

Puget Sound Region Federal Agency Action Plan

In September 2011, the White House Council on Environmental Quality designated the Regional Administrators of the Environmental Protection Agency (EPA) and NOAA Fisheries, and the State Conservationist for USDA's Natural Resource Conservation Service (NRCS) as co-leads for a renewed federal effort to contribute to the protection and restoration of Puget Sound and the Washington coast. This endeavor responds to recent concerns raised by Western Washington Treaty Tribes about continued habitat losses and associated diminishment of fishery resources. Under the leadership of the three co-chairs, federal agencies with authorities in Puget Sound and western Washington coastal river basins are re-focusing existing efforts and working better together to protect and restore habitats important to salmon, shellfish and other species. This improved interagency effort includes a critical review of existing policies, authorities, and funding programs to identify opportunities for strengthening the ability of those programs to contribute to the overall objectives for Puget Sound and Washington coastal habitat restoration. This Action Plan describes the status of this inter-agency approach and highlights key actions agencies are taking. Appendix A provides a detailed description of specific agency commitments, accountability measures, and timeframes for implementation. Our aim is for federal agencies to conserve habitat strategically and effectively for salmon, shellfish and other species in Puget Sound and the coast.

We undertake this as a dynamic plan that will evolve over time as circumstances change. We therefore view this as the first phase of a longer-term effort. We welcome and encourage the full engagement of the many partners in the Puget Sound and coastal challenge, and the recommendations of all on how to improve our contributions to habitat restoration over time.

Strategy and Commitment to Action:

Puget Sound federal agencies agree to: 1) coordinate their programs with one another and with the state and tribes to protect and restore habitat in Puget Sound and the coastal rivers of western Washington. This coordinated approach will help rebuild the health and productivity of the aquatic systems upon which salmon and other species depend and affirm federal commitments to Treaty Tribes of western Washington. 2) coordinate funding to the extent allowed by law. 3) prioritize protection and restoration of shoreline and nearshore habitats, flood plains, and water quality. 4) report progress to CEQ regularly to ensure the initiative results in steady improvements in habitat conservation across the Puget Sound Basin and coastal rivers of western Washington.



Creation of a Tribal-Federal Habitat Forum:

Federal Caucus member agencies will join with Puget Sound and coastal treaty tribes to establish a joint Forum for addressing unresolved priority habitat implementation measures within adopted watershed recovery plans. The Federal Caucus and the Puget Sound and coastal Treaty Tribes each will appoint a co-chair of the Habitat Forum to ensure proper and timely administration of its work. Working on an issue-by-issue basis, the co-chairs will ensure concise description of an impediment to implementation of a habitat measure within a local watershed recovery plan. Further, they will encourage tribal and federal agency policy leaders to assign appropriate staff to collaboratively evaluate the impediment. Staff will resolve the impediment where possible, and prepare a situation summary including options for resolution of any remaining impediment. Co-chairs, in conjunction with the appropriate policy leaders, will establish reasonable timeframes for completion of assignments.

Issue elevation process: The federal co-chair will encourage the appropriate regional federal officials with decision-making authority related to an identified impediment to participate in the Habitat Forum's review of the situation summary and options for resolution. In circumstances where these officials cannot resolve the issue, the co-chairs will determine, in consultation with the Council on Environmental Quality (CEQ), whether elevation through the CEQ to appropriate members of its Assistant Secretary Group is warranted and so notify CEQ. In cases where elevation through CEQ is appropriate, the CEQ-appointed co-chairs (EPA and NOAA Fisheries Regional Administrators and NRCS State Conservationist) of the regional Federal Caucus will be responsible for the elevation. The three co-chairs will assign staff who will work with appropriate tribal officials to refine the situation summary for the three co-chairs' use in seeking resolution through elevation of the issue through CEQ. The Federal Caucus recommends the first meeting of the joint Tribal-Federal Habitat Forum occur before June 30, 2012.

Policy coordination: Federal agencies are identifying existing policies that can be improved or strengthened to facilitate this strategy, and are investigating changing these policies where feasible. We describe below selected policies under federal agency review. Federal agencies will continue to examine existing policies and coordinate with one another and the states and tribes when considering new policies that may affect salmon habitat.

