identified and defined important foraging sites located throughout Skagit County and including some which are located within the city limits of Anacortes.

This data is public and is available for use by others including city and county planners. This study will continue to survey, collect and record heron foraging data during 2020. This will be the Study’s seventh field season. Foraging site surveys will be conducted from mid-April through early September 2020.

The SHFS data can be accessed at the following website:  
<http://explorer.bee.oregonstate.edu/Topic/Heron/ObservationsMap.aspx>



SPECIFIC GREAT BLUE HERON FORAGING HABITAT RECOMMENDATIONS TO THE  
SKAGIT COUNTY PLANNING COMMISSION:

In view of the critical relationship of the heron colony to its supporting foraging sites, I believe that protection of foraging sites needs to receive recognition in the Skagit County CAO. Based upon six years of data about local heron foraging habitats provided by the ongoing SHFS, as well as WDFW Great Blue Hero Management Recommendations, I recommend the following items be included in the Skagit County CAO to assure the protection of Great Blue Heron foraging habitat:

1. Use the relevant information about heron foraging habitats that is contained in the Washington Department of Fish and Wildlife Report: Azerrad, J. M. 2012. Management recommendations for Washington's priority species: Great Blue Heron. Washington Department of Fish and Wildlife, Olympia, Washington. Specifically, this includes information on the following pages of this document:

- a. Page 3: Description of Breeding Season Foraging Habitat
- b. Page 3: Description of Limiting Factors, specifically forestry and human development activities.
- c. Page 8: Management of Foraging Habitat: Identify existing foraging areas. Conserve existing and potential foraging habitat.

2. Use information contained in the Skagit Heron Foraging Study database mentioned above to help define important heron foraging habitat.

In summary, Skagit County is home to the greatest concentration of nesting Great Blue Herons in the Salish Sea and one of the most important in the Pacific Northwest.

Heron colonies are inextricably connected to associated foraging sites. These two habitat types function together and when given proper protection, they continue to function as a unit promoting the health, welfare, and continuance of Great Blue Herons in Skagit County.

The Skagit County CAO, when amended as recommended, will provide protection to both Great Blue Heron nesting colonies and their associate foraging habitats. Such protections are required for this important species and will benefit Great Blue Herons, the environment, and the citizens Skagit County. Thank you for your review and consideration of these suggestions, comments and recommendations.

Note that I have attached these same comments in an attached MS Word file.

Sincerely,

Matthias A. Kerschbaum

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you**

know the content is safe.

**From:** [sue.odonnell](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 11:08:36 PM

---

Guemes Island resident:

Susan O'Donnell  
6112 South Shore Road  
Anacortes WA 98221

I strongly urge you to please consider two code amendments to Skagit County's Comprehensive Plan suggested by the the Guemes Island Planning Advisory Committee (GIPAC).

Amendment "P1" would make the process to permit rainwater catchment systems easier and, hopefully, affordable. I have seen the effects of our likely contaminated ground water - undrinkable water that many wells on Guemes Island are now producing. Trying to filter this water is very complicated and very expensive! We need an alternate way to have water for household use and to water our vegetable gardens and orchard trees.

Amendment "P2" sounds like a catch-up effort to have Skagit County *adhere to its own codes* that require review of any plan to drill a new well on Guemes Island. Is it the well-drillers who are ignoring the rules or does the county not care to enforce such an important step which could slow the sea-water intrusion? By the testimony so far, it seems this step might also prevent neighborhood disputes.

Thank you for considering my input.

Susan O'Donnell  
6112 South Shore Road  
Anacortes WA 98221

**From:** [Edie Clark](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 10:52:33 PM

---

Dear Members of the Skagit County Planning Commission,

Please include the following thoughts and comments as you move to adopt the code amendments, P-1 and P-2 into Skagit County's Comprehensive Plan.

