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Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476
* 11404 Moorage Way * La Conner, Washington 98257 *

Kara Symonds
Watershed Planner
Skagit County Public Works

August 31, 2016

RE: Skagit County Voluntary Stewardship Program

Dear Kara;

The Swinomish Indian Tribal Community would like to provide the following comments on Skagit County's Draft Voluntary Stewardship Program Work Plan.

Page 11 does not accurately reflect the Swinomish Tribe's involvement in the plan development. When applications were requested to participate in the process, the Tribal request was that I be appointed to the Watershed Advisor panel. Apparently the Board declined that request, and appointed me to the Technical Review panel. Upon receiving notice of that appointment, the Tribe explained that it was interested in serving on the Advisory panel and declined to serve on the Technical panel. The document should explain that there was no Swinomish Tribal involvement in the development of this Voluntary Stewardship Plan. The document as currently written creates the impression that there was Swinomish involvement in the technical aspects of this plan, which is not the case.

Page 30 provides that "the work plan defines the amount of shrub and forest buffer as a proxy for all the FWHCA functions and values." Shrubs do not provide the necessary tree height to provide for adequate shade on any but the smallest streams in agricultural settings, almost all of which do not meet State water quality standards for temperature. Nor do shrubs provide the requisite large organic debris necessary to provide habitat for salmon to thrive. Shrubs should not be considered an adequate proxy for evaluating whether the functions and values of critical areas are being protected. There is not documentation provided that supports the statement that shrub

cover provides important functions and eventually develops into forest land cover. The Protection Benchmarks will be reported in a table as acres of improvement by watershed and divided among Shoreline, fish-bearing, and non-fish-bearing (S, F, and Ns) streams. However, the table isn't clear if a shift from Planted to Shrub offers the same improvement as a shift from Shrub to Forest. Only a shift to Forest, or an increase in planted acres, should be counted as an improvement. In a heads-up air-photo interpretation "shrubs" will likely include blackberry, knotweed, and other invasives. Because shrubs are indistinguishable from invasive shrubs, they should not be counted as an improvement. In addition, the Protection Benchmark table equates an acre of forest on a Type Ns stream with an acre of forest on a Type F stream. These two stream types are not equivalent from a fish protection standpoint. Fish-bearing streams and shorelines should be the priority, and acres of Type N stream buffers should be discounted. Otherwise the VSP will be claiming benefits that are not realized on the ground.

Page 31 states that "the work plan does not attempt to include water quality parameters in the definition of protection." This is a fatal omission with regard to the requirement to protect critical areas. Water quality standards are not being met on virtually every salmon stream in agricultural lands in Skagit County. Merely evaluating riparian vegetation trends without monitoring water quality will not be adequate to determine if the VSP program is working. If trends are detected that indicate the water quality is declining, then actions can be taken to determine the cause of the decline and implement programs to address the issue. In the absence of using or even measuring water quality standards as a metric or protection, the County will be remiss in ensuring that its VSP program is protecting critical areas in agricultural settings. The VSP program is not intended to be a riparian program, it is intended to protect the functions and values of critical areas, one of which is water quality.

Further, in the absence of establishing goals and benchmarks to meet water quality standards, the table detailing the degree of landowner participation is meaningless. How can the County set a target number of participants if has not determine quantitative goals for the meeting water quality standards?

The table on page 32 includes the Interim NOAA Buffer Matrix Minimum Width. Inclusion of this column is misleading in that the NOAA buffer table applies exclusively to ag lands and the habitat needs of salmon on these lands, while the County's CAO specifically exempts most ag lands from any minimum buffer sizes and makes no commitment or attempt to recover salmon. This is not true for the non-ag portions of the CAO.

We disagree with your conclusions on Page 34. The requirement of the VSP is to protect critical areas, which should include protection of water quality. If riparian vegetation along a salmon stream is adequate to protect water quality, and that water quality is compromised as a result of bank erosion, then the critical area is not being protected. We do not believe that

riparian protection is the measure of protection, it is the existence of adequate salmon habitat and unpolluted waters. Under these circumstances (where there has been a measurable decline in water quality or salmon habitat) agricultural buffers at least equivalent to the buffer lost should be required to be installed in order to meet the necessary elements for the protection of these elements of critical areas.