1) Per Corps of Engineers national guidance, all elements of the incidental take statement are included by reference in the Corps permit, and there must be a condition indicating that the applicant must comply with the incidental take statement. Additionally, the permit condition referencing the biological opinion must indicate that the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, will be informed of, and enforce, any known violations of the incidental take statement. NOAA is encouraging the Corps to take a more direct compliance role governing ESA-based terms and conditions. Corps regional staff met with NOAA in December 2011 as part of an ongoing multi-agency discussion about compliance

enforcement to protect and restore Puget Sound habitats, but defers to the national level for any potential change in enforcement policy related to incidental take statements.

2) NOAA is developing new regional guidance on establishing, approving, and using conservation banks that can promote larger scale and more effective mitigation and restoration efforts than might otherwise occur on a permit-by-permit basis. NOAA intends to use selected project consultations to encourage the use of new and existing conservation banks. NOAA will explore opportunities for ensuring these banks can be approved by the Corps for use as compensatory mitigation in Corps permits.

Existing Authorities: Federal agencies will improve their use of existing regulatory authorities and incentive programs to protect and restore salmon habitat. Initially, federal agencies have identified the following uses of existing authorities:

1) The Corps Seattle District will continue to implement the Section 404 Clean Water Act/Section 10 Rivers and Harbors Act Regulatory permit program to avoid, minimize, and mitigate adverse effects on the aquatic environment while allowing reasonable development. The program entails collaboration with the Federal Services (USFWS and NOAA Fisheries), EPA, state agencies, and tribal consultation.

2012 Nationwide Permits (NWP), Regional General Conditions (RGCs), and Regional Conditions (RCs): The Corps Seattle District developed RGCs and RCs for the NWP published on February 21, 2012, which became effective March 19, 2012. Input from tribes, state agencies, the public, and NOAA Fisheries regional office resulted in strengthened environmental protections and increased rigor of analysis for projects with the potential to impact resources of concern in Puget Sound and statewide, relative to the 2007 versions. Initiatives championed by tribes, while not fully enacted, formed the basis for the following specific actions:

- The use of Standard Individual Permits rather than NWP for new bank stabilization projects in areas of Puget Sound with high levels of cumulative impacts;
- Limited impacts that could be caused by NWP for intermittent and ephemeral streams as well as mooring buoys under certain circumstances;
- Additional information requirements allowing a more rigorous review for all bank stabilization projects; and,
- Additional information requirements allowing for more rigorous review of all stream crossing analyses.

The Seattle District will wait for further guidance from Corps Headquarters on implementing the February 15, 2012 NMFS Biological Opinion (BiOp) regarding the NWP program.

2) PL 84-99 Flood Control and Coastal Emergencies Programs: The Corps Seattle District continues to work collaboratively with levee owners, tribes, the federal Services (USFWS and NOAA Fisheries), and stakeholders to develop flood risk management solutions for the Public Law (P.L.) 84-99 Flood Control and Coastal Emergencies (FCCE) programs. These programs

support levee integrity, ESA compliance, and fulfillment of other federal responsibilities. The Corps anticipates the ESA Section 7 consultation inherent in these efforts will yield endangered species/fish-friendly criteria for levee design, construction, maintenance, and repair and best practices guidance for Puget Sound and the region. The District will try to complete P.L. 84-99 consultations with the federal Services prior to doing the actual repairs where circumstances allow, taking into consideration issues such as funding, emergency circumstances and work windows.

a) Levee Vegetation System Wide Improvement Framework (SWIF): The SWIF helps identify solutions that use resources efficiently, prioritize improvements, and take corrective actions based on risk, and better align programs and requirements. The Corps Seattle District will serve as the local federal lead for interagency efforts when the Corps' new SWIF approach is used by levee sponsors.

b) Levee Vegetation Variance Policy Guidance Letter (PGL): The Seattle District will serve as the local federal lead for interagency coordination efforts on variances from mandatory Corps vegetation-management standards. The District will work with levee sponsors (for non-federal levees) and seek their concurrence (for qualifying federal-constructed non-federal sponsor-maintained levees) to request variances under the new DRAFT Vegetation Variance policy. These variances will preserve, protect, and/or enhance natural resources and protect tribal treaty rights, while ensuring levee function.