Amendment P-1 is needed in order to make the permitting process a bit easier for island residents. All Skagit County's residents should have a reliable access to potable water. Most Island residents rely on well water obtained from our sole source aquifer. Unfortunately, many wells have been contaminated by salt water intrusion. In areas of the island where that has already happened, a rain water catchment system may be an alternative water source. However, many residents have found the "hoops and hurdles" of the permit process to currently be restrictive. I support the PDS staff recommendations. It makes no sense to first drill a well in order to be able to apply for a rainwater catchment system. All new wells apply certain risk to the existing aquifer. I applaud the recommendation to allow the homeowner to select their own design engineer. And finally, I agree strongly with the recommendation that there be no required minimum amount of gallons per day per household produced by a rainwater catchment system on Guemes Island. All water obtained from rainwater, whether for household or gardening use, relieves pressure on our aquifer. Rainwater caught and then distributed back into the ground helps maintain the aquifer. Please adopt P-1 as recommended by the Planning Department Staff.

Amendment P-2 Existing rules that have been designed to guard the sole source aquifer on Guemes Island must be enforced by the county. Although it is easy to enforce the rule that says a property owner must document a potable water supply available on that property, owners of undeveloped property have drilled wells prior to applying for a building permit. These wells are not being reviewed by the county for possible salt-water intrusion risk at the well site or for degradation of nearby existing wells. It is the county's duty to follow the mandate of the Growth Management Act and thus to protect the quality of the groundwater on Guemes Island. All attempts to drill into the aquifers on Guemes Island must be stringently monitored to assure no harm is done. Please adopt Amendment P-2.

Respectfully submitted,

Edith Clark, Guemes Island property owner  
5651 Section Avenue  
Anacortes, WA 98221

**From:** [Patty Rose](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 1:29:45 PM

---

Patty Rose  
4829 Guemes Island Road  
Anacortes, WA 98221

Following are the comments I gave to the Planning Commission on January 21, 2020

My name is Patty Rose. We own a home at 4829 Guemes Island Road on North Beach and I am a GIPAC member. My testimony is about our personal experience with the water supply. Thank you for your focus on Guemes Island water issues this evening and for your steps to enable rainwater catchment systems by creating a guidance document.

We bought property with an existing well with some saltwater intrusion and built a small house in 2009. I wish the rainwater catchment measures had been in place when we bought our land on Guemes: we could have had a water system that is better for us and better for the environment.

As it is, we carefully conserve water, filter a small amount of drinking water at our kitchen sink and haul city water in a 5 gallon jug. We have constructed a rainwater catchment system and cistern to water our garden, installed a much larger tank for our well water and reduced the pumping rate to 1 gallon per minute.

We are holding our own and trying to put less stress on the aquifer. But we have spent over \$30,000 and, at the end of the day, we still have saltwater intrusion.

I see rainwater catchment as the left hand in protecting the aquifer, a sustainable way for some islanders to get clean drinking water. That is just great!

But the right hand must be acknowledged as well: continued drilling in sensitive locations can further damage the aquifer. In spite of our expensive efforts to protect the water supply and those of our neighbors, I know of new wells on North Beach, which may be used by large numbers of people going forward.

- What will they do to our well, which is already compromised?
- What might additional wells do?

We urgently need to be wise and careful about drilling in this threatened and critical area and **Skagit County can help**. I hope you will take the next important step to protect our sole source aquifer. Please pass code

amendment P-2 to review and study proposed wells on Guemes before drilling.  
Thank you.

From: [Hal Rooks](#)  
To: [PDS comments](#)  
Subject: Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
Date: Wednesday, January 22, 2020 11:00:36 AM

---

Following are comments I gave to the Planning Commission Public Hearing, Tuesday, January 21, 2020

Hal Rooks  
1219 10th St.  
Anacortes, WA 98221  
.

January  
21, 2020

#### Comments to Planning Commission re P-1, Rainwater Catchment

Good evening Commissioners, Planning Department officials, and members of the public. My name is Hal Rooks and I'm the chair of the Guemes Island Planning Advisory Committee, which sponsored code amendments P-1 and P-2, which are before us this evening. My Guemes address is 5971 Upper Hollow Lane and I'm going to address P-1.

