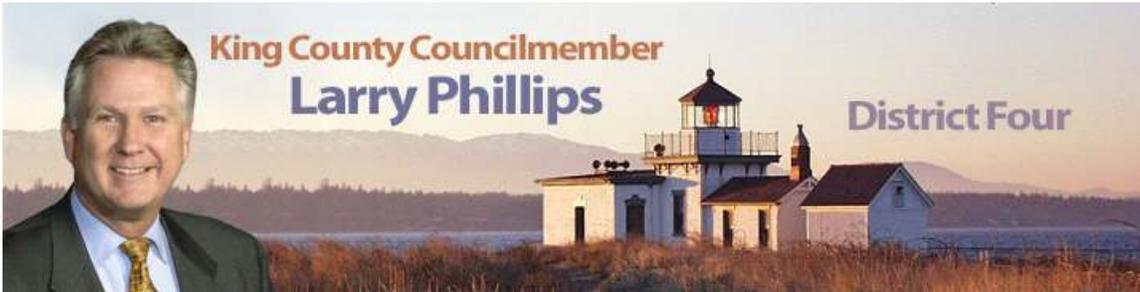


Jimenez, Cathy

From: Phillips, Larry
Sent: Wednesday, January 20, 2010 10:05 AM
To: Jimenez, Cathy
Cc: Isaacson, Mark; Reed, Mike; Kilroy, Sandra
Subject: Large Woody Debris Public Rule comments

Attachments: Microsoft Photo Editor 3.0 Picture



Dear Ms. Jimenez,

Thank you for the opportunity to comment on the proposed Draft Public Rule and Draft Department Procedures addressing recreational safety when placing large wood in rivers. As you know, I was the prime sponsor of [Motion 2009-0367](#), the legislation which called for creation of this rule, and so especially appreciate the Department of Natural Resources and Parks' (DNRP) efforts to develop this rule to address the issue of large woody debris (LWD) in King County waterways, and its impacts on river safety, flooding, and the environment.

Overall, I believe that this draft rule and procedures represent a significant step forward for clarifying current practices and developing new practices that appropriately balance the broad spectrum of river users and functions. I wish to offer the following specific comments for consideration:

- The **public involvement** process outlined in the draft procedures (V. 4.) is comprehensive and seems to allow for full information and transparency for members of the public, as well as meaningful opportunities for the public to provide feedback and input.
- I am concerned about a potential lack of transparency in developing the **list of rivers commonly used for recreation** (referred to in IV. Definitions and V. 2.). Under these draft procedures, DNRP appears to have sole discretion in developing and maintaining the list of rivers used for recreation; in turn, this list will determine which LWD projects will be subject to the LWD rules and procedures. I urge DNRP to clarify how this list will be developed and revised, including opportunities for meaningful public input regarding this list.
- I am concerned about the **Sheriff's ability to "restrict recreational use** in the project area so that the project can meet its objectives while also protecting public safety." (V. 3. A.) As county government faces increasing budgetary constraints—with no end in sight—and the Sheriff reports difficulties in keeping basic police presence on the streets, I am not confident that the Sheriff will have the resources necessary to fulfill this objective.
- I am concerned about **placing LWD in the same section of the same river reach** as "additional mitigation measures...to compensate for reduced project performance." (V. 3. A.)

In placing additional LWD in the same section of river, there would appear to be a great risk of jeopardizing public safety in the same way that the original LWD installation does. This strategy, if implemented, must have compelling public safety merit.

With spring around the corner when river recreation will start to pick up, I wish to be certain that we are doing everything we can to ensure that King County's beautiful rivers and streams remain safe and accessible for people and fish. I believe that by taking adequate safety measures, large wood can be placed in waterways to benefit fish habitat and help control flooding while minimizing risks to people boating and swimming in rivers. This draft rule and procedures are an important step toward this worthy goal.

Thank you again for your work to develop these draft rules and procedures, and for the opportunity to comment. I look forward to reviewing the public input and final draft rules.

Sincerely,

Larry Phillips, Councilmember
Metropolitan King County Council, District Four
King County Courthouse
516 Third Avenue, Room 1200
Seattle, WA 98104-3272
206.296.1004
larry.phillips@kingcounty.gov

For more information: <http://www.kingcounty.gov/phillips>

To sign up for my eNews: <http://www.kingcounty.gov/Phillips/Newsletters.aspx>

N:\LPCorrespondence\2010\NaturalResources\dnrp_lwdrules_comment.doc

Jimenez, Cathy

From: Jensen, Christine
Sent: Thursday, February 18, 2010 9:29 AM
To: Jimenez, Cathy
Cc: Isaacson, Mark; Richey, Joanna; Bleifuhs, Steve
Subject: Large Wood Public Rule Comment
Attachments: Public Cmtns 2-5-10 (letter + 5 attachments.pdf)

Cathy,

Councilmember Lambert and I recently met with Joanna and Steve to share our comments on the proposed Large Wood Public Rule. I also wanted to express our support for the comments and suggestions that David Spohr outlined in his attached letter on the issue. David's comments succinctly state our shared concerns regarding the intent of the original ordinance that directed the Department to draft the public rule. We are hopeful that DNRP will be able to address these issues in the final version of the rule.

Thanks!

Christine Jensen

Policy Director | King County Councilmember Kathy Lambert

516 Third Ave, Room 1200 | Seattle, WA 98104

206.296.0308 | christine.jensen@kingcounty.gov

This email and any response to it constitute a public record and may be subject to public disclosure.

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King County

OMBUDSMAN

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ombudsman@kingcounty.gov
www.metrokc.gov/ombudsman

February 5, 2010

Department of Natural Resources and Parks
ATTN: Cathy Jimenez
201 South Jackson Street, Room 600
Seattle, WA 98104

Re: Public Comments on January 4, 2010, draft "Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers"

Dear Cathy:

Thank you for the opportunity to comment on the Department of Natural Resources and Parks' (DNRP's) proposed rule involving placing large wood in King County rivers.

By way of background, the King County Ombudsman's Office was created by the voters of King County in the County Home Rule Charter of 1968 and operates as an independent office within the legislative branch of King County government. We do not make policy,¹ and we offer no broad comments about large wood emplacements. But we do inquire, among other things, whether agency actions are "contrary to law or regulation."²

Here that has meant reviewing the language of both the draft Public Rule and its attached draft Appendix A (collectively, "Procedures") in light of the requirements of Ordinance 16581 ("the Ordinance"). We believe that portions of the draft Procedures fall short of the Ordinance in three critical respects.

First, the Procedures appear not to reflect the Ordinance's admonition that procedures and design options affording the greatest safety for river users shall be of "primary" consideration. Second, the Procedures reference "recreational safety," potentially ignoring other safety considerations inherent in the "public safety" concept the Ordinance repeatedly requires be addressed and considered. Finally, despite the Ordinance's mandate that the rules "shall apply to all rivers" the Procedures apply only to "rivers commonly used for recreation."

¹ KCC chapter 2.52 does contain a narrow exception, not applicable here, requiring us to "bring to the attention of the council [our] views concerning desirable legislative change," but only in those instances where we believe agency action has been "dictated by laws whose results are unfair or otherwise objectionable." KCC 2.52.130(B).

² KCC 2.52.100(A)(1).

We recommend that the Procedures be amended to more closely conform to the Ordinance. We are attaching our proposed revisions.³

The Draft Procedures do Not Reflect the Council's Admonition that "the Procedures and Design Options Affording the Greatest Safety for River Users Shall be of *Primary Consideration* in Design Concerns"

The Council concluded the Ordinance with, "In implementing the rules, the procedures and design options affording the greatest safety for river users shall be of *primary* consideration in design concerns."⁷ To be sure, there is a "balancing of important public purposes."⁸ But in performing that balancing, the Council has provided unmistakable direction on which obligation is to be of primary consideration: the greatest safety for river users.

Certainly, in applying the Procedures and selecting a design on a future project, it may prove challenging for a future official to accord primary consideration to the greatest safety for river users, while also balancing important public purposes. But such challenges are issues of implementation, not of statutory construction.

The Ordinance's legislative history strengthens the "of primary consideration" language's centrality. The Council's decision to elevate safety above other considerations was no accident or oversight. Both the Physical Environment Committee's Staff Reports concluded with a final bullet point noting that the Ordinance would declare "that providing the greatest safety for river users is to be of primary consideration in the County's efforts to balance important public priorities."⁹

Nor did the import of setting safety as "of primary consideration" escape Councilmembers. An amendment was offered that would have deleted "shall be of primary consideration," replacing it with "shall be *one of* the primary considerations."¹⁰ Such language would have de-emphasized the primacy of safety, placing other important public purposes on equal footing with safety. However, the amendment failed by a seven to one vote.

The inescapable conclusion from the Ordinance is that in balancing important public priorities, the primary consideration is providing the greatest safety for river users. The Procedures do not reflect this prioritization. The Procedures list their purpose simply as "tak[ing] into account recreational safety issues."¹¹ While safety is given a nod as "an important consideration,"¹² nowhere is there recognition that it is "of primary consideration." In fact, in places, the Procedures appear to flip the Council's priority; the Procedures speak

³ Attachment 1 (redline of Public Rule) and Attachment 2 (redline of Appendix A).