c) Emergency Flood Response Activities: The Seattle District will seek to improve its method for determining whether local jurisdiction flood assistance requests (Advance Measures and Emergency Operations) will protect against significant threats to life, health, welfare, property, and infrastructure. For example, where emergency action is warranted, the Seattle District will coordinate as early possible with the Federal Services, EPA, and tribes so that the action's scope and implementation avoid or minimize adverse habitat impacts, with appropriate after-the-fact mitigation when impacts do occur.

d) Levee Rehabilitation: The Seattle District will continue to coordinate its post-damage levee repairs with interested federal, state, local, and tribal entities. Where possible, based on federal and non-federal resources and other case-specific conditions, the Corps will consider implementing levee setbacks rather than levee rehabilitation in-place.

3) The Corps Seattle District will continue to implement projects in Puget Sound and Washington coast under its Civil Works program authorities (subject to availability of funding and non-federal sponsor participation) that restore the ecosystem and/or have a positive effect on habitat and comply with the ESA.

4) NOAA and the Corps are promoting alternative materials and installation methods to reduce habitat impacts from bank armoring. NOAA and the Corps will complete a programmatic consultation describing armoring designs that reduce impacts on fish habitat. The Corps will provide this information to permit applicants for use in preparing permit applications and mitigation plans.

5) NOAA is nearing completion of an analysis under Section 7 of the ESA for the reauthorization of a Corps Regional General Permit for residential piers, ramps and floats in marine waters. Related to this analysis, NOAA is developing guidance for analyzing project impacts and calculating mitigation requirements. This guidance will assist agencies and project applicants in accurately assessing the potential habitat impact of proposed projects and will enable the Corps and other federal agencies to establish a crediting mechanism for mitigation banking and in-lieu fee (ILF) programs. These mechanisms provide for high quality compensatory mitigation to offset unavoidable project impacts. Among those ILF programs being developed in concert with the Corps are the first tribal mitigation banks, the first tribal ILF program, and the first marine ILF program.

6) The Federal Emergency Management Agency (FEMA) will work with NOAA and others to review and evaluate the sufficiency of local government responses to address the new salmon-related floodplain habitat requirements of FEMA's National Floodplain Insurance Program (NFIP). Recently completed ESA consultations describe these new requirements. FEMA will seek corrective actions where needed. FEMA will explore opportunities to link with local jurisdictions and other federal agencies to coordinate the use of hazard mitigation projects to reduce flood risk and restore habitat functions and values. This will reduce risk and enhance floodplain productivity.

FEMA now requires all NFIP- participating communities to have an ESA- compliant floodplain management program or face possible suspension from the program. To date, all of the 122 affected communities in the Puget Sound basin have committed to FEMA that they have an ESA compliant program in place. In partnership with the Washington State Department of Ecology, FEMA has begun to prioritize communities for compliance audits (Community Assistance Visits) to ensure all communities are appropriately administering and enforcing their NFIP-ESA commitments pursuant to the NOAA FEMA biological opinion.

7) EPA will enhance water quality by continuing to address water quality priorities including:

- Development of model federal discharge permits (e.g., the Joint Base Lewis McChord efforts to establish appropriate water quality standards and Best Management Practices).
- Agreement between EPA and the Washington Department of Ecology (DOE) on the state's industrial general storm water discharge permit which is up for renewal, including appropriate conservation measures for fish habitat.

- Agreement between EPA and DOE to implement the existing municipal general stormwater discharge permit.
- Any /all of the first three items could include Low Impact Development standards.
- Coordination with the joint agency enforcement team to seek strategic permit compliance/enforcement opportunities.

8) The U.S. Geological Survey (USGS) will convene and lead an interagency in-stream flow working group to undertake the necessary scientific work to quantify the flow requirements of anadromous fish, and other fishery resources, in selected watersheds. The Bureau of Indian Affairs, NOAA, EPA, FWS, and the Forest Service will participate in this interagency working group and contribute their relevant scientific and technical expertise to it.