GIPAC's most important goal with code amendment P-1 was to make rainwater catchment a welcome and viable alternative to drilled wells on Guemes Island. Based on lengthy conversations with the County's Planning & Development Services Department (PDS), we believe the PDS's recommendations for P-1 largely accomplish our goals. We certainly didn't get everything we wanted, but we believe we've gotten what is "achievable" at present.

I believe it is misleading to focus on the PDS's recommended "denial" of P-1. They are recommending the denial of a specific part of our code amendment, which would have required them to adopt a catchment template within 60 days and to amend the code to include the template. We had put these issues into our proposed code amendment in **2018** because of frustration that PDS had not moved on our **2016** catchment code amendment and we wanted to put specific benchmarks into the process to focus them on the issue. I believe we have accomplished that goal.

I'm going to focus on what we've achieved rather than what we didn't. According to what we've read and been told, accomplishments include:

- PDS will issue a "guidance document" (rather than a "template") for rainwater catchment systems on Guemes Island along with Administrative Official Interpretations (which we understand have the same practical effect as code) that will include the following:
- There will be no requirement to drill a well first in order to qualify for a permit application to install a rainwater catchment system on Guemes Island.
- There will be no required minimum number of gallons per day per household that a rainwater catchment system on Guemes Island must produce. There will be a requirement for a covenant to be filed that declares that the alternative water source on the property produces less than 350 gallons per day for the household, if the catchment system is so designed. There will also be a requirement that there must be storage for at least a 90-day supply of water, according to whatever rate the system is designed to produce.
- There will be a requirement that a rainwater catchment system design must have an engineer's approval stamp, but allows homeowners to select their own engineer without having to choose from a list of county-approved engineers.

These "accomplishments" are not yet set into writing, so we would appreciate Planning Commission support and direction for our understanding of what PDS proposes to implement.

Thank you.

**From:** [bullman31971@gmail.com](mailto:bullman31971@gmail.com)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 10:25:22 AM

---

I am writing to address the proposals by the Guemes Island Planning Advisory Committee to address the serious groundwater problem on Guemes Island. Nobody contends this is not a real, significant problem – grist for the Planning Commission's mill. I appreciate your attention to this important matter.

It simply cannot be the case that the County is powerless to address this problem by better evaluating the profound impact of proposed new wells. You should find that outcome unacceptable. And, I would hope you find it inconsistent with your reasons for volunteering for this challenging role as public servants. Such an outcome is incompatible with the designation of the island as a Critical Area and with the Growth Management Act's aquifer protection requirements.

The problem worsens as inaction persists.

The proposals designated P-1 and P-2 are thoughtful, cautious plans to address a very real problem. The proposals are put forward not by people seeking to line their pockets but by sincere citizens seeking to protect their homes. They warrant your support.

Carl Ullman, 5162 West Shore Road, Guemes Island



**From:** [RobertHAnderson](#)  
**To:** [PDS comments](#)  
**Cc:** [Patty & John Rose](#); [Edith Walden](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 10:08:17 AM

---

Please do all you can to make the use of rainwater for human consumption possible on Guemes Island and the wider county. Bend over backwards to amend or update policies and regulations to this end. In instances of personal necessity, people will use rainwater for all sorts of needs anyway so let's make it safe to do so. (We collected rainwater when kids in open troughs in the back yard, used it for watering in summer, bathing and were even known to take a sip when thirsty outdoors. Not a new idea, but now safer to do so.)

The technology is available and tested - ultraviolet light systems and more. Places where water sources are under threat or limited, like Bermuda, mandate rooftop rainwater collection systems for all sorts of home uses. This is no longer an iffy or risky usage as there are plenty of places and technicians to learn about and adopt existing working regulations and obtain consultation. It is no longer an experimental or ground-breaking matter.

The same spirit is needed to regulate new wells on Guemes so the beginnings of salt water intrusion we have seen already do not become more widespread. Or even threaten, eventually, the total water table of Guemes. If our very limited "sole-source" water on Guemes becomes unusable on a large scale, it would likely that some Skagit city or the county would be mandated to extend its water system to provide potable water on Guemes - at a cost so expensive we do not want to even risk that eventuality. It is hard to believe there is any legal barrier to such regulation as it is common practice by all public agencies to use regulation in the face of any documented threats to public health and safety, as we already have documented about water sourcing on Guemes Island.

