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## Salmon Habitat and Ecosystem Conservation Plan

Clallam County's Ecosystem Recovery  
Strategy and ESA Regulatory  
Compliance for:

- ◆ Watershed Conservation Planning
- ◆ New Urban & Rural Development
- ◆ Road Maintenance

April 24, 2000

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## Appendix: General Habitat Management Plans and Guidance for Threatened Species of Salmonids in Clallam County

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This document is a summary of ongoing and future activities which local governments, tribes, organizations and landowners are undertaking to conserve the ecosystems on which salmon depend, and to meet the requirements of the Endangered Species Act. It is a local and regional response to both the recent listings of several salmonid species, which inhabit the north Olympic Peninsula, and the recognized need to maintain habitat for the stocks that are currently healthy but showing significant population declines. Areas in the text highlighted in gray are from recent proposed rules published in the *Federal Register*.

## Background

In May 1999, the National Marine Fisheries Service (NMFS), under the Endangered Species Act (ESA), listed six species of salmonids as *threatened*, including Puget Sound chinook, Hood Canal/Strait of Juan de Fuca summer-run chum salmon, and Lake Ozette sockeye salmon. In June of 1999, the US Fish and Wildlife Service also listed the Puget Sound/Coastal populations of bull trout as threatened. All of these species are found in various locations across the North Olympic Peninsula.

The purposes of the ESA "are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve these purposes."

Section 4(d) of the Endangered Species Act provides that, when a species is listed as *threatened*, regulations shall be issued to provide for the conservation of the listed species. Such regulations may include any or all of the prohibitions that apply automatically to protect *endangered* species under Section 9(a) of the ESA (known as "take prohibitions"). NMFS has procedures for promulgation of these rules specific to each species; these draft 4(d) rules were published on January 3, 2000. Final rules must be published by June 19, 2000, with the rules taking effect either immediately or within 60 days (or longer) of being published in the *Federal Register*. The US Fish and Wildlife Service (USFWS) automatically applies the "take prohibitions" from section 9(a) concurrently with listing of a species as threatened.

"Whether take prohibitions or new regulations are necessary is in large part dependent on the biological status of the species and potential impacts of various activities on the species... NMFS concludes that threatened chinook, chum, and sockeye salmon are at risk of extinction primarily because their populations have been reduced by human "take". West Coast populations of these salmonids have been depleted by take resulting from harvest, past and ongoing destruction of freshwater and estuarine habitats, poor hatchery practices, hydropower development, and other causes." (65 Fed. Reg. 170 January 3, 2000).

The listing of local salmonids as threatened has prompted states, counties, tribes and others to request NMFS to (1) clarify and provide guidance on what activities may adversely affect salmon, and how to avoid or limit those effects, and (2) apply take prohibitions only where programs or efforts are inadequate to conserve threatened salmonids. As a result, NMFS has issued a proposal for "limits on take prohibitions" under a 4(d) rule, by which cities, counties, state and tribal governments and other

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organizations can be assured that programs and activities they are conducting or permitting are consistent with ESA requirements and avoid or minimize impacts to the threatened salmonids. When such programs and activities provide sufficient protection and conservation of the listed salmonids, additional regulation through the take prohibitions is unnecessary because it will not meaningfully enhance the conservation of the listed species. NMFS can then focus its enforcement efforts on activities and programs that have not yet provided adequate species protection and conservation. USFWS has published a similar, but not identical proposal for bull trout, which would allow the preparation of Conservation Enhancement Plans. If these plans are approved by USFWS, similar protections from liability under the ESA for bull trout would be granted by USFWS.

The more detailed proposal by NMFS allowed for 13 different “limits on take” with in the rule. These limits were for the following types of activities:

- (1) activities conducted in accord with ESA incidental take authorization;
- (2) ongoing scientific research activities, for a period of 6 months;
- (3) emergency actions related to injured, stranded, or dead salmonids;
- (4) fishery management activities;
- (5) hatchery and genetic management programs;
- (6) activities in compliance with joint tribal/state plans developed within *United States v. Washington* or *United States v. Oregon*.
- (7) scientific research activities permitted or conducted by the states;
- (8) state, local, and private habitat restoration activities;
- (9) properly screened water diversion devices;
- (10) road maintenance activities in Oregon;
- (11) certain park maintenance activities in the City of Portland, Oregon;
- (12) certain development activities within urban areas; and
- (13) forest management activities within the state of Washington.

Detailed standards for meeting the requirements of the “limits” were provided in the proposed rule for some of the 13 activities. Some of the limits, such as (1) above, allow for continued implementation of Habitat Conservation Plans such as the DNR HCP, others, such as (6), are clearly outside the scope of a response by a local governments such as the County or individual tribes. This document currently sets forth County efforts at responding to 3 of the “limits” locally– (8), (10) and (12). These sections are titled Watershed Conservation Planning, Road Maintenance and New Urban and Rural Development in this document. Watershed Conservation Planning is also structured to take into consideration the broader goals of a Conservation Enhancement Plan which USFWS is considering for its “special rule” and meet the goal of ESA “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved”.

## Approval Process

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In both NMFS and USFWS proposed regulations, approval of such a proposal, which would provide for protection of local jurisdictions from liability under ESA would be by the Regional Administrator of the Agency. The NMFS draft 4(d) rule goes into somewhat greater detail of the approval process, which is essentially a federal rulemaking process. Such proposals would be submitted to NMFS and after initial approval by the Regional Administrator, the proposals and supporting documents would be published in the *Federal Register* and allow public comment for 30 days. Based on the comments received, the Regional Administrator could then either approve or disapprove the proposed activities.

Both Clallam County and the State of Washington commented on NMFS draft rule, and specifically the approval process for such proposals. Both governments' comments requested that the formal adoption process outlined in the draft rule be modified to allow for State approval of such proposals, with oversight by NMFS. Given the currently small number of examples of such a plan, NMFS will likely directly review such proposals even if the approval process is changed. Accordingly, this document will be submitted to NMFS, USFWS, and the Governor's Salmon Recovery Office upon completion of an initial review by local governments and organizations. Even upon completion, this document will be a starting point for discussion of the relative merits of the plan, and the process used for "Watershed Conservation Planning" and will undoubtedly change into the future. At this point in time (April 2000) this document is a starting point for local, regional, and state-level discussions on the actions and activities which are appropriate and necessary to meet the requirements and goals of the ESA as well as conserve existing, healthy, salmon populations into the future.

## **Geographic Applicability**

The area encompassed by this document should include the geographical limits for all of the listed populations, and could include the entire areas of Clallam and Jefferson Counties. For Hood Canal/Strait of Juan de Fuca summer chum this area includes portions of Hood Canal and the Strait of Juan de Fuca to east of Dungeness Spit, including all major tributaries. For the Puget Sound chinook it includes the Elwha and Dungeness Rivers and the Strait of Juan de Fuca to the west end of Freshwater Bay. For the Lake Ozette sockeye it includes the Lake Ozette Basin. For Bull trout, it includes the Hoh, Elwha, and Dungeness Rivers and Morse Creek.

The remainder of the document is devoted to further explanation of the ongoing and future activities as they relate to NMFS's "limits" in the draft 4(d) rule.