⁷ Ordinance 16581, line 72-73 (italics added).

⁸ Ordinance 16581, line 74. The entire item in Ordinance 16581, lines 72-75, reads:
In implementing the rules, the procedures and design options affording the greatest safety for river users shall be of primary consideration in design concerns involving a balancing of important public purposes as the county addresses safety issues in large wood emplacements and other in-stream designs.

⁹ See Attachments 3 & 4.

¹⁰ See Attachment 5 (italics added).

¹¹ Rule at 2.1 ("PURPOSE"); repeated at Exhibit A at page 3, line 3 ("Background...") and page 3, line 19 ("Purpose").

¹² Exhibit A at page 3, lines 4-5 ("Background...").

of projects "that meet the County's primary design objectives while reducing risks to recreational river users."¹³

We do not see how, reading the current Procedures language, a future employee attempting to faithfully follow the rules could understand that the greatest safety of river users was to be his or her primary consideration. "Primary" appears to have been effectively read out of the Ordinance.

We recommend that the Procedures be amended to more closely track the language of the Ordinance and reflect that in balancing important public purposes, the procedures and design options affording the greatest safety for river users must be, as the Council required, given primary consideration.

The Rulemaking Limits Safety Considerations to "Recreational Safety," Potentially Ignoring Other Safety Considerations Inherent in the "Public Safety" Concerns the Ordinance Repeatedly Stated that It Wanted Addressed and Considered

There is a disparity between the "public safety" terminology the Ordinance employed and the "recreational safety" favored by the Procedures. At least five times, the Council employed the term "public safety" to capture the concerns it was seeking to have considered and addressed.¹⁸ Nowhere did the Ordinance employ the term "recreational safety." Yet the Procedures are entitled "...Recreational Safety..." and the text largely supplants "public safety" with "recreational safety."¹⁹ Such word choice appears to erroneously exclude from the purview of the Procedures certain non-recreation-related issues that may nonetheless pose public safety concerns.

The Council emphasized that the greatest safety for river users was its primary consideration.²⁰ "Recreational safety" may constitute, for any given project, the yeoman's share of safety issues. But "recreational safety" is only a subset of "public safety." Considering and addressing "recreational safety" does not necessarily capture, for every project, all "public safety" concerns.

For example, a large woody debris installation could fail, resulting in chained logs travelling and colliding with something downstream (as happened last winter with the Cedar Rapids installation). Such a scenario would not necessarily raise a "recreational safety" issue, because it is doubtful that any recreational users would be in the water during a winter flood. But it would raise a "public safety" issue. As Col. Anthony Wright, the Commander of

¹³ Exhibit A page 3, lines 10-11 ("Background..."). We recognize that the use of "primary" in that sentence may simply reflect that desired ecological, bank stabilization or some other benefits create the initial genesis for a project. Using a different word, such as "underlying," would avoid the inference that non-safety concerns are being accorded chief importance when they conflict with safety.

¹⁸ Ordinance 16581 at lines 12, 18, 37, 48-49, 69.

¹⁹ The Procedures do note that "the Department's project design teams rely on sound engineering and design principles in development of all County-sponsored projects and consider a wide range of *public safety* issues, including recreational safety, in every project." Exhibit A at page 4, lines 2-4 (*italics address*). But the specific protocols refer almost exclusively to "recreational."

²⁰ Ordinance 16581, line 72-73 (*italics added*).

the Seattle District of the U.S. Army Corps of Engineers noted, “logs in the river ... once dislodged, could race like torpedoes downstream.”²¹

In sum, “recreational safety” may be the overriding “public safety” issue on most, if not all, emplacements. But the Ordinance does not say “recreational safety”; the term it uses over and over is “public safety.”²² We recommend that the Procedures be amended to address “public safety,” not just “recreational safety.”

The Procedures do Not Meet the Mandate that “[t]he Rules Shall Apply Over All Rivers”

The Procedures purport to extend only to “projects involving the placement of large wood in rivers commonly used for recreation in King County.”²⁵ By contrast, the Ordinance requires that, “The rules shall apply over *all* rivers within the jurisdiction of the department of natural resources and parks.”²⁶ Applying the rules only to certain stretches of certain rivers would not appear to meet the Ordinance’s requirement.

Certainly, the recreational use of a river may impact how public safety is incorporated into a design. Considering “the expected type, frequency and seasonality of recreational uses to determine the appropriate level of consideration given to recreational concerns,”²⁷ is not logically inconsistent with the Ordinance. A design that might be inappropriate on a heavily traversed stretch of water might be completely acceptable on a stretch where only very infrequently might anyone drift past via the river or reach via the shore.

Similarly, the Ordinance does not mandate that the Procedures have to apply identically for all stretches of all rivers. DNRP may wish to adopt some sort of tiered process that provide different protocols depending on whether or not a stretch of river is commonly used for recreation.²⁸ But we have concerns if the Procedures ignore the “all rivers” requirement entirely.

In addition, as discussed in the above section, the Ordinance required the Procedures to address “public safety.” An isolated stretch of river might not be used for recreation, and an installation on that stretch might have no “recreational safety” component. Yet, because “public safety” incorporates more than just recreational concerns, the Ordinance requires there be some public safety-related analysis.

We believe that limiting the Procedures to only projects “in rivers commonly used for recreation” is inconsistent with the Ordinance’s charge that the “rules shall apply over all

²¹ Craig Welch, *Downstream from Dam, Valley Residents and Businesses Prepare for Worst*, Seattle Times, Oct. 5, 2009. See http://seattletimes.nwsources.com/html/localnews/2009996264_valley04m.html.

²² Ordinance 16581 at lines 2, 18, 37, 49, 69.

²⁵ Rule at 2.1 (“PURPOSE”). See also Rule at 6.1 (“POLICIES”); Rule at 8.1.2 (“RESPONSIBILITIES”); Exhibit A at page 2, line 20 (“Purpose”) and Exhibit A at page 5, line 23 (“Procedure...”).

²⁶ Ordinance 16581, lines 70-71 (*italics added*).

²⁷ Exhibit A at page 5, lines 32-34.

²⁸ We have removed the “commonly used for recreation” verbiage in our attached revisions only where the phrase appears to imply that no Procedures apply to other stretches of other rivers. We have left the phrase in where it would not appear inconsistent with a scheme distinguishing how protocols apply to stretches “commonly used for recreation” versus how they apply to other stretches.

ivers within the jurisdiction of the department of natural resources and parks.”³⁰ We recommend that the Procedures be amended to meet the “all rivers” requirement.³¹

Conclusion

Following the strictures called for by the Ordinance, namely, according primary weight to the safety of river users, setting up a process to consider public safety issues beyond simply recreational concerns, and applying (as least some variation) of the rules to all installations on all rivers, undoubtedly raises the bar and may prove inconvenient. Similarly, there may be sound policy arguments for the Procedures to have been written as the draft currently reads; we make no policy judgments here. But such inconvenience or countervailing public policy rationales do not justify moving away from the Ordinance’s plain language.

Certainly, DNRP is free to petition the full Council to amend Ordinance 16851 to change the scope or re-order the priorities. However, barring legislative amendment, the Procedures should be revised to conform to the Ordinance as it currently stands. We have attached draft revisions that we believe would, on the three topics we have raised, align the Procedures with the Ordinance.

Thank you again for the opportunity to comment on these proposed rules.

Sincerely,

For Amy Calderwood, Ombudsman—Director,



David Spohr
Senior Deputy Ombudsman

Attachments

- Att. 1: Comments to 1/4/2010 Public Rule: “Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers”
- Att. 2: Comments to 1/4/2010 Public Review Draft, “Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers”
- Att. 3: “Staff Report,” Physical Environment Committee
- Att. 4: “Revised Staff Report,” Physical Environment Committee
- Att. 5: Amendment to Proposed Ordinance 2009-0367, Version 2

³⁰ Ordinance 16581, lines 70-71.

³¹ Exhibit A at page 3, lines 31-34.

Attachment 1

Unless otherwise noted with a “[]” the below is a redline version of actual, excepted text from the current draft the Public Rule

[Title] “King County Public Rules Public Rules and Regulations: Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers”

....

1.0 SUBJECT TITLE: Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers”

1.3 KEY WORDS: (1) large wood; (2) large wood placement; (3) mitigation; (4) ~~recreational~~ public safety; (5) rivers commonly used for recreation.

....

2.1 To take into account public recreational safety issues in the design of projects involving the placement of large wood in rivers ~~commonly used for recreation~~ in King County.

....

[new 2.4] To ensure that, in implementing the rules, the procedures and design options affording the greatest safety for river users shall be of primary consideration in design concerns involving a balancing of important public purposes as the county addresses safety issues in large wood emplacements and other in-stream designs.

....

5.2 Large wood placement: The deliberate placement of large wood in rivers ~~commonly used for recreation~~ by physically depositing pieces in or near the channel, or installing them in an engineered structure, for any purpose, including flood protection, bank stabilization, mitigation, and habitat improvement or restoration.

....

