

Attachment 1

Detailed King County Comments to the Draft Action Agenda Update

1. Strategies and Sub-Strategies: Does this create a framework we can continue to work within for future Action Agenda updates? Is all the work that will be needed to protect and recover Puget Sound in the long run reflected?

General comments:

- The framework provided in the Action Agenda does not clearly convey the top key actions necessary to protect and restore Puget Sound in the long run. The terminology and sheer volume of strategies, near term actions, results chains, etc. are complex and confusing, and we suggest that the framework be simplified and made more transparent if it is to be used for future Action Agenda updates.
- The executive summary may provide an opportunity to communicate the key strategies and priorities of the Action Agenda without the burden of the full analytical framework that underlies them. However, as currently written, the executive summary describes the elements of the framework (lists and diagrams) without sufficient context to understand them, or to convey the key priorities.
- While the strategies are extensive, over time some actions may no longer be needed, and a few actions may become known when more information is gathered. The framework should allow for modifications and additions over time.

Specific comments:

- Strategy A1.4 should be clarified to ensure that the term “streamlining” is not interpreted to be advocating the elimination of regulations.
- In the section on Freshwater Protection, the second and third bullets in the discussion of emerging issues and opportunities (pg. 88) introduce the concept of integrated water planning and budgeting. This is likely to become increasingly important as the region grapples with future challenges of an expanding population and climate change. We support the consideration of such an initiative, and urge that reclaimed water be included as a component.
- We recognize the improved integration of the Puget Sound Chinook Recovery Plan into the overall action strategies, and that cross-cutting issues between salmon recovery and overall Puget Sound recovery have been clarified since the original Action Agenda was released.

- Strategy A.5.2 (pg 65-66) recommends a holistic cost-benefit analysis for floodplain projects. It is worth noting that The Federal Emergency Management Agency (FEMA) is directed to do the same thing under the National Flood Insurance Program (NFIP) Biological Opinion, and is working on a revised benefit-cost analysis for FEMA programs that may be a good starting place for other agencies.
- A key conflict between the NFIP and functioning floodplains is that land behind certified and accredited levees is not considered part of the regulatory floodplain, and as such is not subject to floodplain regulations. Land behind levees can still contain part of the floodplain, providing valuable ecological functions worthy of protection. In places where levees are currently accredited, this regulatory definition removes many of the tools for mitigating future impacts to ecologically valuable land behind levees. Where levees have not been accredited, it creates pressure to achieve accreditation to avoid the imperative to protect additional floodplain area. We suggest an NTA be included to address this problem under A.5.2 “Protect and Restore Floodplain Function.” Specific policy suggestions are: (1) if a levee is accredited, a jurisdiction should be required to mitigate for the floodplain that is disconnected from the river; and (2) to change the NFIP so that some regulation and insurance is still required on floodplain lands behind levees.
- In the Section entitled “Reducing Pressures on the Puget Sound Ecosystem from Wastewater” (pg. 209), the discussion focuses only on enterococcus targets rather than both fecal coliform (FC) and enterococcus. Note that FC is embodied in the marine water quality standards for primary recreation (e.g. wading, boating), while enterococcus is used for secondary recreation (e.g., swimming, scuba). Recreational standards for freshwater are based on the FC targets alone. Omission of FC is inappropriate unless the Action Agenda is only interested in focusing on secondary contact.
- The strategy to “improve and expand funding options for small on-site sewage systems (OSS) and local OSS programs,” (C5.3, pg. 217), could mention the potential efficiency gains from creation of a centralized loan program rather than the current system of State Revolving Fund (SRF) loans to individual counties, who then have to administer their own programs. This could make the effort to repair OSS more consistent and uniform, and not subject to whether an individual county was successful at securing an SRF loan.
- In the discussion of centralized wastewater systems (pg. 221), the statement in the last paragraph under C6 should be changed slightly, as follows: “reducing the amount of impervious surface also ~~will~~ *may* reduce the frequency and extent of CSOs and inflow

and infiltration”, as this is not always true. Also on the bottom of page 221, the discussion of targets should clarify that centralized treatment plants are not likely the only or primary source of enterococcus on Puget Sound beaches.

- There are also two unsubstantiated statements on page 226. Little is known about the existence or extent of exfiltration, and it has not been demonstrated that “plants that have high levels of inflow and infiltration in the winter are more likely to produce exfiltration in the summer months.” In addition, it is not always the case that permits stipulate that any gravity sewers close to water bodies must pressure test once per permit cycle.” These statements should be qualified to reflect this lack of certainty.