## **Watershed Conservation Planning Amplifying Information from NMFS**

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“(8) The prohibitions of paragraph (a) of this section (take prohibitions) relating to threatened species of salmonids..... do not apply to habitat restoration activities....provided that:

(i) The states of Washington or Oregon certify to NMFS in writing the activity is part of a watershed conservation plan, where:

(A) NMFS has certified to the State in writing that the State’s watershed conservation plan guidelines meet the following standards. Guidelines must result in plans that:

- (1) Consider the status of the affected species and populations;
- (2) Design and sequence restoration activities based upon information obtained from an overall watershed assessment;
- (3) Prioritize restoration activities based on information from watershed assessment;
- (4) Evaluate the potential severity of direct, indirect and cumulative impacts on the species and habitat as a result of the activities the plan would allow;
- (5) Provide for effective monitoring;
- (6) Use best available science and technology of habitat restoration, use adaptive management to incorporate new science and technology into plans as they develop, and where appropriate, provide for project specific review by disciplines such as hydrology or geomorphology;
- (7) Assure that any taking resulting from implementation will be incidental;
- (8) Require the state, local government, or other responsible entity to monitor, minimize and mitigate the impacts of any such taking to the maximum extent practicable;
- (9) Will not result in long-term adverse impacts;
- (10) Assure that the safeguards required in watershed conservation plans will be funded and implemented;

(B) The state has made a written finding that the watershed conservation plan, including its provisions for clearing projects with other agencies, is consistent with those state watershed conservation plan guidelines.

(C) NMFS concurs in writing with the state finding.”

## **Amplifying information from USFWS**

“we request specific information and comment from Federal and State agencies, local municipalities and private individuals or organizations on the following:

### *Habitat Restoration Activities*

- (1) The types of habitat restoration activities we should address under an amendment to the special rule;
- (2) The standards or criteria for habitat restoration activities that must be met in order to be exempted from take prohibitions; and
- (3) Comments on the nature and scope of minimal monitoring and reporting programs for habitat restoration activities.

### *Regulated Activities*

- (1) The types of regulated activities we should address in an amendment to the special rule;
- (2) The standards or criteria for regulated activities that must be met in order to be exempted from the take prohibitions;

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- (3) The appropriate components of a CEP or similar plan;
- (4) Appropriate monitoring and reporting programs for regulated activities; and
- (5) Information on how habitat for the bull trout should be identified and how it should be protected or enhanced.”

This document serves as the starting point for discussion with USFWS regarding the above standards. Components of a Watershed Conservation Plan to meet both of the guidelines above could be broken down into 3 elements:

- 1) Interlocal agreements for coordination of activities across jurisdictions,
- 2) Prior, ongoing and future habitat enhancement and recovery activities,
- 3) Cooperative Watershed and Habitat Restoration Planning Efforts.

The 2<sup>nd</sup> element should be coordinated with ongoing and prior watershed planning efforts, information sources and recovery plans. Ongoing watershed planning should include specific tasks directed toward salmon restoration and furthering the goals of the ESA.

## Interlocal Agreements

Ongoing Conservation Measures	Future Conservation Measures
Creation of the North Olympic Peninsula Lead Entity Group (1999)	Need: Much better coordination between Clallam County (or a local regional entity), other jurisdictions in Western Washington, Governor’s Salmon Recovery Office, NMFS, and USFWS. (2000)
Creation of the WRIA 18 Initiating Governments for Watershed Planning which consists of the member governments and entities of the Dungeness River Management Team and the Elwha-Morse Management Team (1999)	Need: Lake Ozette Sockeye Steering Committee currently has no dedicated staff or funds. Further, Lake Ozette recovery planning efforts are hampered by lack of political power, bureaucratic recognition and geographic isolation. (2000)
Finalizing interlocal agreements for WRIAs 19 and 20 in early 2000	
Marine Resources Committee (1999)	

## Habitat Restoration Activities

Ongoing Conservation Measures

Future Conservation Measures

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<p>Jobs for the Environment projects – Meadowbrook Creek (1992), 2700 feet bioengineered bank stabilization (1992), McDonald Creek Restoration (1992), Meadow Creek restoration (1992), Bell Creek reconstruction (2200 ft) (1996), Morse Creek Estuary Restoration (1996), Tassel Creek Culvert replacement (1996).</p> <p>Other projects – Matriotti Creek Reconstruction (1993), Bell Creek Estuary restoration (1999), Bogachiel River streambank stabilization/LWD placement (1995&amp;1996). Kincaid Island Dike Removal (1999)</p> <p>Burlingame Bridge on the Dungeness (1999)</p> <p>Siebert Creek Bridge on Old Olympic (1998)</p> <p>LWD jams in the Dungeness and Elwha ((1996-2000)</p> <p>Trust water rights agreement between agricultural water users and Department of Ecology (1998)</p> <p>Water conservation projects in the Irrigation System of the Sequim Dungeness Valley (1996-present)</p> <p>Formation of the Marine Resources Committee implementing the Murray-Metcalf Bill. (1999)</p> <p>Multiple water quality and habitat restoration projects by the Clallam Conservation District in WRIAs 18 and 19, LWD placement by the Makah Tribe in the Sekiu and Clallam Rivers and the Lake Ozette System, Enhancement projects on Bear Creek by the Quileute Tribe, and numerous projects by the Hoh Tribe in the Hoh drainage.</p> <p>Elwha River Ecosystem Restoration (1995-2030)</p>	<p>JimmyComeLately Creek and Estuary Restoration in cooperation with the Jamestown Tribe, WDFW, WDOT, Wa. Dept. of Ecology, USFWS, EPA, Ducks Unlimited, IAC, Clallam Conservation District, (ongoing)</p> <p>Dungeness River Dike reconfiguration: Lower river Estuary restoration, Schoolhouse Bridge Replacement, Corps Dike setback/removal (2002-2005)</p> <p>Canyon Creek Dam Removal and Fish Hatchery Dike Setback (2002)</p> <p>Standardization of protocols and implementation of a region-wide habitat and restoration project monitoring program. (2000)</p>
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## Watershed Planning

### Ongoing Conservation Measures

### Future Conservation Measures

<p>Sequim Bay Early Action Watershed Plan (1990)</p> <p>Dungeness River Comprehensive Flood Hazard Management Plan (1990)</p> <p>Dungeness River Area Watershed Management Plan (1994)</p> <p>Dungeness-Quilcene Plan (1995)</p> <p>Port Angeles Area Watershed/Comprehensive Plan (1995)</p> <p>Marine Resources Committee Planning (1999-future)</p> <p>Clallam County Comprehensive Flood Hazard Management Plan (1996)</p> <p>Sol Duc Watershed Analysis (1995)</p> <p>Dungeness River (USFS) Watershed Analysis (1995)</p> <p>Dungeness Groundwater Protection Strategy (1995)</p> <p>Several Department of Natural Resource Watershed Analyses (1995-present)</p>	<p>WRIA planning under ESHB 2514 for WRIAs 18 (Dungeness and Elwha), 19 (Lyre-Hoko), and 20 (Sol Duc – Hoh) (1999 – 2003)</p> <p>Marine Resources Committee. (2000-beyond)</p> <p>It is expected that entities such as Dungeness River Management Team, Elwha-Morse Management Team, and WRIAs 19&amp; 20 will be ongoing into the foreseeable future.</p> <p><b>Need: Funding and commitment to continue watershed management efforts in the North Olympic Peninsula's WRIAs</b></p>
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## Habitat Restoration Planning