6.1 The Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers contained in Appendix A to this public rule, which is incorporated herein by this reference, presents the processes and procedures that the Department of Natural Resources and Parks shall follow in order to properly take into account public safety in the design and implementation of projects involving placement of large wood in rivers ~~commonly used for recreation~~ in King County.

[7.0 “Action”] Action: Implements the requirements of Ordinance No. 16581 (2009) by developing Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers set forth in Appendix A of this rule.

....

8.1.2 Identifies projects involving the placement of large wood that are located in ~~rivers~~

~~commonly used for recreation to which the Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers, Appendix A to this public rule, is applicable.~~

8.1.3 Implements the specific procedures provided for in the Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers, Appendix A to this public rule.

8.1.4 At least once every three years or sooner if significant new data becomes available, convenes a group of stakeholders, including but not limited to river residents, recreationalists, tribes, river boating interests, appropriate regulatory agencies, King County sheriff office representatives and Water Resource Inventory Area representatives to review and comment on the Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers, Appendix A to this public rule, and update them as needed.

....

9.1 The Procedures for Considering Public Recreational Safety When Placing Large Wood in King County Rivers, King County Department of Natural Resources and Parks, Water and Land Resources Division, December 2009 constitutes Appendix A to this public rule.

Attachment 2

Page 1, Title: “**PUBLIC REVIEW DRAFT: PROCEDURES FOR CONSIDERING PUBLIC RECREATIONAL SAFETY WHEN PLACING LARGE WOOD IN KING COUNTY RIVERS**”

Page 2, line 32: “...addresses public recreational safety in King County rivers.”...

Page 3, line 3: “The proposed procedure describes how public recreational safety...”

Page 3, line 8: “design and decision-making process as it relates to public recreational safety, and identifies”

Page 3, lines 11-12: “the County’s underlying primary design objectives while reducing public safety risks to ~~recreational river users.~~”

Page 3, line 19-21: “a. Take into account public recreational safety issues in the design of projects involving the placement of large wood in rivers ~~commonly used for recreation in...~~”

Page 3, after line 23, add a new entry: “c. To ensure that, in implementing the rules, the procedures and design options affording the greatest safety for river users shall be of primary consideration in design concerns involving a balancing of important public purposes as the county addresses safety issues in large wood emplacements and other in-stream designs.”

Page 3, lines 31-32: “Large wood placement: The deliberate placement of large wood, in rivers ~~commonly used for recreation~~, by physically depositing pieces in or near the channel, or”

Page 4, lines 4-6: “**V. Procedure for considering public recreational safety in the development and design of capital projects that include placement of large wood in rivers ~~commonly used for recreation~~**”

Page 4, lines 10-12: “this procedure. This section describes the process for considering public recreational safety in the development and design of capital projects involving the placement of large wood in rivers ~~commonly used for recreation~~. The process includes opportunities...”

Page 4, line 19: “to consider public recreational safety shall be incorporated into that standard...”

Page 4, lines 23-24: “will develop and maintain a list of projects where large wood will be or is likely to be installed in any King County river ~~one of these river reaches.~~”

Page 4, line 30: “Underlying Primary purpose of the project and its relative importance to the...”

Page 5, line 8: “large wood on public recreational safety are considered on a case-by-case...”

Page 5, line 13: “objectives, constraints, risks (including, but not limited to, public recreational safety”

Page 5, line 23: “i) For all projects located in a river commonly used for recreation, the”

Page 5, line 35: “iii) Consideration of public recreational safety in the conceptual design...”

Page 6, lines 1-3 “iv) In designing the specific placement of large wood, the design team will seek to maximize achievement of stated project goals and objectives while reducing potential risks to public safety, and will seek to ensure that the procedures and design options affording the greatest safety for river users shall be of primary consideration in design concerns involving a balancing of important public purposes recreational users.”

Page 6, lines 8-9: “vi) All projects that incorporate large wood in rivers commonly used for ~~recreation~~ will undergo review and approval of engineering plans and”

Page 6, lines 27-29: “Public Recreational safety considerations: Describe how public recreational safety considerations have been addressed in design, including why and how any impacts to public recreational safety can be or have already been avoided or reduced”

Page 6, line 36: “changes motivated by public safety recreational concerns, the design team...”

Page 7, line 10: “Most public safety recreational concerns should already have been...”

Page 7, line 33: “Update documentation of the project design and public recreational safety...”

Page 7, line 39: “design team will re-evaluate public recreational safety concerns, including...”



King County

Physical Environment Committee

STAFF REPORT

Agenda Item:	12	Name:	Mike Reed
Proposed No.:	2009-0367	Date:	June 23, 2009
Invited:			

SUMMARY

Proposed Ordinance 2009-0367 requires the Executive to adopt administrative rules regarding the installation by the County's Department of Natural Resources and Parks ("DNRP") of large-wood emplacements in the County's rivers and streams.

BACKGROUND

The establishment of large-wood emplacements in waterways of the region has become a common practice by public bodies seeking to enhance habitat, shelter and feeding opportunities for fisheries, to support flood control projects, and to mitigate for projects that disturb the natural values of waterways.

Concurrently, with the increased popularity of river recreation involving boating, kayaking, canoeing or use of a variety of recreational floatation devices, concerns about the potential hazard to recreational river users represented by these large-wood emplacements have emerged.

Representatives of river-user groups, while acknowledging the utility of wood emplacements for fisheries and flood control purposes, also note that inadequate attention is sometimes given to public safety values in the process of design and establishment of these emplacements.

Through discussions involving such river-users, public bodies responsible for establishment of wood emplacement on rivers, the County's hearing examiner, and others, a number of procedural principals and design concepts have emerged in recent years, and have guided DNRP's Rivers Program in its establishment and management of large-wood emplacements. This discussion crystallized with the Council's direction to the Executive to develop standards for

procedures to be used in the placement of wood debris in rivers, and design guidelines for wood emplacements. The Executive reported to the Council last year with recommendations for those standards and guidelines.

This proposed ordinance directs the Executive to adopt those procedures, developed as part of last year's process, as rules. This will ensure that the public will have access to the directives. Additionally, adopted rules have more force than mere guidelines.

AMENDMENT

Subsequent to introduction of this proposed ordinance, in consultation with DNRP, as well as the clerk's office, changes were offered that better clarify the intent of the proposed ordinance. A striking amendment has been prepared. As the revised by the striking amendment, the proposed ordinance provides that the Executive adopt rules by March 31, 2010. The rules will require:

- Development of project-specific conceptual designs for the installation of large-wood emplacements;
- Inclusion of a description of the public safety considerations in the conceptual design;
- Procedures by which DNRP will inform interested parties about a project and the proposed conceptual design; and
- Procedures by which DNRP will involve those (that commented on a conceptual design) in a review of the conceptual design to include the type and extent of recreational water use in the area, public concerns related to the conceptual design, and ideas for reducing those concerns.

Additionally the proposed ordinance, as amended by the striking amendment, provides:

- Setting a timeline and those that will participate in a review and updating of the rules;
- A requirement that the rules apply to all rivers under the jurisdiction of the Department of Natural Resources and Parks.
- A statement that providing the greatest safety for river users is to be of primary consideration in the County's efforts to balance important public priorities.

ATTACHMENTS

1. Proposed Ordinance 2009-0367
2. Striking Amendment 1



King County

Physical Environment Committee

REVISED STAFF REPORT

Agenda Item:	12	Name:	Mike Reed
Proposed No.:	2009-0367	Date:	June 23, 2009

Revised Staff Report: The committee adopted a striking amendment which 1) establishes a March 31, 2010 deadline for the adoption of rules required by the ordinance; 2) specifies that the ordinance applies specifically to large wood emplacement projects of the Department of Natural Resources and Parks; 3) requires the Department to convene an advisory group every three years to review and update the rules, and 4) clarifies that the required 'conceptual design' required by the rules is specific to each project. The committee recommended approval of the amended ordinance.

SUMMARY

Proposed Ordinance 2009-0367 requires the Executive to adopt administrative rules regarding the installation by the County's Department of Natural Resources and Parks ("DNRP") of large-wood emplacements in the County's rivers and streams.

BACKGROUND

The establishment of large-wood emplacements in waterways of the region has become a common practice by public bodies seeking to enhance habitat, shelter and feeding opportunities for fisheries, to support flood control projects, and to mitigate for projects that disturb the natural values of waterways.

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This proposed ordinance directs the Executive to adopt those procedures, developed as part of last year's process, as rules. This will ensure that the public will have access to the directives. Additionally, adopted rules have more force than mere guidelines.

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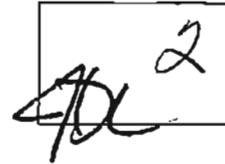
- Development of project-specific conceptual designs for the installation of large-wood emplacements;
- Inclusion of a description of the public safety considerations in the conceptual design;
- Procedures by which DNRP will inform interested parties about a project and the proposed conceptual design; and
- Procedures by which DNRP will involve those (that commented on a conceptual design) in a review of the conceptual design to include the type and extent of recreational water use in the area, public concerns related to the conceptual design, and ideas for reducing those concerns.