Thank you for a Skagit agency history of forward-thinking on matters affecting resources and utilities.. I trust you will use the same creative problem-solving around these two GIPAC recommendations.

Robert H. Anderson, 6966 Holiday Blvd., Anacortes (Guemes Island) 360-293-3770

**From:** [Jane Brandt](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Sunday, January 19, 2020 10:14:16 PM

---

Commissioners:

**Skagit Land Trust Proposed Amendments-County Critical Areas Ordinance  
Great Blue Heron Protections**

The current county code has minimal guidance regarding protection of Great Blue Heron nesting sites from human disturbances. During the breeding and nesting season Great Blue Herons are very sensitive to human activities and have been known to abandon nesting sites in response to unusual disturbances like noise and lights. I fully support the inclusion of the Skagit Land Trust's P-4 amendment into our County Critical Areas Ordinance.

The March Point heronry is the largest in the Salish Sea region and one of the largest on the west coast of the United States. In 2017 the second largest heronry was abandoned on Samish Island. WDFW guidelines dictate that the heronry must be protected for ten years after abandonment in case the herons return. Therefore adoption of the Skagit Land Trust's P-4 amendments will protect the herons now and in the future.

Protection of the forests containing the nests from encroaching development and establishing buffers to protect herons from disturbances throughout the breeding and nesting season is important for the success of heronries. I support these expanded protections and ask that the Planning Commission recommend that the County Commissioners adopt Skagit Land Trust's P-4 amendment as part of our county CAO.

Respectfully submitted

V Jane Brandt  
3936 W 12<sup>th</sup> street  
Anacortes, WA 98221

Sent from [Mail](#) for Windows 10

**From:** [Martha Bray](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map  
**Date:** Friday, January 17, 2020 9:41:40 PM

---

Dear Planning Commission members:

I am writing in support of Skagit Land Trust's P-4 proposed amendment to the Critical Areas Ordinance to protect great blue herons. We are very lucky to have this iconic species still breeding in relatively large numbers in Skagit County and should do everything we can to protect them. How wonderful that Skagit County has the largest heronry on the west coast with over 700 nests! This is something to celebrate and be proud of!

The County has an opportunity to step up and be a leader in adopting local regulations that demonstrate how much this beautiful yet fragile bird matters to the citizens of the County. The land trust's proposal is well-considered, and combines best available science with local knowledge from 20 years of observation and data collection. Furthermore, the proposal is well balanced and would not create an undue burden on private landowners, and is supported by a majority of citizens in the County.

We have already seen signs of stress in these populations including very concerning abandonment of certain nesting sites in recent years. It is time to reverse these disturbing trends before it's too late, so that future generations can continue to enjoy seeing this beautiful bird. The great blue heron is an essential part of Skagit's landscape

I fully support these expanded protections and ask that the Planning Commission recommend that the County Commissioners adopt Skagit Land Trust's P-4 amendment as part of our county CAO.

Thank you for your time and consideration.

Sincerely,

Martha Bray  
6368 Erwin Ln  
Sedro Woolley, WA 98284

**From:** [Joost and Marianne](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's 2019 Docket of Proposed Policy, Code, and Map Amendments, Marianne Kooiman, 5335 S. Shore Dr., Anacortes, WA 98221  
**Date:** Friday, January 24, 2020 3:16:02 PM

---

My name is Marianne Kooiman, 5335 S. Shore Dr., Anacortes, WA 98221

I am in strong support of GIPAC and proposed policies P1 and P2.

P1. It is my understanding that PDS and GIPAC have reached some understanding on several major aspects of rainwater catchment.

In case of a building permit application, rainwater catchment and groundwater would be options of equal value and there would

be no requirement to drill a well first. The amount of water required will be flexible.

Homeowners would need to have an engineer's approval stamp for their catchment design.

All this is to be incorporated in a Guidance Document with Administrative Official interpretations to ensure their legal status.

