

Skagit County Staff Summary Salmon Heritage Program March 22, 2007

This staff summary outlines the key features of the Skagit County Salmon Heritage Program. This Program consists of 3 main components:

- (1) Adoption of a Skagit County Salmon Heritage Program to be funded by a voter-approved increase in the general fund property tax levy.
- (2) Amendments to Skagit County Code, SCC 14.24 and 14.44 to implement various provisions of the Salmon Heritage Program and to modify the County's existing regulations for ongoing agriculture consistent with this new program.
- (3) Amendments to Resolution R20040211, the County's existing Ongoing Agriculture Monitoring and Adaptive Management Program for consistency with the new Salmon Heritage Program.

These actions are intended not only to address the current finding of noncompliance issued by the Western Washington Growth Management Hearings Board in Case No. 02-2-0012c, but also to provide a proactive approach to long-term protection of salmon and agriculture in Skagit County for purposes of other federal and state law requirements.

SKAGIT COUNTY SALMON HERITAGE PROGRAM SUMMARY

The Skagit River holds all five species of Pacific salmon, including a third of the remaining wild stocks of threatened Puget Sound Chinook salmon. Accordingly, the Skagit River and its tributaries are critical to any effort to recover Chinook salmon in the Puget Sound Basin. At the same time, the citizens of Skagit County are resolutely committed to maintaining viable agriculture in the Skagit Valley.

For the past decade, the Swinomish Indian Tribal Community and Skagit County have been involved in litigation and appeals under the Growth Management Act (GMA) over the issue of riparian salmon habitat protection in agricultural lands. These appeals are still pending before the Washington State Supreme Court.

The Swinomish Indian Tribal Community, Skagit County, agricultural representatives, the Department of Fish and Wildlife, and environmental community representatives have been involved in a year-long series of discussions in an effort to craft a resolution to this long-standing and contentious dispute. The Salmon Heritage Program (SHP) is a product of those discussions. The SHP does not settle the pending appeals; however, regardless of the

outcome of the legal dispute, the SHP can move forward to resolve the policy and on-the-ground disputes that arise in the protection of riparian salmon habitat in an agricultural setting.

The Salmon Heritage Program (SHP) is designed to address County GMA requirements in a manner that protects salmon habitat, agriculture and property rights. The SHP is intended to minimize conflict and maximize habitat protection. The SHP is also intended to address local requirements arising under the Endangered Species Act and Clean Water Act, including Department of Ecology TMDLs, and to locally help implement the Governor's Shared Strategy for Puget Sound.

Skagit County is taking a decisive leadership role in salmon recovery by advancing the SHP. However, the SHP is intended to be a cooperative effort between Skagit County, agriculture, local tribes, state and federal fisheries agencies, as well as other interested public and private stakeholders.

Salmon Heritage Program Mission

Through voluntary, compensated transactions with landowners, the SHP will acquire conservation easements over eighty percent (80%) of the total number of acres capable of providing riparian buffers located adjacent to each of the four major stream types (Type I, II, III, and IV) in the Skagit and Samish River watershed. The SHP will hold and maintain the easements in perpetuity as riparian salmon habitat.

The SHP will accomplish its mission by:

- Reducing geographic areas of conflict caused by agricultural practices in riparian habitat areas;
- Creating permanent riparian buffers in salmon spawning areas for the protection and enhancement of anadromous fisheries;
- Providing certainty for agriculture throughout Skagit County; and
- Creating and maintaining a long-term working relationship with tribal communities and environmental groups in Skagit County on salmon recovery and agricultural protection issues.

Program Goals

Phase I – Acquisition.

- Total eligible acreage estimate is 5,360, equating to 80% of all riparian corridors in lands zoned as agriculture of long-term commercial significance
- Acquisition goals phased over 5 year period—start January 1, 2008 through December 31, 2012 (Phase I)
- Drainage districts exempt from Program under alternative WDFW Drainage Fish Initiative Agreements

- Land already under reasonably equivalent protection may qualify
- If SHP fails to meet Goals, County will adopt buffers in tributary basins as needed in order to achieve Program goals
- SHP seeks additional and matching funding for acquisitions from state, federal, tribal and private entities
- Other entities and agencies are invited to perform restoration work on easements during Phase I

Phase II – Ongoing Operations and Maintenance.