The County's accounting system with regard to buffer loss due to agriculture (but with replanting) is inadequate. Clearly critical areas are not being protected if vegetation providing shade, bank protection, and other elements of salmon habitat is removed. Merely requiring replanting and equating the acreage of newly planted vegetation with the acreage of fully functioning habitat is not scientifically defensible, and using acreage as a surrogate for actual fish and wildlife functions and values is inappropriate.

The County's enhancement benchmarks are truly underwhelming. To put this in perspective, adding two acres every five years to the Nookachamps 579 acres of eligible riparian area is a seven hundredths of a percent (quotient = 0.00069) annual improvement. These numbers are clearly a perpetuation of the status quo (negligible improvement of riparian conditions on agricultural lands in the County) and while clearly there are no legislatively mandated quantitative requirements regarding enhancement benchmarks, it is obvious that there is little intent to utilize this opportunity to improve conditions on the ground.

The proposed change to SCC 14.24.120(3) is a definite weakening of the rule. Rather than prohibiting harm or degradation to existing fish habitat characteristics, the proposed change only applies to the protection of riparian vegetation, and allows for degradation with critical areas review and approval. In essence, if the County planning department determines that impacts to riparian vegetation or fish habitat is warranted, it can approve that action even if it adversely impacts the functions and values of critical areas.

Because the hydrological data set used for VSP protection and enhancement monitoring characterizes streams up to 40 feet wide as single thread channels (p 48), the change analysis will fail to evaluate 20 feet of buffer on each side of the stream (or more, if the GIS stream centerline is off-center on the actual water body). Including the waterbody in the buffer area simultaneously excludes an equivalent buffer area at the outermost buffer edge, where changes such as clearing would occur un-detected. SRSC has existing data sets outlining wider channels, and would be willing to collaborate with Skagit County on completing and enhancing lowland hydrography throughout the County. This existing open-water hydrography will be improved with the delivery of the 2016 LiDAR data, on which Skagit County, SRSC, and the Swinomish Tribe are already collaborating. A LiDAR-guided stream hydrography would advance the goals of VSP monitoring, as well as most other GIS analyses in the Skagit watershed.

It is unclear to what degree the new Pictometry automated terrain modeling will be effective in detecting vegetation change. This is a new technology which has not been widely tested or evaluated outside the Pictometry lab. For instance, it is not known what accuracy the model will attain, or under what landscape conditions (leaf on vs. leaf off; better on floodplains than hillslopes, etc.). Although we agree that a model that measures vegetation height (such as LiDAR) is likely superior to air-photo interpretation, it remains to be seen if the Pictometry model is valid for the VSP monitoring. As monitoring methods improve, and as better data (such as the 2016 LiDAR) becomes available, the VSP monitoring would benefit from a flexible approach that could apply new methods looking back over older data sets. For instance, change detection using NAIP aerial photography is being explored by WDFW and others, which could indicate areas for closer scrutiny by County code enforcement and VSP monitoring staff. Similarly, more frequent LiDAR flights might prove cost-effective at lower resolutions, especially if the LAS datasets can be exploited for characterizations that go beyond vegetation height (e.g. for a limited land cover classification indicating water, bare ground, etc.). The technology in drone-based remote sensing is expanding rapidly. Any of these methods, applied post-hoc, might prove to be more valuable in evaluating riparian change, and should not be ruled out under the current VSP plan.

Reference to the Farmland Legacy Program is misplaced in evaluating the protection or restoration of critical areas. The work plan implies that the Farmland Legacy Program will create improvements in habitat, when in fact the program is for farmland preservation and actually prevents riparian restoration projects.

Thank you very much for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry Wasserman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry Wasserman
Environmental Policy Director