### Ongoing Conservation Measures

### Future Conservation Measures

<p>Creation of North Olympic Peninsula Lead Entity Group. Consists of Clallam and Jefferson counties; the Cities of Sequim, Port Angeles, and Forks; the Jamestown S'Klallam, Elwha Klallam, Makah, Quileute, and Hoh Tribes; and other organizations, such as the North Olympic Salmon Coalition and the Pacific Coast Salmon Coalition.</p> <p>The Lead Entity Group created a Technical Review Group and a Technical Advisory Group. These groups review project proposals and have completed the Limiting Factors Analyses for WRIAs 18, 19 and 20.</p> <p>Dungeness River Restoration Workgroup, formed in 1996, completed <u>Recommended Restoration Projects for the Dungeness River</u> in 1997. This document has been adopted as policy guidance for river management by the Dungeness River Management Team.</p> <p>JimmyComeLately Workgroup, formed in 1997, is working toward a model restoration project on JimmyComeLately Creek which will have application across the Hood Canal summer chum ESU.</p> <p>Lake Ozette Steering Committee, comprised of NMFS, Clallam</p>	<p>Need: Fully integrated (with habitat protection, development, timber harvest, salmon harvest, flood hazard reduction, water use, etc) habitat restoration project lists that are prioritized within and across watersheds</p>
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County, Olympic National Park, WDFW, the Makah and Quileute Tribes, and landowners is conducting an analysis of limiting factors in the within the basin.	
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The central theme of the above actions and activities is the reliance on watershed planning into the future. In order for watershed planning to be successful both in terms of recovery of salmon populations and in responding to the requirements of the ESA the watershed planning groups must exist well beyond the planning stage and into the implementation stage of planning. Only in this way will local jurisdictions and organizations take responsibility for actions that occur in their watersheds. It is the willingness and ability to take responsibility for local actions which effect local citizens that leads to fundamentally better and more integrated decision-making in regards to competing natural resource-based land uses and actions (i.e. habitat restoration, habitat protection, development, timber harvest, salmon harvest, flood hazard reduction, water use, etc.) over time, and the only means to retain a measure of local control of the natural resources in the region.

## **New Urban and Rural Development**

The NMFS proposal lists twelve issues that, if satisfied by local governments, will exempt new urban and rural development activities from the ESA Section 9(a) take prohibitions. By satisfying these twelve points, local jurisdictions can demonstrate that they have programs and activities (either existing or planned) in place that protect the habitat and populations of the threatened salmon. Landowners, potential developers, and the jurisdictions controlling new development will benefit by assurance that their actions, approvals, and maintenance practices are consistent with ESA requirements. They will also be protected from third-party lawsuits that might be initiated due to their activities' alleged impacts on the threatened species.

This document lists a set of ongoing conservation measures that Clallam County will achieve in order to be compliant with the ESA (i.e. qualify for NMFS' "limit on take prohibitions" and USFWS 4(d) exceptions). It also establishes long-term conservation measures that Clallam County must implement in order to maintain the exemption and conserve the species and the ecosystems on which they depend. To a large extent, this document relies on existing ordinances and practices, and serves as a summary of conservation standards and measures that will be detailed in any "exemption agreement" to be entered into prior to the effective date of the 4(d) rule or after reaching agreement with USFWS. To maintain the limit on take, Clallam County will need to conduct the planning and public participation processes necessary to create and implement locally-tailored watershed plans which will establish long-range protections for salmonids in a way that is acceptable to the community, the local jurisdiction, and NMFS. Through watershed conservation planning, participants will discuss the desired future conditions of the watershed and the preservation and restoration efforts needed to achieve those goals.

## **NMFS' Standard for ESA Compliance**

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The proposed 4(d) rule states twelve issues that must be adequately addressed before NMFS will certify as ESA-compliant local ordinances governing new urban development (i.e. local Critical Areas Ordinances, Stormwater Ordinances, etc.). NMFS has indicated that such policies are also appropriate for rural development. The following excerpts from the NMFS draft 4(d) rule presents these issues for local ordinances:

“A. NMFS concludes that development governed by ordinances that meet the listed principles will address the potential negative impacts on salmonids associated with new development. In such circumstances adequate safeguards will be in place that NMFS does not find imposition of additional Federal protections through take prohibitions necessary and advisable for conservation of listed salmonids. The [take] prohibitions...do not apply to urban development activities provided that: Such development occurs pursuant to city or county ordinances that NMFS has agreed in writing are adequately protective...For NMFS to find ordinances...adequate, they must address the following issues in sufficient detail and in a manner that assures that urban developments will contribute to conserving listed salmonids and will result in development patterns and actions that conserve listed salmonids. Many of these issues are derived from Spence, An Ecosystem Approach to Salmonid Conservation (NMFS, 1996) and citations therein. NMFS recognizes that some of these principles require integrated planning for placement of buildings, transportation or stormwater management and that those 12 principles will have to be applied in the context within which the development is to occur, which will differ among major new developments and for small, single lot developments or redevelopments.

1. Avoid inappropriate areas such as unstable slopes, wetlands, areas of high habitat value, and similarly constrained sites.
2. Avoid stormwater discharge impacts to water quality and quantity or to the hydrograph of the watershed.
3. Require adequate riparian buffers around all perennial and intermittent streams, lakes or wetlands.
4. Avoid stream crossings by roads wherever possible, and where one must be provided, minimize impacts through choice of mode, sizing and placement.
5. Protect historic stream meander patterns and channel migration zones; avoid hardening of stream banks.
6. Protect wetlands and wetlands functions.
7. Preserve the hydrologic capacity of any intermittent or permanent stream to pass peak flows.
8. Landscape to reduce need for watering and application of herbicides, pesticides and fertilizer.
9. Prevent erosion and sediment runoff during construction.
10. Assure that water supply demands for the new development can be met without impacting flow needed for threatened salmonids either directly or through groundwater withdrawals, and that any new water diversions are positioned and screened in a way that prevents injury or death of salmonids.

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11. Provide all necessary enforcement, funding, reporting, and implementation mechanisms.
12. The development complies with all other state and Federal environmental or natural resource laws and permits.

- B. The city or county...will provide NMFS with annual reports regarding implementation and effectiveness of the ordinances, including any water quality monitoring information the jurisdiction has available, an aerial photo (or some other graphic display) of each urban development or urban expansion area at sufficient detail to demonstrate the width and vegetative condition of riparian setbacks, success of stormwater retention and other techniques; and a summary of any flood damage, maintenance problems, or other issues.
- C. Prior to determining that city or county ordinances...are adequate, NMFS will publish notification in the *Federal Register* announcing the availability of the ordinances...for public review and comment. The comment period will be not less than 30 days. If new information indicates need to modify ordinances...that NMFS has previously found adequate, the city [or] county...will work with NMFS to draft appropriate amendments and NMFS will...determine whether the modified ordinances...are adequate. If at any time NMFS determines that compliance problems or new information show that the ordinances or guidelines are not achieving desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU, NMFS will notify the jurisdiction. If the jurisdiction does not make changes to respond adequately to the new information, NMFS will publish notification in the *Federal Register* announcing its intention to impose take prohibitions on activities associated with that program. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to subject the activities to all ESA section 9 take prohibitions.
- D. NMFS approval of ordinances shall be a written approval by NMFS...Regional Administrator.