Additionally the proposed ordinance, as amended by the striking amendment, provides:

- Setting a timeline and those that will participate in a review and updating of the rules;
- A requirement that the rules apply to all rivers under the jurisdiction of the Department of Natural Resources and Parks.
- A statement that providing the greatest safety for river users is to be of primary consideration in the County's efforts to balance important public priorities.

6/29/09 Council Mtg

16581



Sponsor: Constantine

mwc

Proposed No.: 2009-0367.2

BF MOVED
Failed: 1-7 DC "yes" JH Excused

1 AMENDMENT TO PROPOSED ORDINANCE 2009-0367, VERSION 2

2

3 On page 4, on line 68, delete "shall be of primary consideration" and insert "shall be one
4 of the primary considerations"

5

6

7

Jimenez, Cathy

From: Jensen, Christine
Sent: Thursday, February 18, 2010 9:29 AM
To: Jimenez, Cathy
Cc: Isaacson, Mark; Richey, Joanna; Bleifuhs, Steve
Subject: Large Wood Public Rule Comment
Attachments: Public Cmtns 2-5-10 (letter + 5 attachments.pdf)

Cathy,

Councilmember Lambert and I recently met with Joanna and Steve to share our comments on the proposed Large Wood Public Rule. I also wanted to express our support for the comments and suggestions that David Spohr outlined in his attached letter on the issue. David's comments succinctly state our shared concerns regarding the intent of the original ordinance that directed the Department to draft the public rule. We are hopeful that DNRP will be able to address these issues in the final version of the rule.

Thanks!

Christine Jensen

Policy Director | King County Councilmember Kathy Lambert

516 Third Ave, Room 1200 | Seattle, WA 98104

206.296.0308 | christine.jensen@kingcounty.gov

This email and any response to it constitute a public record and may be subject to public disclosure.

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Jimenez, Cathy

From: Reinbold, Stewart G (DFW) [Stewart.Reinbold@dfw.wa.gov]
Sent: Tuesday, February 02, 2010 8:33 AM
To: Jimenez, Cathy
Cc: Keith MacDonald; dave@emeraldwateranglers.com; ahook@tulaliptribes-nsn.gov; Kaje, Janne; Brock, David W (DFW); chris nffa; emtbckt@msn.com; Kilroy, Sandra; Knauss, James; micah@wildfishconservancy.org; okeefe@amwhitewater.org; sbarrie313@comcast.net; Cottingham, Kaleen (RCO); Lloyd.Moody@rco.reo.wa.gov; Lakey, Kirk A (DFW)
Subject: Washington Department of Fish and Wildlife comment letter concerning King County's Public Review Draft Procedures For Considering Recreational Safety When Placing Large Wood in King County Rivers.

Attachments: WDFW Public Review KC Draft LWD Recreational Safety 020110.doc

Cathy,

Attached to this email is Washington Department of Fish and Wildlife's comment letter concerning King County's Public Review Draft Procedures For Considering Recreational Safety When Placing Large Wood in King County Rivers.

Please let me know you received this email.

Thanks
Stewart Reinbold

Stewart G. Reinbold
Assistant Regional Habitat Program Manager
Washington Department of Fish and Wildlife
Region Four, Issaquah Office
Tel: 425-313-5660
Cell: 425-301-9081
Fax: 425-427-0570



STATE OF WASHINGTON
DEPARTMENT OF FISH AND WILDLIFE

16018 Mill Creek Boulevard • Mill Creek, Washington 98012 • (425) 775-1311 FAX (425) 338-1066

February 1, 2010

King County Department of Natural Resources and Parks
Attn: Cathy Jimenez
201 South Jackson Street
Seattle, Washington 98104-3855

Dear Cathy Jimenez:

**SUBJECT: PUBLIC REVIEW DRAFT – PROCEDURES FOR CONSIDERING
RECREATIONAL SAFETY WHEN PLACING LARGE WOOD IN
KING COUNTY RIVERS**

The Washington Department of Fish and Wildlife (WDFW) would like to thank King County for this opportunity to comment on the proposed public review draft “Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers” dated January 4th, 2010. The purpose of this motion is to develop procedural and design standards addressing public safety when placing large woody debris (LWD) in the waterways of King County. Please be aware any project that may divert, obstruct or change the flow of state waters requires a Hydraulic Project Approval (HPA) from the WDFW (RCW 77.55.021). The installation, removal, and repositioning of LWD within the waters of the state is considered a hydraulic project and requires a HPA.

Washington Department of Fish and Wildlife Regulatory Authority

RCW 77.55.021 states that if “...any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department (WDFW) in the form of a permit as to the adequacy of the means proposed for the protection of fish life.” Additionally, a “Hydraulic Project” is defined as the “. . . construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.” RCW 77.55.011(7). The installation, removal, and repositioning of LWD within the waters of the state is considered a hydraulic project and requires a Hydraulic Project Approval (HPA).

Section (3)(a) of the same RCW states “Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned.” However, WDFW accepts that public safety measures that also serve to protect fish life may become conditions in a HPA. It should be noted that WAC 220-110-150, which sets the rules for the removal or

repositioning of LWD, states in section (1) “*Large woody material removal from watercourses shall only be approved where necessary to address safety considerations . . .*” It is on the basis of these regulations WDFW can and will work with King County to address public safety and the management of LWD.

Large Wood Stakeholder Committee

As part of this review process, King County created a Large Wood Stakeholder Committee comprised of County, Tribes, Recreational Boaters, Professional Boating Guides, Habitat Enhancement Groups, County Sheriff Department and WDFW. The purpose of this group was to review the available data and make recommendations on the proposed procedures. Based upon information provided by King County Sheriff Sgt. Knauss and other emergency response organizations, a large majority of the committee found that the proposed procedures for placing LWD are not warranted based upon past data and do not address the key incident/safety issues for recreational boaters/tubers in King County. Sgt. Knauss stated several times during the committee meetings that LWD is not a significant factor with recreational water users incidents. Alcohol, water temperature, and a lack of common sense, especially in men 16 to 22 years old, are the main issues. A majority of the stakeholder committee members, including Sgt. Knauss, believe that the appropriate actions needed to protect recreational water users are proper enforcement, providing public education (outreach programs and use of signs), requiring life vests and safety helmets to be used, and clearly defining what is a proper river boat and/or flotation device allowed. For example Sgt. Knauss mentioned an intoxicated citizen floating down the river in a large beverage cooler. In the last fifteen years Sgt Knauss didn't find one case in which LWD directly caused serious personal injury or death.

However it is a serious concern of a large majority of the committee members that if these proposed “Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers” are applied county-wide could significantly threaten salmon recovery and, by extension threatening highly desired recreational fisheries, jobs, and revenue for the county and state. If applied as stated in the procedures one person, whether the threat is true or not, can force the habitat/flow/bank protection features that are needed at a site somewhere else.

Habitat Value of LWD

For thousands of years, large woody debris has been an integral part of aquatic habitat, and it has been an important component in the life cycle of salmon and other fish. Early European settlers actively cleared massive logjams to facilitate navigation and drainage of viable agriculture land. Not until the later part of the last century when the debris clearing had extended up to the headwaters did biologists recognize the functions and values of LWD to the ecology and survival of fish. Since then extensive research has documented the intricate and complex role large wood plays in the entire ecosystem. A brief summary of these ecological functions based on extensive research is provided on page 12 of a White Paper titled “Ecological Issues in Floodplains and Riparian Corridors” published by the Center for Streamside Studies in May, 2001 and available on the WDFW web site (<http://wdfw.wa.gov/hab/ahg/floodrip.htm>).

Because LWD plays a vital role in creating productive fish habitat, many projects designed to restore or enhance fish habitat include the installation of LWD. The placement of LWD in rivers and streams is listed as a critical factor in every Salmon Recovery Plan in King County and throughout the region. The use of LWD as an enhancement tool is included in the “Adaptive Management of ESA-Listed Salmon and Steelhead Recovery Guidance” developed by the National Ocean and Atmosphere Administration (NOAA). Without extensive use of LWD, it will be difficult or impossible to achieve long-term goals for recovering Puget Sound Chinook salmon and Puget Sound steelhead, both of which are listed as “Threatened” under the Endangered Species Act.

King County has 639 miles of fish-bearing streams, and more than \$51 million has been spent on 63 salmon recovery projects in the county since 1999. Clearly, King County plays an important role in the recovery of these listed fish species.

Conclusion

Based upon the information reviewed by and recommendations from a large majority of the Large Wood Stakeholder Committee members, including the King County Sheriffs Department, the WDFW does not believe the proposed Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers are warranted. Due to the concerns of the large majority of the committee members, including WDFW, we believe the procedures should be redrawn and a new motion should be drafted implementing and enforcing the recommendations as described above in the Large Wood Stakeholder Committee section (proper enforcement, providing public education (outreach programs and use of signs), requiring life vests and safety helmets to be used, and clearly defining what is a proper river boat and/or flotation device allowed).

WDFW Proposed Procedural and Design Standards and Recommendations additions

However if the procedures are adopted the WDFW recommends the following changes:

Page 3 of 10 III Applicability. Need to clearly state which Departments of King County these procedures do not apply to? One example is roads. It is the understanding of the WDFW that the King County proposed procedures will not to apply to roads projects however this is not what was stated at the last public meeting. Also it is the understanding of the WDFW that these procedures will not be applied to individual or group projects from King County citizens/businesses or any King County In-lieu-fee projects. Please include this information in the final document.