2. ***The proposed near term actions. Are they clear? Do they have appropriate and clear ownership and performance measures? And, most importantly, do they truly represent the change agenda needed to protect and recover Puget Sound?***

General comments:

- We recommend the Executive Summary include an explanation of how the list of NTAs was developed, as well as how the NTAs will be used (Table 5, pg. 16). In addition, we suggest the format of the table be synthesized and presented to make it more understandable and allow NTAs to be prioritized in a meaningful way. Sorting the NTA geographically and/or topic and a more clear linkage to Table 4 may be helpful.
- Most sound-wide NTAs have state agencies as “owners,” assumed to be entities accountable for ensuring implementation. This is probably appropriate given the focus of the Partnership as a state agency. However, there should be blanket recognition at the outset that the push for implementation will require substantial commitments from other governmental entities (local, tribal, and federal) and non-governmental entities, including businesses.
- It should be highlighted that several (perhaps most) of the NTAs cannot be completed without additional or adequate resources. For example, this is the case for two sound-wide actions that King County has been identified as owner: to identify and map BIBI scores for streams (NTA 2.1.1 and 2.3.2). King County has expertise to accomplish this type of task, but does not currently have the resources to accomplish this. This example begs the question of how many NTAs are in fact achievable given current resource commitments. This is an overall concern for all of the NTAs; the overall cost of Action Agenda implementation has not been presented. Without some additional information about the cost of these actions it will be difficult to understand and prioritize them.

- We understand that the final NTA list may only include sound wide actions (not the many actions currently in the list identified as “local”) and we appreciate the need to shorten the list. However, the PSPs role in promoting local implementation is extremely important, and there should be a sound-wide NTA that recognizes and fosters local implementation. This includes programmatic activities (such as shoreline management planning in NTA B.2.1.3) as well as support for development and implementation of specific projects. Specific local projects are individually and cumulatively very important to Puget Sound recovery (see related comment on prioritization).

Specific comments:

- The assumption under NTA 1 and 2 under A1.2 is that with better information and model ordinances, local governments will adopt appropriate policies and regulations to protect Puget Sound. What will compel local governments to adopt these model ordinances?
- NTA 1 under A3.3 may duplicate the Voluntary Stewardship Program many counties are going to be establishing under recent state legislation (HB 1886). A better approach may be to have PSP work to support these programs rather than duplicating efforts.
- Part of NTA1 under A.5.1 (pg 65) calls for developing case studies of multiple objective projects by 2013. This could happen sooner (i.e., by 2012), as King and Pierce Counties have had multi-objective projects. Similarly, while the action plan of regulatory actions called for in A.5.1 NTA 3 is definitely needed, it would appear that the timeline could be much quicker than 2013 (as it would be based on the report completed in July 2010).
- The indicator for NTA1 under A.5.4 is jurisdictional compliance with the FEMA Biological Opinion (pg 69). A better performance metric is the net change in floodplain impervious area and forest cover, as this would measure the effect of implementing actions to achieve compliance. King County’s Biological Opinion submittal provides an example of how future development impacts could be projected and then tracked over time.
- NTA1 under A8.3 could be a stronger statement about the problem of exempt wells, as more is needed beyond a consistent approach to making decisions. This action and the strategy discussion should also recognize and address the likelihood that climate change is going to have an impact on flows and groundwater.

- Strategy A9.3, “Maintain and enhance the community infrastructure that supports salmon recovery,” indicates that the near term focus will be on implementing ongoing programs (pg. 98). Based on the Tribal White Paper and NOAA’s Five Year Review of Implementation of the Puget Sound Chinook Recovery Plan, existing programs have been inadequate to protect habitat for salmon and much more needs to be done. The Puget Sound Salmon Recovery Council’s current efforts to identify NTAs that the federal, state and local partners will do to improve habitat protection should be added here as a NTA.
- There are no specific NTAs identified for salmon recovery (on pg. 96 and 98). At a minimum, this section should reference that the existing salmon plans all identify priorities for salmon recovery and that the highest priorities for each action area should be pursued. Many of the NTAs in other sections do relate to salmon, and these NTAs should be referenced in this section.
- Many of the NTAs regarding shoreline protection appear to adopt the same approach as NTAs in the land use section, emphasizing voluntary action. More positive or negative incentives may be needed.
- We recommend adding language to NTA 1 under C2.5 regarding stormwater education to support a role for community colleges, for example: “support local community colleges to develop interdisciplinary curriculum and degree programs related to stormwater management that include law; ecosystem processes; engineering; and leadership skills to work effectively with diverse stakeholders.”
- We believe the “key ongoing programs” focusing on reclaimed water discussed on page 228 should be returned to the status of NTAs, as they were in previous drafts. Unlike many other NTAs, these may in fact be achievable with available resources.
- The two NTAs discussed on page 235 (NTA C.7.1 and NTA C.7.2) should recognize that implementation would likely require revisions to the Growth Management Act.
- NTAs for sediment cleanup are not included and given their importance for addressing aquatic health, should be. An NTA could be the insistence of protecting and restoring funding for site cleanups under the Model Toxics Control Act (while it is mentioned under existing programs on pg 261, MTCA funds have been increasingly diverted away from toxic cleanups in recent years).
- The third bullet under “Emerging Issues and Future Opportunities”—the evaluation of other contaminated sites for inclusion on the priority list under the Puget Sound

Initiative—should be considered a NTA as it may be achievable and appropriate in the short term.