Enforcement: Federal agencies are coordinating on increased efforts to improve compliance with existing programs to protect salmon habitat in close partnership with their state enforcement partners. NOAA's Office of Law Enforcement, the U.S. Coast Guard, and other federal agencies have joined with their state counterparts to form a subgroup of the Northwest Environmental Crimes Working Group. This Puget Sound and Coastal Habitat Initiative Sub Group is formulating a suite of strategies to promote more effective compliance and enforcement of activities related to the protection and restoration of nearshore habitats, flood plains, and water quality. These strategies include internal training, outreach, directed enforcement, and community collaboration and education into the vital role of these habitats. The federal and state agencies involved have pledged both short- and long-term commitments to this effort.

Funding: Federal agencies will seek to coordinate their ongoing budgeting processes to expand the effective use of available resources to contribute to habitat restoration. As the agencies develop 2014 budgets, federal agencies propose to identify and coordinate major programs that protect and restore Puget Sound habitat in an effort to be efficient and strategic with federal funds. EPA and NOAA will lead an inter-agency review of federal funding and grant programs to identify opportunities to leverage funds and maximize returns on habitat restoration and protection investments. Concurrently, they will identify opportunities to streamline and simplify grant application and reporting requirements, and to adopt criteria for prioritizing grants that are consistent with the joint federal strategy.

To the extent allowed by relevant statutes, federal agencies will explore and focus budgets at the regional level to protect and restore salmon habitat, while still meeting other resource management obligations, and ensure salmon habitat funding is coordinated across fund sources.

1) Corps Seattle District – A significant portion of the Seattle District's Civil Works annual appropriation directly or indirectly affects Puget Sound across seven Civil Works business lines. Fiscal Year 2013 President's Budget request levels released on February 13, 2012 are generally consistent with 2012, while Fiscal Year 2014 budget development begins shortly at the Seattle District and Northwestern Division levels. Nationally, the Corps is developing a future

watershed based budgeting process that considers Corps programs and projects in an integrated water resources management systems approach. The Corps anticipates that this approach will better integrate its actions with those of Tribes, federal, state, and local agencies, and stakeholders.

2) FEMA is a partner in a process with USGS, NOAA Fisheries, the Puget Sound Partnership and the Nature Conservancy to link Stafford Act and NFIP Hazard Mitigation floodway buy-out funding to floodplain and salmon habitat restoration projects. FEMA is providing both past and future buy-out information to the USGS to incorporate into a GIS database to identify priority restoration areas for the Puget Sound basin. FEMA coordinated a meeting between the Nature Conservancy and the Washington State Emergency Management Division to explore state prioritization of hazard mitigation buy-out projects with FEMA funds, to identified habitat restoration areas.

3) The U.S. Fish and Wildlife Service (USFWS) Puget Sound Coastal Program is one of 22 Coastal Programs around the country with the goal of conserving coastal habitats to support fish, wildlife, and plants. The program focuses primarily on habitats that provide benefits to salmon in Puget Sound and the Washington coast. The program contributes funding directly to on-the-ground habitat restoration projects every year. Additionally, funding for this program allows USFWS biologists to provide technical assistance to many ongoing habitat restoration planning efforts, such as the Puget Sound Nearshore Estuarine Restoration Program, that will result in significant benefits to salmon once implemented.

By working with our state partners to develop strong proposals through the National Coastal Wetlands Conservation Grants Program, FWS is contributing significantly to the long-term conservation and restoration of Puget Sound and coastal Washington's marine and estuarine resources. This program's conservation accomplishments directly benefit salmon in Puget Sound and western Washington by contributing funding toward the acquisition and restoration of coastal wetland habitats.

4) The USDA, working through the NRCS and the FSA, will expand significantly its conservation programs related to the protection and restoration of riparian functions and values in support of rebuilding the productivity of important salmon habitats in the riverine systems of Puget Sound and Washington coast. Using existing authorities and the additional financial resources as contained in the 2012 spending plan and the proposed 2013 President's budget, the USDA will team with local conservation districts, local governments and other partners to expand the delivery of its riparian-related ecological services. USDA FSA will implement coordinated investments of its Conservation Reserve Program and other conservation programs in priority watersheds for salmon recovery that have active and involved local partners and Tribes.