Page 3 of 10 IV Definitions. Need to define large wood to logs, limbs, or root wads 4 inches or larger in diameter.

Page 4 of 10 line 26 Add a new sentence “As per request the WDFW Regional Habitat Program Manager in the Mill Creek WDFW office shall receive a copy of this list every year.”

Page 5 of 10 First paragraph. It is the State of Washington’s Integrated Streambank Protection Guidelines and please add the State of Washington’s Stream Habitat Restoration Guidelines to serve as a reference document as well.

Page 5 of 10 line 20 Add “Project Managers shall contract and seek input from the local WDFW Area Habitat Biologist on each project during this phase as well.”

Page 6 of 10 line 4 Change wording of “standard design practices” to “King County Guidelines for Bank Stabilization Projects in the Riverine Environments of King County and the State of Washington’s Integrated Streambank Protection Guidelines and Stream Habitat Restoration Guidelines”

Page 6 of 10 lines 8 – 14 Combined vi) and vii) to state “All projects that incorporate large wood in rivers commonly used for recreation will undergo review and approval of engineering plans and analysis from a Licensed Professional Civil Engineer as well as a professional ecologist to determine ecological benefits on all projects.

Page 6 of 10 line 34 Add “Project Managers shall provide that 30% design phase conclusion information to the local WDFW area habitat biologist on each project.”

Page 7 of 10 line 27 Change sentence to state “Revised designs may require additional regulatory review, approval or permit denial.

Page 8 of 10 lines 11 List government agencies as well.

Page 8 of 10 line 24 Specially identify co-manages and other governmental regulatory agencies.

Page 9 of 10 line 25 After the sentence “The need for any maintenance or retrofitting will be assessed.” Add “which will restart the regulatory agencies permit process.”

Page 9 of 10 line 37 Add “which will require an HPA permit prior to commencing any work.”.

Page 10 of 10 line 2 change to “will work with the King County Sheriff’s Office and the WDFW as well as other local jurisdictions as”

Page 10 of 10 line 5 change to “rescue personnel; placed wood repositioning or removal, which will require an HPA before work can occur; or closing the river to”.

Page 10 of 10 line 14 Add on to the last sentence “and any project changes that occur from this input.”.

WDFW is requesting a yearly write up be done clearly stating any changes that were done to a project due to recreational water users concerns.

Your cooperation in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "David W. Brock". The signature is written in a cursive style with a large initial 'D' and 'B'.

David W. Brock
Regional Habitat Program Manager

cc: King County Water and Land Resources Division
Peter Birch, Deputy Assistant Director, WDFW
Stewart Reinbold, Assistant Regional Habitat Program Manager, WDFW



MUCKLESHOOT INDIAN TRIBE Fisheries Division

39015 - 172nd Avenue SE • Auburn, Washington 98092-9763
Phone: (253) 939-3311 • Fax: (253) 931-0752



February 19, 2010

King County Department of Natural Resources and Parks
ATTN: Cathy Jimenez
201 S. Jackson Street, Room 600
Seattle, WA 98104-3855

RE: Public Review Draft and Rule January 4, 2010: Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers

Dear Ms. Jimenez:

Thank you for this opportunity to comment on the proposed procedures and rule referenced above. Their purpose is to implement Ordinance 16581 adopted by the King County Council in 2009. This ordinance directed the King County Department of Natural Resources and Parks (DNRP) to establish procedures to consider recreational safety in projects involving large wood placement in streams, and facilitates public input on projects using large wood design elements. The rule and procedures apply to restoration and mitigation projects managed by the DNRP. Affected streams ("Designated Recreational Waterways") under the proposed rule include all of the most important lower elevation freshwater anadromous fish habitats in King County.

We believe that by implementing this rule, the County will, in effect, prioritize river recreation over the required restoration of salmon habitat in King County. As indicated in earlier correspondence¹, the Muckleshoot Indian Tribe Fisheries Division is concerned that the rule and procedures will discourage the use of wood in fish habitat mitigation and restoration projects and/or result in design restrictions that inhibit the natural habitat processes and functions that create and maintain salmon habitat in rivers and streams. To the extent that implementation of this rule limits and restricts the placement and location of wood and subsequent natural wood recruitment, wood transport, and jam formation, it will limit restoration of habitat productivity and capacity for salmon and steelhead populations in King County.

We are concerned that the rule's purposes "*to evaluate strategies for design of wood placements that minimize risks to recreation while maximizing project benefit to fish habitat*" are in conflict. The procedures state that these design considerations "*will include but not be limited to ...the location, orientation, elevation, and size of the wood placement, and the overall degree of*

¹ September 8, 2008 Muckleshoot Indian Tribe Fisheries Division briefing paper to the County Council's Growth Management and Natural Resource Committee

interaction between flowing water and the placed wood during flows commonly experienced in the recreational seasons.” These are the very design factors that need maximum flexibility to mitigate or restore fish habitat. Restrictions on these factors will reduce or eliminate fish habitat benefits. For example, it is the degree of interaction between wood and flowing water that creates pools, and promotes gravel retention, hydraulic and geomorphic complexity, and floodplain connectivity required for high quality fish habitat. As the interaction between flowing water and wood is reduced, so are benefits to fish habitat and habitat forming processes. The proposed procedures will likely result in project design compromises that handicap implementation of the WRIA 8, 9, and 10 salmon habitat plans previously adopted by the National Marine Fisheries Services as part of the Puget Sound Chinook Recovery Plan, as well as handicap mitigation activities needed to lessen the effects of development.

Specific examples of how implementation of the proposed rule will harm fish habitat in King County include prohibitions in placing spanning logs, logs along the outer river bends, large jams, wood extending into the river current, and blanket requirements for anchoring. These prohibitions will result in substantial trade-offs against the functional value of wood placement in habitat restoration and mitigation projects. Restrictions on wood placement, as well as the repositioning or removal of naturally-recruited wood, will further limit fish production potential by permanently curtailing those natural processes that create and maintain productive aquatic habitat, *i.e.*, those that promote high salmon reproduction, growth, and survival rates.

As reflected in the scientific references list prepared by the DNRP (Large Wood References draft v. 12/31/09), large wood is a key natural component of salmonid habitat. In the Puget Sound Chinook Recovery Plan (Shared Strategy Development Committee 2007), the National Research Council states that *“Perhaps no other structural component of the environment is as important to salmon habitat as is large woody debris, particularly in coastal watersheds”*. Restoring large woody material to salmon habitat is a widely used management tool that aims to recover natural process of dynamic river flow and formation of important habitat features such as bars, pools and side channels (Bob Lohn, NOAA, January 25, 2005 letter to Martha Parker). Minimum wood sizes and quantities necessary to provide adequate fish habitat have been defined by resource agencies including the National Marine Fisheries Service and others (see *e.g.*, Fox and Bolton 2007). Wood levels and recruitment rates in the County’s rivers and streams do not currently meet these standards by a long shot, and therefore wood is rated a factor of salmon population decline (Shared Strategy Development Committee 2007). The wood shortage results in long reaches of rivers and streams with few pools, constant water velocity, poor gravel stability, a lack of hiding cover from predators, and an inability to form high quality fish habitats needed to restore salmon and steelhead production and survival in King County waterways. WRIA 8 and 9 salmon habitat plans and WRIA limiting factors reports addressing local government Endangered Species Act responsibilities acknowledge the need to increase natural wood recruitment and wood placement.

Hundreds of river miles in King County already exist where land development, dams, industrial forestry, water withdrawals, transportation and flood control infrastructure have taken priority over natural floodplain and river processes to the detriment of natural salmon and steelhead

production. With the proposed rule and procedures, river recreation is now added to this list of priorities for river management within King County at the expense of salmon habitat.

In Section 3, Definitions, Identified Recreational Waterways, the Identified Recreational Waterways listed include all lower elevation major streams in the County, including the entire Cedar River below Landsburg, the entire Green River below the Tacoma Headworks, the entire Sammamish River, the White River from the County line to Greenwater River spanning the Muckleshoot Indian Reservation, and the lower 12 miles of the Greenwater River designated as Recreational Waterways. This list unfortunately allocates to river recreation all the most important and productive lower elevation anadromous stream habitats in the County. All these river segments, except for the White River along much of the Muckleshoot Indian Reservation (MIR), have been depleted of their characteristic natural wood loads. In recognition of Tribal jurisdiction on the reservation, we request that the White River along the MIR be removed from the list and exempted from this rule in order to allow for any potential future DNRP wood placement projects that may be implemented in cooperation with the Tribe. In addition, we recommend that the stream segments associated with the Muckleshoot Tribe's Usual and Accustomed Fishing Area, which includes WRIAs 8, 9, and 10, be removed from the list of Identified Recreational Waterways. The Tribe relies on the quality and quantity of habitat in these rivers to support its treaty protected salmon harvest. While this rule affects only DNRP projects, it is this agency that will likely continue to be the lead county agency implementing stream restoration and river-related projects. Therefore, the proposed rule would have a large impact on future habitat conditions in these rivers.