In addition, USFWS provides the following direction in the announcement of a “special rule for bull trout (November 10, 1999)”

“We are also considering amending the special rule to exempt other land and water management activities from the take prohibitions of the Act when they are conducted in accordance with enforceable regulations that provide substantial protection for bull trout. Activities considered for coverage under the amended special rule would be non-Federal activities, and would be implemented under locally prepared, Service-approved, Conservation Enhancement Plans (CEPs). Activities that would be exempted under a special rule could involve some level of impact, but would have to fall within an overall framework that would contribute to the conservation of the species.... We see an opportunity for State agencies and county and local governments (collectively referred to as the Jurisdictions) to provide substantial protection for bull trout. Jurisdictions would be able gain exemptions from the Act’s prohibitions against incidental take for thousands of

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their citizens, including small landowners. Jurisdictions could utilize their authorities to implement existing regulations, or promulgate new regulations that comply with the provisions of the Act. The Jurisdictions would enforce those regulations covering a variety of land and water management activities. A few of these existing authorities include growth management acts, shoreline management acts, State environmental policy acts, timber harvest regulations, and instream construction and water discharge permits. The benefit of an amended 4(d) rule to these Jurisdictions is that it provides an expedient process for obtaining generic approval in advance of ongoing and proposed actions requiring compliance with the take prohibitions of the Act. The amended 4(d) rule would provide take coverage and cost savings to thousands of small land owners, and others, who are conducting activities that may take bull trout. Once established, it is anticipated that Jurisdictions could obtain generic Service approval for State and local regulated activities faster than through the section 10(a)(1)(B) process for habitat conservation plans (HCPs).”

## Ongoing & Future Conservation Measures

Many of local governments’ current regulations, policies and practices go a long way to conserve and protect salmon. The “Ongoing Conservation Measures” in the Plan detail what Clallam County currently has in effect or measures that can be implement now under current regulations, policies and/or budget. “Future Conservation Measures” may also include activities that local jurisdictions have committed to and are currently underway, such as the watershed planning and habitat recovery efforts.

As for other Future Conservation Measures, Clallam County is committed to pursuing and implementing these activities. We know that the citizens of the North Olympic Peninsula are strongly committed to conserving and protecting the salmon, and thus we have full faith that we will be able to implement the future conservation measures as predicted. The following pages present the Clallam County’s proposed actions. The actions will be in effect while site-specific watershed plans are completed through the watershed planning process. This section also outlines major future conservation measures that jurisdictions will undertake.

***Issue 1. Avoid inappropriate areas such as unstable slopes, wetlands, areas of high habitat value, and similarly constrained sites.***

## Amplifying Information from NMFS

None.

## Ongoing Conservation Measures

## Future Conservation Measures

Clallam County Shoreline Master Program (1989) Clallam County Interim Critical Areas Ordinance (1992) County-wide Planning Policies (1993) Clallam County Comprehensive Plan and sub-area	Update Clallam County Shoreline Master Program and Shoreline Code for conformance with the Critical Areas Code and ESA (2001)
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<p>Plans (1995)</p> <p>State Wetland Integration Strategy Report (1995)</p> <p>Clallam County Shoreline Code Amendment (1997)</p> <p>Clallam County Critical Areas Code (1999)</p> <p>Critical Areas GIS Mapping and Updates (1992,1995,1999,2000)</p> <p>Dungeness River Greenway Planning (1994) Jimmy Come Lately Restoration related acquisition</p> <p>Jamestown S'Klallam, WDFW, and IAC acquisition projects throughout Jamestown U&amp;A</p> <p>Completion of Clallam County acquisition policy (2000)</p>	
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***Issue 2. Avoid stormwater discharge impacts to water quality and quantity or to the hydrograph of the watershed.***

**Amplifying Information from NMFS**

“Preserve, or move stream flow patterns (hydrograph) closer to the historic peak flow and other hydrograph characteristics of the watershed. Through a combination of reduction of impervious surfaces, runoff detention, and other techniques development can achieve that purpose within its portion of the watershed. Other development design characteristics, stormwater management practices and buffer requirements will prevent sediment and other pollutants from reaching any watercourse.” (NMFS)

**Interim Conservation Standard**

<p>Adoption of 1992 Washington Department of Ecology Stormwater manual for areas affected by Critical Areas Code</p> <p>Clallam County Critical Areas Code (1999) (Aquatic Habitat Conservation Area and Wetland Buffers, variance requirements to maintain watershed hydrology and stormwater recommendations)</p> <p>WRIA 18,19,20 Limiting Factors Analysis describing stormwater effects by stream basin. (1999,2000)</p> <p>Rural Road Design Standards to minimize impervious surface (1999-2000)</p> <p>Prepare Clallam County Erosion Control and Stormwater Brochure and Standards for small parcels (2000)</p>	<p>Promulgation of clearing and grading code, (2000)</p> <p>Adoption of County-wide stormwater standards (Assumes State Standards meets NMFS/USFWS requirements) (2001)</p> <p>Change SEPA checklist to minimize stormwater impacts from residential development (2000)</p> <p>Complete Forest Practices (conversion) MOU with DNR (2001)</p> <p>Further integrate Comprehensive Planning with Watershed Planning to minimize stormwater impacts (Ongoing)</p>
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## ***Issue 3. Require adequate riparian buffers around all perennial and intermittent streams, lakes, or wetlands.***

### **Amplifying Information from NMFS**

“Because of the intensity of disturbance in surrounding uplands, riparian buffers are at least as critical in urban areas as in rural areas. Without adequately vegetated riparian set-backs, properly functioning conditions including temperature control, bank stability, stream complexity and pollutant filtering cannot be achieved. All existing native vegetation must be retained because of its importance in maintaining bank stability, stream temperature, and other characteristics important to water quality and fish habitat. Prevent destruction of existing native vegetation prior to land use conversions. Where the area contains non-native vegetation, maintained lawn, or is cropped, add or substitute native vegetation within the riparian set-back to achieve a mix of conifer, deciduous trees, understory and ground covers must be planted. To the extent allowed by ownership patterns, the development set-back should be equivalent to greater than one site potential tree height (approximately 200 ft) or at least to the break in slope for steep slopes) from the outer edge of the channel migration zone on either side of all perennial and intermittent streams, in order to protect off-channel high flow rearing habitat and allow full stream function. Within that set-back the first 50 ft should be protected from any mechanical entry or disturbance, structures, or utility installations, and should be dominated by mature conifers, together with some hardwoods and a vigorous, dense understory of native plants. This inner buffer should also be protected from high-impact recreational use and any trails should be of natural, permeable materials. The inner buffer provides multiple values, including root systems for bank stability. The outer 100-plus ft of set-back should be entirely in native vegetation (not in maintained lawn) with a mix of conifer, deciduous trees, understory and groundcovers. Disturbances should be minimized.” (NMFS)

### **Ongoing Conservation Measures**

### **Future Conservation Measures**

<p>State Wetland Integration Strategy Report (1995) Clallam County Critical Areas Code (1999)</p> <ul style="list-style-type: none"><li>• Class 1 Fish and Wildlife Habitat Conservation Areas (Habitat Management Plan Required within 200' of Critical Habitat for Threatened/Endangered Species)</li><li>• Restoration of degraded buffers required</li><li>• Aquatic Habitat Conservation Area Buffers</li><li>• Wetland Buffers and Wetland Variance Criteria</li><li>• Geologic Hazard (Channel Migration Hazard, Ravine, Marine Bluff) protection standards, buffers and Variance Criteria.</li></ul>	<p>Integration of Limiting Factors Analysis with Watershed Planning under 2514 (2000-2004)</p> <p>Update Clallam County Shoreline Master Program and Shoreline Code for conformance with the Critical Areas Code and ESA (2001)</p>
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**Issue 4. Avoid stream crossings by roads wherever possible, and where one must be provided, minimize impacts through choice of mode, sizing and/or placement.**