NRCS submitted a proposal for a special initiative to focus Farm Bill Conservation Programs on water quality and habitat enhancement in the Puget Sound and Washington coast. This funding would enable NRCS to accelerate technical and financial assistance to private landowners for a variety of activities that will enhance riparian, wetland, floodplain habitats and water quality. The majority of the funding would likely be available through NRCS' Environmental Quality Incentives Program. The funds will be allocated quickly, with all funds being obligated by September 2012. The Federal Caucus agencies are assisting NRCS in identifying priority projects and key habitat areas for funding.

5) The FY12 Puget Sound funding allocation reflects EPA's desire to work with its partners to reverse the trend of habitat loss at the local level and improve salmon and shellfish recovery. This focus on shellfish, salmon and habitat is consistent with the areas that the Puget Sound Partnership focused on in updating the Action Agenda: 1) land development, 2) loss of floodplain function, 3) shoreline alteration, 4) urban stormwater runoff, and 5) wastewater. The funding allocation provides specific resources to address stormwater and its impacts on salmon, shellfish and habitat. Stormwater causes pre-spawning mortality in high percentages of healthy Coho salmon in Seattle creeks within hours of the fish entering those waters. Stormwater is also the primary way that many of the contaminants of concern enter Puget Sound; pollutants like copper have been implicated along with habitat destruction as potentially leading to the poor marine survival rate observed for juvenile salmonids in Puget Sound. In rural areas, stormwater is a major pathway for pathogens entering shellfish beds. Habitat destruction by high stormwater flows will be further exacerbated by climate change.

EPA will work within the existing Lead Organization structure of local, watershed-based groups responsible for salmon recovery, and with Tribes and federal agencies to negotiate and update funding agreement work plans that address shellfish and habitat, as well as other impediments identified in the local salmon recovery plans. EPA will further work with Lead Organizations to incorporate these areas of focus into sub-award decision criteria. In each case, we will work with our grantees to ensure that federal, state, tribal and local authorities and activities are aligned and consistent with salmon recovery plans.

Science, Monitoring and Research: Several federal agencies possess significant scientific, monitoring and research capabilities that are relevant to resolving the complex challenges of restoring Puget Sound and the Washington coast. Federal agencies seek to augment existing capabilities through the Puget Sound Science Team and other forums to increase the scientific foundation for monitoring and analysis, and allow for better tracking of progress, setting of priorities and decision-making. Currently, NOAA is developing monitoring, research and modeling approaches to support this Puget Sound and coastal initiative. NOAA's Northwest Fisheries Science Center is refining research and monitoring designs to help managers target protection, restoration and acquisition investments toward the most important recovery actions across Puget Sound and along Washington's coast. In addition, the USDA Forest Service Pacific

Northwest Research Station continues to produce science that improves our understanding of salmon and their habitat.

Communications and Public Engagement: The federal agencies fully recognize that the restoration of Puget Sound and Washington's coast will require a broad-scale, sustained engagement of many governments and the larger community for the long haul. We therefore seek to strengthen and deepen our contributions to a multi-faceted public engagement and communications effort associated with protecting Puget Sound and Washington's coast. The federal agencies seek to coordinate regionally and enhance our individual and collective education and engagement capabilities with those of state, tribal and local governments and the non-governmental sectors in order to effectuate this broader engagement. We are in the early stages of scoping out innovative opportunities for doing so, working with the Puget Sound Partnership and others. We actively seek and encourage the recommendations of our many partners on how to proceed with this effort in a creative manner, employing many of the new communications tools now available to engage and empower.

Additional agency-specific actions: Each federal agency prepared a list of specific commitments and actions for improving salmon habitat and other fishery-related resources in Puget Sound and along Washington's coast. The Federal Agency Matrix (Appendix A) includes the complete list of federal agency actions. This Federal Agency Action Plan, together with the additional commitments in the Matrix describe the suite of actions the federal agencies will take to protect and restore Puget Sound and coastal habitat and respond to the concerns raised by Treaty Tribes in western Washington.

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