Section 3, Recreational Uses and Project Design, subsection vii, states that "*All projects that incorporate large wood with the stated objective of providing ecological benefits will undergo review and approval from a professional ecologist (i.e., staff with an advanced degree in aquatic and/or biological sciences from an accredited university).*" As written in the procedures, this review would occur at the 30% conceptual design stage, but we recommend that the ecologist also review the final design stage given a likelihood of further design changes, as well as conduct a post-construction review. The ecologist reviewing and approving projects should have more specific qualifications including graduate level coursework in fluvial geomorphology, fisheries, and aquatic ecology, and should not be affiliated with the project proponent or funding source (e.g. independent review). The reviews by the ecologist should clearly document, and if possible, quantify, the resulting tradeoff made between recreation and an alternative design that would maximize aquatic habitat benefits. The post construction review by the ecologist should be distributed to the Tribe and agencies as well as any grantors funding these projects.

We recognize that any standards and procedures restricting effective wood placement or natural wood recruitment will impose a permanent impact on habitat restoration potential for salmonids, and this impact will be difficult or impossible to mitigate with alternative habitat restoration measures. As part of the adaptive management plan for this rule, shortfalls in habitat quantity and quality that result from implementing the proposed procedures should be assessed and fully documented, and alternative mitigation provided-- including increases in artificial salmon

production if equivalent habitat mitigation opportunities are unavailable. While increased natural salmon production is a goal shared by many, the proposed rule will likely constrain efforts to increase the abundance of naturally produced salmon in King County rivers.

In closing, we are concerned that implementation of this rule will have an extreme negative impact on future salmon habitat restoration efforts and natural salmon production capacity in King County. Thank you, again, for the opportunity to comment on this important issue. For additional information or questions related to this letter, please contact Holly Coccoli at (253) 876-3360 or holly.coccoli@muckleshoot.nsn.us.

Sincerely,



Glen St Amant
Habitat Program Manager

cc: NMFS (Steve Landino)
USFWS (Tom McDowell)
WDFW (Stewart Reinbold)

References

Fox, M. and S. Bolton, 2007. A Regional and Geomorphic Reference for Quantities and Volumes of Instream Wood in Unmanaged Forested Basins of Washington State. *North American Journal of Fisheries Management*, 27:342-359.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Washington State Habitat Office
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

February 16, 2010

Department of Natural Resources and Parks
ATTN: Cathy Jimenez
201 South Jackson Street, Room 600
Seattle, WA 98104-3855

Dear Ms. Jimenez:

Thank you for the opportunity to comment on the proposed King County Ordinance 16581 requiring the adoption of rules addressing procedures for establishing large wood emplacements in rivers or streams of King County. The National Marine Fisheries Service (NMFS) appreciates your recognition and discussion of the importance of wood in streams in this document, and NMFS understands the importance of public safety as it relates to recreational use of rivers and streams.

In our review of this ordinance and other documents and information on your website regarding wood in streams and recreational boating, it is apparent that King County takes both its environmental stewardship and public safety responsibilities seriously. King County contains a number of important salmon producing streams that are also used for recreational boating, including the Green, Cedar, Snoqualmie, Skykomish, Tolt and White Rivers. In the *Green/Duwamish and Central Puget Sound Watershed Salmon Habitat Plan* (August 2005), which is part of the Puget Sound Chinook Recovery Plan, it states "The river is starved of large woody debris and consequently lacks associated instream habitat complexity, such as pools and riffles." All of the salmon habitat plans and Limiting Factors reports for the above mentioned streams highlight the lack of large wood (LW) as both a limiting factor to salmon production and a priority for habitat restoration projects.

King County promotes public safety as it relates to recreational boating in King County rivers in many ways. Most notably this is accomplished on your web site, which discusses the dangers of river-related boating and recreation. It also notes the locations of dangers to navigation such as naturally occurring log jams with maps and photos. We would suggest this site be expanded to include the locations where LW has been installed. Additionally, it may be prudent to highlight the need for personal flotation devices.

It is our understanding that this rule, and the procedures described, applies only to those projects managed by the King County Department of Natural Resources and Parks (DNRP). LW placement projects managed by other entities (Tribes, SRFB Lead Entity, state agencies, etc) are not subject to the rule.



This is an important distinction as the majority of LW placement projects and all Engineered Log Jams (ELJs) are undertaken by these other agencies. Most projects involving LW undertaken by DNRP are bioengineered streambank stabilization projects which include smaller amounts of wood, placed in a more linear fashion and incorporated into bank protection projects.

The NMFS has concerns with the proposed steps for considering recreational safety in the development and design of capital projects that include placement of LW in rivers commonly used for recreation. Maintaining a list of rivers and river reaches commonly used for recreation and developing an LW project database are both helpful steps in keeping the boating public informed. However, NMFS is concerned that the proposed comment period for projects at the concept-level (30%) design phase may cause delays at this crucial point in time. This could result in missed funding opportunities and/or delays in construction. If the public is to take on the role of reviewing engineered large wood projects, it is important that they are educated and provide meaningful comments through a well documented review process. There doesn't appear to be a clear list of priorities or standards for determining how and when public review will affect LW projects.

The NMFS is also concerned that this proposed approach could set a precedent if an emotion-driven public review of a well-engineered and valuable habitat enhancement project causes the project to stall or not get built. The proposed ordinance has options for when a project is "substantially compromised by design changes motivated by recreational concerns". These include relocation, restricting recreational use, and/or implementing additional mitigation measures (such as additional large wood placement at a comparable location in the same river reach). Implementing these options may require additional engineering, permitting or other processes that can further delay or result in uncompleted projects.

The NMFS is encouraged by the proposed monitoring and adaptive management features of the rules. We believe if properly adopted and implemented, the application of adaptive management could result in an effective process for public involvement. We encourage a regular review, by qualified state, tribal and federal technical staff, of the effects of this new ordinance on LW goals and objectives identified in salmon and steelhead recovery plans for King County river systems. Please keep us informed of progress on this ordinance as it is implemented. Randy McIntosh of my staff remains the primary contact for this proposed ordinance, and he can be reached at 360-534-9309 or randy.mcintosh@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven W. Landino". The signature is fluid and cursive, written over a light blue horizontal line.

Steven W. Landino
Washington State Director
For Habitat Conservation

cc: Jim Weber, NWIFC
David Brock, WDFW

PugetSoundPartnership

our sound, our community, our chance

STATE OF WASHINGTON

February 9, 2010

King County Department of Natural Resources and Parks
ATTN: Cathy Jimenez
201 South Jackson Street, Room 600
Seattle, WA 98104-3855

To Whom It May Concern at King County Department of Natural Resources and Parks:

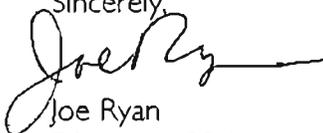
I am writing in regard to the proposed King County public rule titled "Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers." The Puget Sound Partnership developed an Action Agenda in 2008 for restoring Puget Sound by 2020. The Action Agenda is based on best available science and has strong community support. The Action Agenda identifies priorities and strategies to guide protecting and restoring ecosystem functions and processes that are necessary for Puget Sound recovery. Recovering threatened Chinook salmon populations, listed under the Endangered Species Act, is an important priority for recovering the overall health of Puget Sound. I am concerned that this proposed public rule would significantly slow or impede restoration projects critical to recovering Puget Sound and Chinook salmon.

Implementing the Puget Sound Salmon Recovery Plan is an important component in the Action Agenda. The highest ranked restoration priority in the Action Agenda is implementing salmon recovery watersheds' three-year work plans. Most watersheds' plans include multiple projects involving the placement of wood in rivers. In several rivers, like the Snoqualmie, Cedar and Green rivers in King County, placing wood in the river is the dominant restoration strategy to recover salmon populations. Strategically placing wood in rivers restores the channel complexity and provides refuge and spawning habitat for juvenile and adult salmon, respectively. Placing large wood in rivers also helps prevent erosion and improves flood protection by slowing water velocity and redirecting water flows. Without this type of restoration rivers lose their ability to effectively support healthy salmon runs and handle flood events.

The process for developing salmon habitat and river restoration projects is robust, strategic, and effective, involving participation and collaborative decision-making by many different stakeholder groups. I agree it is important to consider public safety in developing restoration projects. However, this proposed public rule could introduce additional barriers to implementation of critical projects and affect project designs in ways that make them less effective the result of which makes it harder to implement the Action Agenda and to recover Puget Sound by 2020.

Thank you for the opportunity to comment. Please contact me if you have questions.

Sincerely,



Joe Ryan
Director of Salmon and Ecosystem Recovery
Puget Sound Partnership



**Public Works Department
Natural Resources Division**

M/S: 2NPW
page 1 of 3

February 11, 2010

Department of Natural Resources and Parks
Attn: Cathy Jimenez
201 S. Jackson Street, Room 600
Seattle, WA 98104-3855

Re: Public Review Draft -- Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers

Dear Ms. Jimenez,

Please accept the City of Redmond's comments on the Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers. The City supports efforts to keep area rivers safe for recreational use. The City of Redmond along with King County and many other jurisdictions also supports and invests considerable financial resources in local, regional, state and national efforts to restore wild salmon runs in Puget Sound. In order for salmon restoration efforts to succeed we must take bold steps to restore natural river function, which often involves reintroducing large wood into rivers. However, the proposed rules appear to have potentially significant negative impacts on habitat restoration efforts, in some cases where major safety issues may not exist.