## Amplifying Information from NMFS

“One method of minimizing stream crossings and disturbances is to optimize transit opportunities to and within newly developing urban areas. Consider whether potential stream crossings can be avoided by access redesign. Where crossings are necessary, minimizing their impacts by preferring bridges over culverts; sizing bridges to a minimum width; designing bridges and culverts to pass at least the 100-year flood and associated debris, and meet WDFW criteria; assuring regular monitoring and maintenance over the long term; and prohibiting closing over of any intermittent or perennial stream. WDFW’s Fish Passage Design at Road Culverts, March 3, 1999 provides an excellent framework for action.” (NMFS)

### Ongoing Conservation Measures

### Future Conservation Measures

Clallam County Comprehensive Plan and sub-area Plans (1995) Clallam County Critical Areas Code (1999) <ul style="list-style-type: none"><li>• New road crossings of a typed stream requires a Variance from code.</li><li>• Rural Road Standards (200-2001)</li></ul> WRIA 18,19,20 Limiting Factors Analysis describing road/culvert effects by stream basin. (1999,2000)	Update Clallam County Shoreline Master Program and Shoreline Code for conformance with the Critical Areas Code and ESA (2001)  Ongoing infrastructure projects such as the Jimmycomelately Bridge, Burlingame and Schoolhouse Bridges on the Dungeness and culvert replacement such as Jamestown Road (Cassalary Creek), Spath road (Mattriotti Creek), Whitcomb-Diimmel Road (Tassel Creek), Nordstrom Road and Wasankari Roads (Salt Creek), and Hoko-Ozette Road (Johnson Creek).
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**Issue 5. Protect historic stream meander patterns and channel migration zones; avoid hardening of stream banks.**

## Amplifying Information from NMFS

“All development should be designed to allow streams to meander in historic patterns of channel migration. Adequate riparian buffers linked to the channel migration zone should avoid need for bank erosion control in all but the most unusual situations. Rip-rap blankets or similar hardening techniques are not allowed, unless bioengineering solutions are impossible because of particular site constraints. Habitat elements such as wood, rock, or other naturally occurring materials must not be removed from streams. WDFW’s “Integrated Streambank Protection Guidelines, June, 1998” provides sound guidance, particularly regarding mitigation for gravel recruitment and channel complexity lost through streambank hardening.” (NMFS)

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Note: NMFS failed to mention the importance of protection of nearshore habitat and shorelines in the marine environment in the draft 4(d). They received numerous comments on this omission. The Bank Stabilization standards in the Critical Areas Code and the Update of the Shoreline Master Program and Code are the portions of Clallam County Code that would address marine shorelines. The current level of knowledge regarding the management of the nearshore marine environment is limited. More study is needed regarding management of these areas to conserve salmonid habitat and prey species for salmon.

## Ongoing Conservation Measures

## Future Conservation Measures

<p>Clallam County Critical Areas Ordinance (1999)</p> <ul style="list-style-type: none"> <li>• Channel Meander Hazards</li> <li>• Bank Stabilization Standards</li> </ul> <p>Update Dungeness River Comprehensive Flood Control Management Plan (2000)</p> <p>FCAAP Funded Channel Meander Zone Mapping &amp; Information Project (2000-2001)</p> <p>Kincaid Island Dike Removal Project (2000)</p> <p>Mapping of hardened Marine and Freshwater Shorelines in WRIA 18,19, and 20 Limiting Factors Analysis</p>	<p>Update Clallam County Shoreline Master Program and Shoreline Code for conformance with the Critical Areas Code and ESA (2001)</p> <p>Reconfiguration of Dungeness River Corps Levee (2000-2006)</p>
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### ***Issue 6. Protect wetlands and wetlands functions.***

#### **Amplifying Information from NMFS**

“Protect wetlands and the vegetation surrounding them to maintain wetland functions. Design around wetlands for their positive habitat, water quality, flood control, and groundwater connection values, providing adequate buffers. Retain all existing natural wetlands.” (NMFS)

## Ongoing Conservation Measures

## Future Conservation Measures

<p>State Wetland Integration Strategy Report (1995)</p> <p>Clallam County Critical Areas Code (1999)</p> <ul style="list-style-type: none"> <li>• Landscape and Watershed-based Functional Assessment Unique to Clallam County Wetlands</li> <li>• Restoration of degraded buffers required</li> <li>• Wetland Buffers and Wetland Variance Criteria</li> <li>• Critical Areas GIS Mapping and Updates (1992,1995,1999,2000)</li> </ul>	<p>Watershed Planning under ESHB 2514 to maintain hydrology of watersheds (1999-2005)</p> <p>Update Clallam County Shoreline Master Program and Shoreline Code for conformance with the Critical Areas Code and ESA (2001)</p>
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| <ul style="list-style-type: none"><li>EPA-funded Wetland Function Educational Project (2000)</li></ul> |  |
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***Issue 7. Preserve the hydrologic capacity of any intermittent or permanent stream to pass peak flows.***

### Amplifying Information from NMFS

“Local ordinances should assure that, at a minimum, the Flood Management Performance Standards of Title 3 of Metro’s Urban Growth Management Functional Plan are applied to all development in urban expansion areas, together with any other steps needed to protect hydrologic capacity. In combination with the buffer or set-back provisions above, this means that for new, large developments, fill or dredging should never occur unless in conjunction with a necessary stream crossing.” (NMFS)

#### Ongoing Conservation Measures

#### Future Conservation Measures

<p>Clallam County Critical Areas Code (1999)</p> <ul style="list-style-type: none"><li>Adoption of 1992 Washington Department of Ecology Stormwater manual for areas affected by Critical Areas Code</li><li>Aquatic Habitat Conservation Area Protection Standards</li><li>Geologic Hazard Protection Standards</li></ul>	<p>Creation of clearing and grading code, (2000)</p> <p>Adoption of County-wide stormwater standards (2001)</p> <p>Cooperation with City of Sequim in Stormwater Planning for Bell Creek Basin (2001-2003)</p>
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***Issue 8. Landscape to reduce need for watering and application of herbicides, pesticides and fertilizer.***

### Amplifying Information from NMFS

“Plans must include techniques local governments will use to encourage planting with native vegetation, reduction of lawn area, and reduced water use. These steps will contribute to water conservation and ultimate reduction of flow demands that compete with fish needs, as well as reduce applications of fertilizers, pesticides, herbicides that may contribute to water pollution.” (NMFS)

#### Ongoing Conservation Measures

#### Future Conservation Measures

<p>Clallam County Critical Areas Code (1999)</p> <ul style="list-style-type: none"><li>Adoption of 1992 Washington Department of Ecology Stormwater manual for areas affected by Critical Areas Code</li><li>Buffer Standards for all Critical Areas</li></ul> <p>Prepare Clallam County Erosion Control and Stormwater</p>	<p>Creation of clearing and grading code, (2000)</p> <p>Adoption of County-wide stormwater standards (2001)</p> <p>Change SEPA checklist to encourage reduced impervious surfaces, retention/planting of native vegetation (2000)</p>
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Brochure and Standards for small parcels (2000)	Watershed Planning under ESHB 2514 to maintain hydrology of watersheds (1999-2005)
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**Issue 9. Prevent erosion and sediment runoff during construction.**