- SHP builds reserves for ongoing buffer maintenance
- SHP performs restoration work with own funds as available
- Other entities and agencies are invited to perform restoration work on easements during Phase II
- Other entities may hold easements if they agree to perform maintenance and enforcement consistent with SHP requirements

Buffer Requirements

- Buffer widths consistent with scientific literature
- Buffer use restrictions to provide necessary habitat functions and allow natural buffer restoration
- SHP to assume responsibility for buffer protection, maintenance, fencing, noxious weeds
- County to seek legislative exemption to property taxes for riparian salmon habitat easements and interim valuation reduction

Landowner Protections

- Voluntary, fair market value transactions
- Does far more than what I-933 would have done for agriculture
- In addition to paying full market value, landowner is not responsible for fencing, noxious weeds, buffer maintenance, buffer restoration
- Landowner obtains “safe-harbor” from additional riparian buffer requirements
- County will stand behind landowners who benefit the community by selling easements and will defend the integrity of the Program

- 80% requirement means a large automatic exception for small landowners and parcels on which buffers would be particularly burdensome
- Highest level of respect for property rights and landowner privacy
- No general public access to easement or across landowner's property
- SHP has no general law enforcement authority, only express terms of easement

Funding

- Initial funding for SHP would be a voter-approved property tax increase of ten (10) cents per thousand (estimate in excess of one million dollars (\$1,000,000) per year), primarily for conservation easement acquisition, presented to County voters in August 2007
- Approximately \$27 per year property tax on a home valued at \$270,000 – tax will protect farms and salmon in perpetuity – tax will sunset and/or substantial reduction after Phase I completed.
- Skagit County and SHP seeks additional funds for administration, fencing, easement monitoring, replanting and restoration efforts

Administration

Five-member Salmon Heritage Board (SHB) appointed by County Commissioners to represent:

- Agricultural operations and practices expertise (1 member)
- Agricultural users (1 member)
- Fisheries expertise (2 members)
- County Board of Commissioners or designee (1 member)

SHB will hire Executive Director and staff to implement SHP objectives, and will review and ratify Executive Director actions.

Role of Fisheries Co-Managers (WDFW / Treaty Tribes)

- County seeks recommendations on two SHB fisheries members
- Fish Advisory Panel to assist SHB with technical habitat-related issues
- Seeking Tribal Community's support during campaign for the local funding election, and for seeking additional funding from non-local sources.

Duration of Program

- Acquisition program (Phase I) will cease with the goals outlined above are achieved

- Once acquisition goals are achieved, funds can be used for other habitat and enhancement projects (Phase II) to the extent operations and maintenance costs and buffer reserve is adequately funded
- SHP administrative functions of monitoring and enforcement will be a long-term program with long term requirements. County seeks shared funding for same from state, federal, tribal and other sources.

Skagit County Code and Resolution Amendments

Amendments to existing County Code and the existing Ongoing Agriculture Monitoring and Adaptive Management program in Resolution R20040211 are also required to implement the Salmon Heritage Program. These are briefly summarized below:

Resolution R20040211_(County's existing monitoring and adaptive management program)

- Retain Water Quality Monitoring Components and Annual Reports
- Eliminate Salmon Habitat Monitoring Components
- Eliminate Adaptive Management Program (because Salmon Heritage Program now provides for riparian buffers)

Amendments to SCC 14.24.120 (Ag-CAO)

- Delete all the "Do No Harm" and policy balancing language. Can include any desired statements in Recitals for new adoption.
- Add reference to participation in new Salmon Heritage Program to acquire buffers.
- Revise Watercourse Protection Measures to make more clear and easier to determine compliance--more objective standards.
 - Revise livestock crossing and watering restrictions to match new Conservation Easement Restrictions on Salmon Heritage Program
 - Add references to applicable NRCS Field Office Technical Guide best management practices, consistent with more recent Growth Management Hearings Board decisions upholding these standards
 - Revise manure requirements to match NRCS Field Office Technical Guide recommendations
 - Eliminate County option to modify work windows--follow NCRS and WDFW guidance on work window.
- Incorporate Drainage Fish Initiative (DFI) Agreements as satisfying provisions of this Code.

- Clarify that private drainage activity or public drainage activity not pursuant to DFI still subject to restrictions contained in this code.
- Eliminate the historic provisions for existing Farm Plans. Retain the use of farm plan consultation to address noncompliance.

Revision to (proposed) SCC 14.24.530 (Fish and Wildlife Habitat Conservation Areas Protections)

- Clarify that any landowner who sells a Salmon Heritage Program Conservation Easement that meets SHP requirements shall not be subject to any of the FWHCA Protections from SCC 14.24.530.
 - Eg: if sell a 150 foot average conservation easement under Salmon Heritage Program on a type I water; not subject to standard 200 foot buffer under 14.24.530.
 - Only applicable to AG-NRL and RRc-NRL landowners

Revisions to Chapter 14.44 (Enforcement)

- Eliminate reference to "Do No Harm" standard, leaving reference to "Watercourse Protection Measures"
- Add **NEW** section establishing watercourse protection measure compliance monitoring (in response to Growth Management Hearings Board finding of noncompliance):
 - New compliance officer to conduct random inspections each year to monitor compliance with watercourse protection measures and to initiate County enforcement action if find violation.
 - Other enforcement procedures and discretions consistent with current practices.
 - Add referral to Salmon Heritage Program as component of enforcement action.

Complete copies of the Salmon Legacy Program Documents may be found on the County's website, or by contacting Tom Karsh at (360) 419-3373.