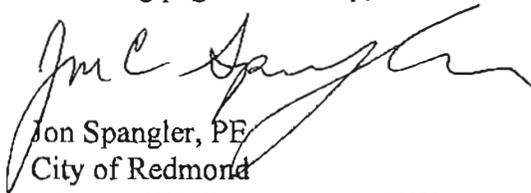
The Large Wood Stakeholder Committee Final Report and Recommendations (October 2009) outlines a balanced approach for considering safety in the context of river restoration. This report highlights the need for wood (both placed and naturally accumulating) in healthy river systems. It also notes that the number of reported safety issues related to wood in rivers in King County is low (as reported by King County Sheriff's Marine Unit). The balanced approach to in-stream restoration design found in the Stakeholder Committee Report seems to be lacking in the Public Rule (1/4/2010), which prioritizes safety above restoration.

In addition, it appears that details on large wood placement have been removed from the on-line "Guidelines for Bank Stabilization Projects in the Riverine Environments of King County". These details illustrate widely used wood placement techniques on outside bends of rivers where wood often accumulates naturally. Outside bends are also locations where wood is sometimes intentionally placed to divert flows and create habitat. Alternatives to wood placement are grim from an environmental perspective – more banks armored with rip-rap will

result in continued long-term losses of salmon habitat. Moreover, proposed projects that armor river banks are lost opportunities for river restoration that will likely remain in place for decades. Large wood was removed from rivers for many years, reducing channel complexity, exacerbating erosion and creating unnaturally simple systems resulting in poor habitat. Placing wood in locations and configurations which maximize habitat and restore natural river functions may involve wood in locations that is not safe for all recreational user groups in all flows. In addition to intentionally placed wood, large scale natural wood features can accumulate following high river flows on natural systems. Taking large wood design strategies out of the design palette seems contrary to a balanced design approach carefully spelled out in the Public Review Draft.

The specific issues addressed in the Public Review Draft are important since the County controls many miles of rivers, some with highly valuable fisheries resources. However, the overriding concern is that this new rule sets a precedent that may prevent other jurisdictions in their future efforts to restore rivers and enhance wild salmon habitat in the northwest. We strongly recommend that the Rule incorporate clear language giving environmental restoration priority, while considering safety in project design. This guidance must be made clear at the highest levels, since the stated goal of the Public Rule to maximize both goals equally is often not possible.

Thank you for your consideration of these comments. Please note detailed edits on the following page. Sincerely,



Jon Spangler, PE
City of Redmond
PO Box 97010 mail stop 2NPW
Redmond, WA 98073-9710

Phone (425) 556-2823 / E-mail jspangler@redmond.gov

Detailed technical and editing comments:

Public Review Draft

- a. Page 1 line 30 "...meet permit requirements..." This should be a separate sentence. Meeting permit requirements is not a function of large wood.
- b. Page 3 line 25 clarify whether the rule applies to projects initiated or managed by other jurisdictions and/or private parties.
- c. Page 3 line 28 is living wood considered "large wood"?
- d. Page 3 line 31 the phrase "...commonly used for recreation..." should be deleted from this sentence. It has nothing to do with the definition of large wood.
- e. Page 3 line 34 "...habitat improvement or restoration" should be the first item in this list, not last.
- f. Page 4 line 13 Should "emergency situations" be defined here? Could refer to WDFW definition.
- g. Page 5 line 8 It appears that some wood placement details have already been removed from the King County Guidelines for Bank Stabilization Projects. If that is the case it means projects are not considered on a case by case basis as described here.
- h. Page 5 line 24 define "project design team".
- i. Page 6 line 13 define "advanced degree" since it is a requirement. Is this any college degree, or only Masters or PhD?
- j. Page 6 lines 35-37 What is the procedure here? This appears to strongly prioritize recreation over environmental project elements, contrary to earlier statements.
- k. Page 7 line 14 who arbitrates what is "appropriate"?
- l. Page 8 line 24 add a bullet noting locations of completed projects (including a map)?
- m. Page 9 line 33 would this occur at strategic locations such as boat ramps?

Public Rule

- a. 2.1 clarify is this is only for large wood placed by King County DNRP.
- b. 2.2 this may not be possible. Where conflicts arise the priority of environment or safety elements could be established here. The language in the Public Review Draft page 6 lines 1-3 is much less ambiguous.
- c. 5.1 is living wood considered "large wood"?
- d. 5.2 the phrase "...commonly used for recreation..." should be deleted from this sentence. It has nothing to do with the definition of large wood.
- e. 5.2 "...habitat improvement or restoration" should be the first item in this list, not last.
- f. 8.1.4 add a comma – "...years, or sooner..."
- g. 8.1.4 Shouldn't restoration practitioners, scientists and engineers be added to the stakeholder committee? Perhaps members from the Large Wood Stakeholder Committee could reconvene for this purpose?
- h. 8.1.5 add a comma – "...years, or sooner..."



SNOQUALMIE TRIBE

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January 19, 2010

Department of Natural Resources and Parks
ATTN: Cathy Jimenez
201 South Jackson Street, Room 600
Seattle, WA 98104-3855

Re. Proposed Placed LWD Public Rule

To Whom It May Concern,

On behalf of the Snoqualmie Tribe's Environmental and Natural Resources Department, I would like to draw attention to several concerns I have regarding King County's Draft Procedures For Considering Recreational Safety When Placing Large Wood In King County Rivers.

Given the budget and staffing cuts incurred by King County's DNRP in recent months, it seems apparent that the proposed LWD Procedures will undoubtedly create an extra work load for an already overworked and understaffed group of KC staffers. Inevitably, the costs of this extra work will be handed down to restoration project sponsors, most likely through increased permitting costs if not other measures. With increased costs of projects coming from a shrinking pot of money, what this will lead to is a decrease in the number of projects that can be accomplished. In a time where we are attempting to streamline the process of doing restoration work, these procedures represent a step backward.

Obviously, recreational river user safety is a priority; it always has been. LWD placement has never occurred higgledy-piggledy. It is thoughtfully and carefully laid out prior to construction. Now however, the extra hoops created by these draft LWD procedures will impede salmon recovery. Our Pacific Northwest rivers have historically held large amounts of LWD and should continue to do so. I urge that the LWD procedures be modified so as to create as little resistance as possible to valuable habitat restorations, whether that resistance is created through increased costs of permitting and design or simply by slowing implementation.

Sincerely,

/s/

Matthew Baerwalde
Water Quality Manager
Snoqualmie Tribe Environmental and Natural Resources Department
mattb@snoqualmienation.com
425-292-0249 ext. 2



City of Seattle

Seattle Public Utilities

Ray Hoffman, Acting Director

February 17, 2010

King County Department of Natural Resources and Parks

ATTN: Cathy Jimenez

201 South Jackson Street, Room 600

Seattle, WA 98104-3855

Dear Ms. Jimenez:

Thank you for the opportunity to comment on the Department of Natural Resources and Parks (DNRP) Draft Rule and Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers. We appreciate the Department's diligent response to this topic as exemplified by the establishment and support of the Large Wood Stakeholder Committee (Committee), and the timely development of the Committee report.

The river systems of King County have been significantly altered by human development resulting in extensive degradation of riverine habitat and associated biota such as currently listed Chinook salmon and steelhead trout. The substantial reduction in the incidence of large wood is often cited as a major factor limiting the quality of riverine habitats throughout the region. Habitat protection and restoration, including the ecological benefits provided by the addition of large wood to streams, have been identified as essential components for successful salmon recovery and return of river health.

As discussed in the Committee report, large wood, both placed and naturally recruited, can pose hazards to river recreationists. Human safety is a concern for us all. The Committee provided thoughtful recommendations for education and outreach initiatives that encourage safer practices by river recreationists. Such initiatives, perhaps coupled with requiring river recreationists to use personal floatation devices, could be very effective in promoting river safety.

Unlike the recommendations of the Committee, the scope of the proposed procedures focus rather narrowly on facility design and installation without similar emphasis on provisions to promote safe practices by recreational river users. If implemented as currently proposed, such an imbalanced approach could inadvertently overburden many important and urgently needed habitat restoration projects. For example, the proposed procedures require a substantial set of additional recreational safety review processes and

February 17, 2010

extensive post-project monitoring of safety impacts without similar requirements to review and monitor the environmental effectiveness of the project (or of the safety concerns associated with naturally placed wood). We are concerned that this narrow approach could compromise the effectiveness of habitat restoration projects and discourage the implementation of beneficial projects while having relatively little affect on recreational river safety throughout the County. Rather than pursuing a potentially ineffective and counterproductive pathway, we suggest that the King County Council and King County DNRP revise the proposed procedures to incorporate the more balanced approach provided by the Large Wood Stakeholder Committee.