**Amplifying Information from NMFS**

“Prevent discharge of sediments by assuring that at a minimum the requirements of Title 3 of Metro’s Urban Growth Management Functional Plan are applied in large scale urban developments.” (NMFS)

**Ongoing Conservation Measures**

**Future Conservation Measures**

Adoption of 1992 Washington Department of Ecology Stormwater manual for areas affected by Critical Areas Code	Promulgation of clearing and grading code, (2000)
Clallam County Critical Areas Code (1999) (Aquatic Habitat Conservation Area and Wetland Buffers, variance requirements to maintain watershed hydrology and stormwater recommendations)	Adoption of County-wide stormwater standards (Assumes State Standards meets NMFS/USFWS requirements) (2001)
WRIA 18,19,20 Limiting Factors Analysis describing stormwater/sedimentation effects by stream basin. (1999,2000)	Change SEPA checklist to minimize stormwater impacts from residential development (2000)
Rural Road Design Standards to minimize impervious surface (1999-2000)	Complete Forest Practices (conversion) MOU with DNR (2001)
Prepare Clallam County Erosion Control and Stormwater Brochure and Standards for small parcels (2000)	Further integrate Comprehensive Planning with Watershed Planning to minimize stormwater impacts (Ongoing)

**Issue 10. Assure that water supply demands for the new development can be met without impacting flow needed for threatened salmonids either directly or through groundwater withdrawals, and that any new water diversions are positioned and screened in a way that prevents injury or death of salmonids.**

**Amplifying Information from NMFS**

None.

Note: Regulation of water withdrawal from ground or surface waters is within the regulatory control of the Washington State Department of Ecology in this state. Regulation of water diversions (for the presence and adequacy of fish screens) is the responsibility of the Washington State Department of Fish and Wildlife. The primary task of the current watershed planning councils in WRIAs 17,18,19, and 20 is to focus on the issue of water conservation and supply.

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## Ongoing Conservation Measures

## Future Conservation Measures

<p>Sequim Bay Early Action Watershed Plan (1990)</p> <p>Dungeness River Area Watershed Management Plan (1994)</p> <p>Dungeness-Quilcene Plan (1995)</p> <p>Sequim-Dungeness Groundwater Protection Strategy (1994)</p> <p>Port Angeles Area Watershed/Comprehensive Plan (1995)</p> <p>Dungeness River (USFS) Watershed Analysis (1995)</p> <p>Dungeness Groundwater Protection Strategy (1995)</p> <p>Dungeness River Water Conservation Projects (1996-present)</p> <p>Sequim-Dungeness Hydrogeologic Study with USGS (1997-present)</p> <p>WRIA planning under ESHB 2514 for WRIAs 18 (Dungeness and Elwha), 19 (Lyre-Hoko), and 20 (Sol Duc – Hoh) (1999 – 2003)</p>	<p>It is expected that entities such as Dungeness River Management Team, Elwha-Morse Management Team, and WRIAs 19&amp; 20 will be ongoing into the foreseeable future.</p>
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***Issue 11. Provide all necessary enforcement, funding, reporting, and implementation mechanisms.***

### Amplifying Information from NMFS

“Identify a commitment to and the responsibility to regularly monitor and maintain detention basins and other management tools over the long term, and to adapt practices as needed based on monitoring results.” “Provide all enforcement, funding, monitoring, reporting, and implementation mechanisms needed to assure that ultimate development will comply with the ordinances.” “The city or county...will provide NMFS with annual reports regarding implementation and effectiveness of the ordinances, including any water quality monitoring information the jurisdiction has available, an aerial photo (or some other graphic display) of each urban development or urban expansion area at sufficient detail to demonstrate the width and vegetative condition of riparian set-backs, success of stormwater retention and other techniques; and a summary of any flood damage, maintenance problems, or other data issues.”(NMFS)

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## Ongoing Conservation Measures

## Future Conservation Measures

<p>Addition of 2 Code Compliance Officers to Clallam County Department of Community Development (2000)</p> <p>Clallam County Streamkeepers Program for water quality, habitat and benthic invertebrate monitoring (1997-present)</p> <p>Watershed plan related water quality monitoring (1991-present)</p> <p>Well monitoring database (1997-present)</p>	<p>Formulation of monitoring strategy during watershed planning and habitat restoration processes and in approval of this plan by NMFS, USFWS and the Governor's Salmon Recovery Office (2000-2006).</p>
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***Issue 12. The development complies with all other state and Federal environmental or natural resource laws and permits.***

### Amplifying Information from NMFS

None.

Note: The proposed 4(d) rule is in contradiction on this point. In the text explaining the rule, this requirement is linked to #11 above, and requires a jurisdiction to have the enforcement and tracking ability to ensure development complies with the plan (i.e. this document in its final format). In the text of the proposed rule itself, this requirement is put forth without any explanation of intent. It is difficult to foresee what NMFS expects from this requirement. It is also practically impossible for any jurisdiction to certify to NMFS that any particular development, regardless of scale, meets with "all other state and Federal environmental or natural resource laws and permits."

## Ongoing Conservation Measures

## Future Conservation Measures

<p>Addition of 2 Code Compliance Officers to Clallam County Department of Community Development (2000)</p> <p>GMA requirements for consistency (approved water source) prior to issuance of building permits (1993)</p>	<p>Formulation of monitoring strategy during watershed planning and habitat restoration processes and in approval of this plan by NMFS, USFWS and the Governor's Salmon Recovery Office (2000-2006).</p> <p>Better coordination across jurisdictions, especially cities and counties, Washington Department of Fish and Wildlife, Washington Department of Ecology, US Army Corps of Engineers, and NMFS and USFWS themselves.</p>
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### Road Maintenance

The proposed standards in the 4(d) rule can be broken down into three general areas. The first is the setting of regional standards for road maintenance. Washington State DOT has been in negotiations with NMFS and USFWS in regards to these standards. The second is a schedule and means of tracking training for road crews to implement

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these standards. The third is the development of a “guidebook” for road maintenance that is specific to given road segments (i.e. when to maintain the ditches to cause the least damage to aquatic resources, culvert maintenance schedules, management restrictions around wetlands adjacent to the road, etc.).

## Amplifying Information from NMFS

The proposed 4(d) rule states what road maintenance issues must be addressed before NMFS will certify local road maintenance activities as ESA-compliant. The following excerpts from the 4(d) rule presents these road maintenance issues.