If this reflects what the county intends to accomplish, that has my full support. P1 has been around for a number of years and it is time to see these issues resolved and make rainwater catchment an easier project.

P2. In 1995, USGS published their baseline groundwater study. Since then we have continued to measure water levels in a number of selected wells.

Guemes Island was designated as a Sole Source Aquifer by the EPA, and therefore all of the island is now designated as a Critical Area.

This brings with it the responsibility of the people and the county to work together to protect the aquifers from contamination and

depletion. New wells should not be drilled in seawater intruded areas.

Skagit County Code requires that, prior to drilling a new well for a building permit, the depth and the chloride levels of neighboring wells need to be submitted for review.

This should be done also for replacement wells and for land that remains undeveloped.

Recently we have seen an increase in air-bed and breakfasts on Guemes, creating an influx of people during the summer months, who quite likely

do not have any knowledge of the restraints of living on an island with limited water resources. This makes it the more important to keep

a close watch on the number and sites where wells are going to be drilled.

**From:** [John Rose](#)  
**To:** [PDS comments](#)  
**Subject:** Skagit County's Docket of Proposed Policy, Code, and Map Amendments  
**Date:** Wednesday, January 22, 2020 1:43:50 PM

---

My name is John Rose and my address is 4829 Guemes Island Road, Anacortes WA 98221.  
I am writing in support of proposal P-2.

We experience salt water intrusion. New wells should not be drilled without serious consideration of their impact on existing wells.

I attended last night's public hearing and was impressed by the reasons cited in support of P-2.

I was appalled, horrified and deeply upset by Staff's reason for recommending against P-2.

Staff's cited a legal opinion that the County does not have authority to enact P-2.

When P-2's proponents asked to see this opinion they were given a document whose entire content had been redacted. They were told that as attorney's notes they did not have to share the content.

It may be that the County is not required to share the content, but I strongly suspect the County could choose to share the content.

So I urge the Planning Commission to ask why the redaction is necessary? What is so important that it justifies denying citizens their right to comprehend the basis for rejecting a common sense proposal that is of great importance to them?

Please share the legal opinion.

**From:** [Amy Trainer](#)  
**To:** [PDS comments](#); [Michael Cerbone](#)  
**Cc:** [Amy Trainer](#)  
**Subject:** Swinomish Tribe comments on Comp Plan amendments C-4 and C-5  
**Date:** Friday, January 24, 2020 12:03:30 PM

---

Dear Skagit County Planning Commission,

Thank you for considering the Swinomish Indian Tribal Community's comments on proposed Comprehensive Plan Amendments C-4 and C-5 below.

**Policy /Code Amendment C-4; Trails in the OSRSI (Public Open Space of Regional/Statewide Importance)**

This amendment would allow for new trails in the OSRSI Zone – which is quite extensive – as a “permitted” use and would no longer require an Administrative Special Use Permit. The Swinomish Tribe strongly supports new trails for the community's health and well-being, but want to be sure that any new proposed trails and their trailheads must not adversely affect either environmentally sensitive areas or cultural resources. Although the trails and trailheads may require a grading permit, and this may flag concerns of environmentally sensitive areas or cultural resources it, it does not provide a sufficient amount of notice or process where the County would ensure that these resources are adequately protected, including by providing early notice to tribal cultural resources staff.

The Tribe would like to see a process for new trails and trailheads that engages tribal cultural resource and environmental staff in the earliest possible phase through required notice and opportunity to comment to ensure that tribal cultural resources and sensitive areas are adequately protected. The Tribe requests this tribal notification be required in both the “permitted” use as well as in the grading permit as an extra safeguard.