Finally, the rule and associated procedures appear to lack clear protocol for proper classification of "Rivers Commonly Used for Recreation." This lack of criteria may explain why the North Fork and South Fork Tolt Rivers have both been apparently misclassified as rivers commonly used for recreation. Through its water management activities and facilities in the basin, SPU has extensive interest and knowledge of both these rivers. It is our belief that recreational use of these two streams is rare. Both rivers are located on private timberlands where access is restricted and allowed only by permission. Both rivers are closed to fishing throughout the year to help protect the primary refuge for Tolt River summer-run steelhead spawning and rearing. Both these rivers are relatively small and located in steep, rugged, mountainous areas with little or no direct road access. Access for boaters is very difficult and problematic. For these reasons, we believe the two rivers should be removed from the list of rivers commonly used for recreation. We encourage King County to develop and apply clear criteria for determining recreational use classifications for rivers of the county.

Thank you again for the opportunity to comment. We commend King County in its efforts to protect and restore the region's vital riverine habitats while promoting the safety of its citizens.

Sincerely,



Nancy Ahern
Deputy Director

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STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

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February 18, 2010

Cathy Jimenez
Department of Natural Resources and Parks
201 South Jackson Street, Room 600
Seattle, WA 98104-3855

Re: Draft Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers

Dear Ms. Jimenez:

I am writing on behalf of the Washington State Salmon Recovery Funding Board (SRFB) to comment on King County's draft public rule regarding procedures for consideration of recreational safety when installing large woody debris (LWD) projects.

The SRFB is aware of the public safety concerns related to large woody debris and engineered logjams. During the past year, we have conducted our own discussion of these issues, which has included presentations from scientists and members of the public. In August 2009, Sandy Kilroy of King County DNR gave a thorough presentation to explain King County's efforts in this arena.

While recognizing the importance of public safety, the SRFB must view this issue from the perspective of its primary purpose, which is to fund habitat and restoration projects that contribute to salmon recovery. Large wood is often a component of SRFB-funded projects because it is critical to healthy, functioning salmonid habitat.

The SRFB understands the concerns regarding recreational safety, but believes that it is important to ensure that ecological objectives are not compromised. We are interested in ensuring that SRFB-funded projects meet their habitat restoration objectives in a way that minimizes public risk, but without detriment to the project's benefits for salmon. The SRFB supports properly designed and engineered LWD projects, and have recently provided funding to update the state's Aquatic Habitat Guidelines. The updated guidelines will help to ensure that the most recent developments in design and engineering are widely available for project implementers.

SRFB members are also concerned about creating a false sense of safety among river users with regard to engineered logjams. Natural and engineered logjams present the same inherent risks. This message should be conveyed to all recreational river users.



We commend King County's efforts, and encourage the County to continue considering this important issue in a manner that strives to achieve the appropriate balance between habitat restoration and public safety. As the Salmon Recovery Funding Board, our main objective and statutory directive is to provide grants for salmon habitat projects and recovery activities that address the highest priorities for salmon recovery on a statewide basis. This directive clearly prioritizes salmon recovery for any project funds distributed by the SRFB. We will continue to fund projects accordingly.

We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Tharinger".

Steve Tharinger
Chair
Salmon Recovery Funding Board



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The Tulalip Tribes are the successors
in interest to the Snohomish,
Snoquaimie and Skykomish tribes
and other tribes and band signatory
to the Treaty of Point Elliot.

February 8, 2010

King County Department of Natural Resources and Parks
Attn: Cathy Jimenez
201 South Jackson Street, Room 600
Seattle, WA 98104

Dear Ms. Jimenez,

The Tulalip Tribes appreciates the opportunity to comment on the proposed public rule: *Procedures for Considering Recreational Safety When Placing Large Wood in King County Rivers* (Draft, January 4, 2010). The Tribes support efforts to improve public safety in King County in order to increase the enjoyment of public resources. However, the Tribes have several concerns with the rule as currently proposed.

The first concern involves the effect of this rule on the County's ability to meet salmon recovery efforts and continue to be eligible for salmon recovery money. Salmon recovery is critical to the Tribes' long term economic, cultural, and spiritual viability. We have given an enormous amount of effort towards the recovery goals in the Snoqualmie and currently serve as co-chair on the Snohomish Forum. King County has been instrumental in the implementation of salmon restoration projects. The County has provided an excellent example of how local government can support the goals of salmon recovery.

The proposed rule seems to compromise the salmon recovery goals of individual projects for safety during the project design phase. The Tribes are concerned that techniques that are currently recognized and accepted as ideal for fish habitat may be ecologically watered down in the name of safety. If designs have fewer ecological benefits for a similar cost, there will be a disincentive for funders to support these projects.

During the proposed monitoring and adaptive management phase, the criteria for physically modifying a large wood project are ambiguous. In this phase, the Tribes request that the "third party" evaluation of the structure include Tribal representation. Again, the Tribes worry that the ambiguity of modifying a built large wood project, in response to a citizen complaint, will serve as a disincentive for funding support. Such concerns have already been expressed at Salmon Recovery Funding Board (SRFB) meetings.

The second major category of concern is the issue of personal responsibility in public safety. Recreating in rivers carries inherent risk that many are willing to assume. Tulalip would like those people to be more willing to assume increased safety measures.

Though there was no formal study done during the King County investigation of recreational safety and large wood, the DNRP conducted a wide canvassing effort of all King County emergency responders. There were virtually no emergency responses in rivers associated with wood. The majority of emergencies were caused by inexperience and alcohol. In nearly all cases, the victims were not wearing personal flotation devices (PFDs).

Due to this information, Tulalip asks the County to consider a PFD law. We believe that by asking recreational users to take some burden of river safety. We believe that a PFD law could reduce many accidents.

Additionally since these are placed, not naturally occurring structures, there is excellent information available from the County on the location of all projects. Responsible river users should be able to plan in advance to avoid the projects.

In conclusion, the Tulalip Tribes ask King County to revisit the procedures mandated by Ordinance 16581 and place more responsibility on the river users by requiring that safety measures are taken. Safety rules should focus on safety equipment (PFD's) and planning rather than on salmon recovery projects that are intended to enhance naturally occurring habitat.

Sincerely,



Melvin R. Sheldon, Jr.
Chairman



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503



FEB 19 2010

Cathy Jimenez
King County Department of
Natural Resources and Parks
201 South Jackson Street, Room 600
Seattle, Washington 98104-3855

Dear Ms. Jimenez:

The U.S. Fish and Wildlife Service is providing the following comments regarding the draft document entitled "Public Review Draft, Procedures for Considering Recreational Safety when Placing Large Wood in King County Rivers." These procedures were drafted pursuant to King County Ordinance 16581, adopted on June 29, 2009.

We support and encourage the consideration of public safety when designing large wood placement projects and feel that public safety, aquatic habitat, and species recovery goals can all be accomplished.

We understand that the proposed procedures apply only to projects managed by the King County Department of Natural Resources and Parks. Large wood placement projects managed by other entities are not subject to these procedures. Additionally, we understand that the proposed procedures do not apply to natural large wood in rivers. We encourage King County to manage natural large wood in a manner that facilitates maintenance of biological and physical river processes.

We are encouraged that King County fully recognizes the importance of large wood in local rivers as a critical component of improving hydrologic and biological processes and contributing to the maintenance and recovery of salmonids. Healthy fisheries are an important component of a diverse, local economy, are highly valued by a wide variety of constituents, and contribute to the overall quality of life in our communities.

We note that King County contains regionally important salmon producing rivers. In addition, bull trout (*Salvelinus confluentus*), a federally listed threatened species, occur in a number of King County river systems including the Snoqualmie, Cedar, Duwamish, and White. Habitat complexity, facilitated by the presence of large wood, is an important habitat requirement of bull trout as well as their prey. The Draft Recovery Plan for the Coastal-Puget Sound Distinct

Population Segment of Bull Trout, Volume I (May 2004) identifies one reason for bull trout decline as the alteration of river systems such that they no longer provide complex channels. This degrades or eliminates important foraging, migration, and overwintering habitat for bull trout.

As the proposed procedures do not appear to contain any measurable criteria or thresholds for ensuring reasonable public safety, it is unclear to us how the procedures will affect large wood projects with regard to aquatic habitat quality and species recovery. We note that the proposed procedures list management options for when a project is "substantially compromised by design changes motivated by recreational concerns." These include project relocation, restricting recreational use, and/or implementing additional mitigation measures (such as additional large wood placement at a comparable location in the same river reach). We encourage the county to ensure that salmon and bull trout habitat and recovery goals are not severely delayed or inhibited over time as a result of the proposed safety consideration and monitoring processes.

As stated above, we feel strongly that public safety, habitat improvement, and species recovery goals can all be met when designing large wood projects and we support your ongoing consideration of public safety with regard to these and other County projects. Should you have any questions regarding these comments, please contact Tom McDowell, our Division of Environmental Assessment and Restoration manager, at (360) 753-9426 or via email at tom_mcdowell@fws.gov.

Sincerely,



for Ken S. Berg, Manager
Washington Fish and Wildlife Office

cc:

NOAA, Lacey, WA (M. Longenbaugh)
USFWS, Lacey, WA (J. Grettenberger)
USFWS, Lacey, WA (J. Michaels)