- A. The take prohibitions...do not apply to road maintenance activities provided that:
1. The activity results from routine road maintenance activity by...county or city employees that complies with the Oregon Department of Transportation's Maintenance Management System Water Quality and Habitat Guide (June, 1999).
  2. Neither pesticide and herbicide spraying nor ODOT dust abatement are included within this exception, even if in accord with the state's guidance.
  3. Prior to implementing any changes to the 1999 Guide the Oregon Department of Transportation will provide NMFS a copy of the proposed change for review and approval as within this exception.
- B. Prior to approving any change in the 1999 Guide, NMFS will publish notification in the Federal Register announcing the availability of the draft changes for public review and comment. Such an announcement will provide for a comment period on the draft changes of not less than 30 days.
- C. Any city or a county in Oregon desiring its routine road maintenance activities to be within this exception first enters a memorandum of agreement with NMFS committing to apply the management practices in the guide, detailing how it will assure adequate training, tracking, and reporting, including how it will control and narrow the circumstances in which a practice will not be followed because it is not “feasible,” “practical,” or “possible” and describing in detail any dust abatement practices it requests to be covered.
- D. On a regular basis, NMFS will evaluate the effectiveness of the program in protecting and achieving habitat function commensurate with conservation of the listed salmonids. With a full-time staff person at NMFS dedicated to coordination and communication with ODOT staff on a regular basis and participation in monthly and quarterly review meetings, NMFS is assured of regular feedback on how the program is operating. That feedback will provide information on the frequency and nature of any deviations from the practices specified in the Guide...Finally, through annual reporting of external complaints and their outcomes, ODOT will identify needed “modifications of, or improvements to” any of the minimization/avoidance measures and has committed to making changes to the measures as necessary. Likewise, ODOT will incorporate changes reflecting new scientific information and new techniques and materials. If the program does not achieve its goals, NMFS will identify ways in which the program needs to be altered or strengthened. Changes may be required if the program is not protecting desired habitat functions, or where even with the habitat characteristics and functions originally targeted, habitat is not supporting population productivity levels needed to conserve the ESU. If...the ODOT program to no longer provide sufficient protection for threatened salmonids, NMFS shall notify ODOT. If ODOT does not make

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changes within a mutually determined time period to respond adequately to the new information, NMFS will publish notification in the Federal Register announcing its intention to impose take prohibitions on activities associated with the program. Such an announcement will provide for a comment period of not less than 30 days, after which NMFS will make a final determination whether to subject the activities to all ESA section 9 take prohibitions.

E. NMFS' approval of city or county programs following the ODOT program, or of any amendments, shall be a written approval by NMFS' Northwest Regional Administrator.

## **Existing and On-going Conservation Efforts**

Clallam County Road Department is convening a regional work group (DOT Olympic Region and Clallam, Jefferson, Mason, and Grays Harbor Counties) in June, 2000, to review and amend the DOT standards for maintenance and develop a region-wide training and tracking process, which will likely be lead by DOT.

With the use of Clallam County's GIS system and geographic framework process, we will be developing road segment specific road maintenance guides, beginning in those areas with the most effect on listed stocks. This process will likely take several years to complete and require the commitment of substantial funds. Clallam County is currently seeking funding for a new, more detailed topographic data layer of the County to simplify this task.

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## Appendix:

### **General Habitat Management Plans and Guidance for Threatened Species of Salmonids in Clallam County**

The attached document explains recommended habitat management plans for development activities within and adjacent to Critical Habitat for threatened salmonid species within Clallam County. The recommendations are intended as “boilerplate” habitat management plans which would be accepted by Clallam County as qualifying for “no net loss of critical habitat” when submitted in conjunction with other required reports and actions such as drainage/erosion control plans, geotechnical reports, and meeting all other standards of Clallam County Code.

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## General Habitat Management Plans and Guidance for Threatened Species of Salmonids in Clallam County

4/11/00

The guidance/recommendations incorporated in this document are subject to change in the future, when additional scientific information becomes available or specific direction is received from the listing agencies (National Marine Fisheries Service (NMFS) or US Fish and Wildlife Service (USFWS)). The need for additional information in the marine shoreline environment is especially acute, as the relationship between certain development activities and habitat quality is poorly understood. Given these uncertainties, this document is intended to provide minimum requirements for a Habitat Management Plan, and as a starting point for professionals who will be preparing such plans.

Class I Wildlife Habitat Conservation Areas are defined within the Clallam County Critical Areas Code as "Within 200-feet or equivalent to critical habitat designations for threatened or endangered species under the federal Endangered Species Act, or Washington State law". On Feb. 16, 2000 NMFS published final rule designating "critical habitat" for the following "threatened" species – Puget Sound Chinook, Hood Canal-Strait of Juan de Fuca Summer Chum, and Lake Ozette Sockeye. The Critical Habitat designations included areas which are currently inhabited by the species such in Jimmycomelately Creek, the Dungeness River, the Elwha River, the Ozette River, Lake Ozette and tributaries, and the Strait of Juan de Fuca from the eastern County line to the western head of Freshwater Bay. On March 17, 2000, these critical habitat designations became effective, and Clallam County began regulation of these areas as Class 1 and Wildlife Habitat Conservation Areas. Regulated development activities which occur within or adjacent to (200 feet landward from the Ordinary High Water Mark (OHWM)) Class I Wildlife Conservation Areas require the preparation of a Habitat Management Plan pursuant to the requirements of the Clallam County Critical Areas Ordinance.

The guidance outlined below serves as recommended Habitat Management Plans for minor new development (i.e. predominantly single family residences) proposed adjacent to Class 1 Wildlife Conservation Areas. Adherence to specific elements outlined below will satisfy the requirements for a Habitat Management Plan. Departure from the guidance outlined below, or major new development (land divisions, commercial or industrial development or clearing in excess of an acre) will require preparation of a site-specific Habitat Management Plan by a private consultant.

### General Habitat Management Plans

The locations within the County which currently are classified as Class I Wildlife Conservation Areas for the threatened salmonids listed above occur in both the marine and freshwater environments. The preparation of a Habitat Management Plan will be different in depending upon the environmental conditions in the local area. The following guidance is specific to the general types of environments which can be found within the present Class I Wildlife Habitat Conservation Areas in the County. It should be noted that the standards outlined below will in many cases be less stringent than required in other parts of the Critical Areas Code, or in other portions of County Code. For instance, building setbacks from the top of a Marine Bluff will also need to meet the standards of the Shoreline Code and the Building Code; Channel meander hazards (a Geologic Hazard Area under the Critical Areas Code) are in many locations farther than 200 feet from the OHWM, development in these areas would not be allowed without a Variance from the standards of the Critical Areas Code.

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## Marine Shorelines –

### Top of Marine Bluff –

- 1) Permanent structures are located at least one site potential tree height (125-180 feet) from the top of the bluff or 200 feet from the OHWM . Native vegetation within this zone should be retained.
- 2) Where native vegetation is not present, it should be replanted and restored when it is possible and safe to do so.

### Toe of Marine Bluff – (total distance from base of bluff to OHWM less than 200 feet)

- 1) The amount of clearing and grading is the minimum necessary, and is located such that the need for future bulkheading is eliminated. Mitigation measures could include reworking of existing bulkheads to form a more “natural” beach environment, or beach nourishment.
- 2) Proposed developments in these areas will require the preparation of a geotechnical report and a Variance (Public Hearing before the County’s Hearing Examiner) from the Geologic Hazard Protection standards of the Critical Areas Code in addition to the Habitat Management Plan.

Low Angle Bluff – This type of shoreline is mostly restricted to areas of Sequim Bay and other protected waters along low energy marine shorelines. These areas generally can fully support coniferous species of trees and a normal forest understory.

- 1) Development is located more than one site potential tree height (125-180 feet) from the shoreline. These areas will also likely require preparation of a geotechnical report if located on the slope itself.

Low Bank or No Bank Littoral Beaches – These areas are located at Diamond Point, parts of interior Sequim Bay, the Jamestown/Jamestown Beach/Seashore Lane/3 Crabs road shoreline, the mouth of Morse Creek, and areas east and west of the Elwha River. The primary cause of habitat disruption on these types of shorelines, which are characterized by annual beach erosion and deposition cycles, is the construction/maintenance of marine bulkheads. Development should be located well landward of the OHWM to prevent the need for bulkheading in the future. Typically this means location of new development well back from the primary beach berm, and retention of the native vegetation (usually beach rye) on the beach berm or primary dune.