**Policy /Code Amendment C-5, Habitat Restoration as Hearing Examiner (HE) Special Use Permit**

The Swinomish Tribe supports the move to make habitat restoration a more simple process in the majority of zoning districts with this proposed amendment. However, what we've realized in looking at this particular proposal, is that the outcome would be that habitat restoration will continue to be a Hearing Examiner's Special Use Permit in the Agriculture-Natural Resource Lands zone, whereas it will be a permitted use in the rest of zoning districts. The Tribe would like to ultimately see habitat restoration not have to be so difficult in any zoning district, particularly given the amount of salmon streams in the Ag-NRL zone – a land use zone that includes many miles of the Lower Skagit river basin with salmon streams like the Nookachamps Creek, home to Chinook and Steelhead. So again, we wanted to express our support for this amendment, but state for the record that this more simple permitting process should ultimately extend to the Ag-NRL zone as well to ensure that our imperiled salmon, and the Orca whales that depend on them, can recover.

Thank you for your consideration of our comments.

Amy

Amy Trainer  
Environmental Policy Director  
Swinomish Indian Tribal Community  
360-466-7253  
360-399-5804  
[atrain@swinomish.nsn.us](mailto:atrain@swinomish.nsn.us)



**From:** [Beverly James](#)  
**To:** [PDS comments](#)  
**Subject:** Water on Guemes  
**Date:** Friday, January 24, 2020 4:39:43 PM

---

Hello

I have always been impressed by Skagit County's approach to resource management. I live on Guemes Island and believe that we should be doing everything possible to save our aquifer. That includes using rainwater catchment when possible.

The time to act on this is now- there is really not time to waste when it comes to our changing environment.

Thank you!

Beverly James  
7365 Guemes Place  
Anacortes, WA 98221  
206-660-1447



----- Original Message -----

From: Kirk Johnson <[kirkjohn@comcast.net](mailto:kirkjohn@comcast.net)>

To: [pdscomments@co.skagit.wa.us](mailto:pdscomments@co.skagit.wa.us)

Date: January 20, 2020 at 8:38 PM

Subject: Skagit Land Trust Great Blue Heron Habitat Proposal (P-4), 2019 Docket

Dear Planning Commissioners,

I am writing to express my strong support for the Skagit Land Trust's proposed code amendment, P-4, Option 2, to strengthen habitat protections for Great Blue Heron nesting colonies in the county.

Great Blue Herons are a special part of the local environment and landscape. They are as emblematic of the Skagit Valley as the abundant farmlands and beaches to the west and snow-covered mountains and forested hillsides to the east. I frequently see herons when I am hiking and fishing and their presence greatly enriches my outdoor experience.

Skagit County has only three Great Blue Heron colonies with 20 or more nests, which is the threshold for protection under the proposed code amendment. The Land Trust owns or holds conservation easements on the majority of land on which these three sites sit and takes great pride in its stewardship and citizen-science activities on their behalf. Portions of the heron nesting sites are also located on or adjacent to a handful of private properties.

Documentation submitted by the Land Trust demonstrates that land use activities outside of the normal range of what herons are used to can disturb nesting activity and even cause adult herons to abandon their vulnerable eggs and chicks.

Skagit County already lists Great Blue Herons in its Critical Areas Ordinance, SCC 14.24.500(4), as an official Habitat and Species of Local Importance. SCC 14.24.520(4) indicates that herons should be protected on a case-by-case basis by means of a habitat management plan based on the Washington State Priority Habitat and Species (PHS) program. However, there are no specific protections for herons and their habitat areas currently enumerated in the CAO.

The Land Trust proposal would add specific provisions to the CAO based on the Washington State Department of Fish and Wildlife (WDFW) Great Blue Heron Management Recommendations to ensure that heron colonies are protected from potentially harmful development activities during the critical nesting season. These provisions, which include seasonal and year-round buffers appropriate to the size and sensitivity of heron colonies, will provide clear guidance both for Planning staff and property owners.

While providing clear direction on how to protect heron nesting sites, the proposal also includes thoughtful mitigation measures to ensure that no property owner is precluded from developing their property.

In summary, this reasonable, science-based proposal will implement safeguards for critical Great Blue Heron nesting areas to help ensure these majestic birds remain a prominent part of the Skagit Valley landscape and ecosystem for decades to come.

I urge you to support the Skagit Land Trust's proposal.

Sincerely,

Kirk Johnson  
1718 Lindsay Loop  
Mount Vernon, WA 98274