- 1) Development is located landward of the start of tree cover where tree cover is present. In areas where tree cover is not present, development should be located 50 feet landward from the landward edge of the primary beach dune.
- 2) Proposals for reconstruction of existing bulkheads should include consideration of beach nourishment, alternative design of the bulkhead, or removal of the bulkhead. A coastal geologist or engineer must be consulted in proposals for construction or maintenance of marine bulkheads. The implementation of the Habitat Management Plan should be monitored no less than every 5 years. Monitoring can include site visits and remote sensing data/use of the County Geographic Information System.

Deltas and Estuaries – Maintenance of tidal flux and flow patterns is essential to the proper functioning of these areas as fish and wildlife habitat and to reduce flood damage to adjacent properties or structures.

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- 1) Development is located outside of the floodplain wherever possible (as required in the Frequently Flooded Areas chapter of the Critical Areas Code) and deposition of fill eliminated.
- 2) Development should be located at least one site potential tree height from the OHWM or edge of the wetland, and native vegetation retained between the development and the OHWM or wetland edge.

Rivers and Creeks –Most rivers and creeks are currently bounded by either Channel Meander Hazard or other Geologic Hazards (i.e. ravines). Development in these areas will require the preparation of geotechnical reports according to the standards listed at CCC 27.12.820 in the Critical Areas Code. In general, those areas which are not bounded by a geologic hazard area have had the riparian zones reduced or eliminated by past land-use practices. In these areas the buffers should be restored, and development located at least one site potential tree height from the OHWM. Construction of new dikes, levees or bulkheads will generally occur within Channel Meander Hazards associated with riverine systems. These types of developments will require a Variance (Public Hearing before the County’s Hearing Examiner) from the Critical Areas Code and will require the preparation of a geotechnical report in addition to a Habitat Management Plan.

- 1) Development is located outside of the jurisdictional area if possible given lot dimensions. All native vegetation should be retained within site potential tree height of the OHWM.
- 2) Where the native vegetation no longer exists within one site potential tree height, native tree cover is re-established.
- 3) Reconstruction of existing dikes, levees, and bulkheads incorporates large woody debris and vegetation (and meet the standards for Stabilization and Relocations defined in the Critical Areas Code). Use of WDFW’s Integrated Streambank Protection Guidelines is recommended.

## General Requirements:

The implementation of the Habitat Management Plan should be monitored no less than every 5 years. Monitoring can include site visits and remote sensing data/use of the County Geographic Information System.

- 1) Clallam County will be allowed to monitor compliance with the Habitat Management Plan into the future. Before entering onto the property for monitoring of compliance with the plan or the success of any vegetative plantings, Clallam County shall give the landowner 2 weeks written notice.

## **Adherence to the Habitat Management Plan** – As required in the Critical Areas Code:

“Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor: 1) a notice to title of the presence of the critical area or buffer, 2) a statement as to the applicability of this chapter to the property, and 3) a statement describing possible limitations on actions in or affecting such areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to: roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement. Applies to: Wetlands, Aquatic Habitat Conservation Areas, Class I Wildlife Conservation Areas, Landslide Hazards, and Frequently-flooded areas.”(CCC 27.12.320.4)

For Class I Wildlife Conservation Areas, the notice to title includes a statement that “A Habitat Management Plan has been formulated for this parcel and is on file with the Clallam County

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Department of Community Development. All development on this parcel shall occur in accordance with the provisions of the Habitat Management Plan.”

This will ensure that departure from the requirements of the Habitat Management Plan will be a violation of County Code. In addition, final approval of any development undertaken pursuant to a Habitat Management Plan shall not be given if any provisions of the plan are not adhered to. Final approval will not be given until such time as a mitigation plan for the effect habitat is prepared, approved by the County, and implemented.

## **Privately Prepared Habitat Management Plans**

For major new development, or for development proposals which require departure from the general plans listed above, a Habitat Management Plan must be formulated by a qualified biologist and submitted for the County to review and approval. The standard for approval by the County is that “no net loss of wetland or critical habitat results”. Development proposals which will result in a net loss of critical habitat will require a Variance from the standards of the Critical Areas Code.

The standards for preparation of a Habitat Management Plan are defined in the Critical Areas Code as follows:

### **C.C.C. 27.12.830 HABITAT MANAGEMENT PLAN**

1. This report shall identify how the development impacts Class I or II Wildlife Habitat Conservation Areas. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991) may serve as guidance for this report or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended.
2. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date of map revision.
3. The Habitat Management Plan shall also contain a report which describes the nature and intensity of the proposed development; an analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and a plan which identifies how the applicant proposed to mitigate any adverse impacts to wildlife habitats created by the proposed development.
4. This plan shall be prepared by a person who has been educated in this field and has professional experience as a wildlife biologist. For minor new development proposals, the Department of Community Development may complete the plan unless the applicant wishes to employ a qualified professional at the applicant's expense. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Department of Fish and Wildlife as required under the Bald Eagle Management Rules.

Specifically, if the proposed development activity will have an effect on the habitat identified for protection, the “mitigation” sequence for the plan is defined in the next two sections:

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## c.c.c. 27.12.840 Mitigation plan - GENERAL REQUIREMENTS

1. The applicant shall identify and describe why those regulated uses and activities are not and cannot be consistent with the provisions of this chapter and shall describe how impacts shall be mitigated.
2. The applicant shall mitigate impacts to critical areas by doing one or more of the actions listed below in order of preference:
  - a. Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve impacts to critical areas or buffer impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished in one of the following methods, or through other methods as deemed appropriate: selecting a reasonable alternative that avoids most critical area impacts; applying reasonable mitigation measures, such as drainage and erosion control, preservation of critically important plants and trees, limitation of access to critical areas, seasonal restrictions on construction activities, phased development, and/or establishment of buffers.
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment for unavoidable impacts. This may be done by reestablishing critical area functions and buffers on-site which have been lost by alterations or activities.
  - d. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments for unavoidable impacts. This may be done by intentionally creating critical area functions and buffer at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts.
3. The Review Authority shall determine whether identified impacts can be first avoided and secondly minimized. For any impacts to critical areas that are determined to be unavoidable and necessary, the Review Authority shall determine whether such impact should be rectified or compensated. The Review Authority shall affirm that no net loss of wetland or critical habitat results.
4. Critical area impacts can be mitigated if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of the property.

## C.C.C. 27.12.850 AQUATIC AND WILDLIFE HABITAT CONSERVATION AREAS - SPECIAL REQUIREMENTS

1. Mitigation plans for impacts to wildlife habitat conservation areas shall be prepared by a biologist with professional experience in mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, may serve as guidance for preparing mitigation plans to protect Wildlife Habitat Conservation Areas.

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2. Possible mitigation measures to be included in the report, or required by the Review Authority, could include, but are not limited to:
  - a. Establishment of buffer zones;
  - b. Preservation or restoration of critically important plants and trees, or other affected areas;
  - c. Limitation of access to habitat areas;
  - d. Seasonal restriction of construction activities; and
  - e. Establishing phased development requirements and/or a timetable for periodic review of the plan.