3. ***The presentation of ongoing programs: Are there critical gaps? Is there a better way to present this information?***

General comments:

- In each area where the document describes “on-going programs,” it may be useful to highlight the barriers or impediments that ongoing programs face in meeting their goals, so that opportunities to alter existing programs or leverage resources may be explored.

Specific comments:

- The discussion of ongoing programs related to development of regional levee-based vegetation standards (in Section A5.2, pg 67) should clearly state that action is needed to effect a change in US Army Corps (Corps) of Engineers policy. The change will need to be evaluated by the Corps and other federal agencies to determine if it supports recovery. PSP should clarify that it will work to change the federal policy or, failing that, to use the framework as a state guideline to encourage local governments to pursue an alternative approach.
- The discussion of ongoing programs relating to Section A10.1, “Implementing Species Recovery Plans,” only describes the work of WDFW. We recommend adding discussion of activities undertaken by other entities—for example, the work of local governments to regulate construction projects.
- In the discussion of stormwater (page 182), there should be a recognition that stormwater management is also addressed outside of NPDES permits, including other tools such as the Growth Management Act and the Shoreline Management Act. It is appropriate that stormwater concerns receive more attention in these processes to foster stormwater management on a regional or basin scale. A watershed approach to stormwater should be supported and encouraged.
- The discussion of Low Impact Development (LID) programs should emphasize the need for guidance on operations and maintenance of LID structures to ensure long-term functionality. In addition, a clear recognition of the need to integrate LID approaches with other stormwater management programs, such as larger regional facilities and source control is necessary. The emphasis on LID without this recognition makes it appear that it is a replacement of designed systems, rather than a supplement to these systems.

- The discussion of Total Maximum Daily Loads (TMDLs) on pg. 258 should emphasize that without sufficient funding, local governments may not be able to implement TMDLs completed by Ecology and EPA. This is an especially important issue given that the proposed upcoming changes in the water and sediment quality standards (as a result of the proposed fish consumption rates) are likely to significantly increase the number of TMDLs throughout the region.
 - The discussion of (Pollution Identification and Correction) PIC programs on pg. 263 is important, as they are an effective means to address problems where waterbodies are impaired by nutrients, pathogens and toxics. We recommend discussion highlight funding shortfalls with this program.
4. ***The target views and results chain diagrams. Are the strategies, sub-strategies, and near-term actions outlined here really going to accomplish what is needed to reach the recovery targets or are there gaps? Do the results chain diagrams clearly illustrate the basis for work and the theory of change behind the proposed actions? Have we shown our work clearly enough and does it seem right?***

General comments:

- The results chain diagrams demonstrate significant effort by the PSP to link actions to targets, which is appropriate and critical to the overall effort. The views and diagrams demonstrate that things are interconnected and complex but some may still find them confusing and difficult to follow. The results chains help show potential linkage of actions to outcomes, but do not readily convey which actions have the most impact on outcomes.

Specific comments:

- On page 180, the results chain on urban runoff, omits the effects (beneficial and deleterious) of stormwater management to groundwater. This is a significant consideration and should be acknowledged, perhaps included in the science plan.
- The logic model diagram on page 213 suggests that the pressure reduction target is to expand designations of Marine Recovery Areas to cover 90% of shoreline not primarily served by sewer. This differs from current law that says MRA's are those areas threatened or closed because of contamination and the suspected contaminant source is failing septic systems. Does the Action Agenda intend to suggest that 90% of shoreline not primarily served by sewer is threatened or closed?

- The target view discussion on page 230 does not mention the natural seasonal fluctuation of dissolved oxygen (DO), or the influence of the oceanic inflow of nitrogen possibly giving the impression that human inputs are the largest contributor. We suggest expanding the discussion to highlight these factors. We are looking forward to the results of the recent study by Ecology that will provide a better understanding of the human contribution to low DO levels in Puget Sound. Similarly, the caption describing the water quality index (on pg. 231) could more clearly indicate that the extent of the human contribution to water quality is not yet known.

5. *The proposed approach to prioritization. One of the key tensions in the Action Agenda is the balance between the need to hold all the work that is required to protect and restore Puget Sound and, at the same time, show a clear sense of the priority actions. Is the proposed approach going to result in priorities that will truly serve the ecosystem, and that the region can rally around as the critical places to invest increasingly scarce resources? How do local and regional priorities correspond to each other?*

- We support the goals of the prioritization process to be “explicitly information based, transparent and replicable.” We remain concerned about whether or not the process can be effectively implemented, with over 200 NTAs, and multiple parties participating. As indicated above, it may be preferable, in addition to (or in lieu of) prioritizing the 200 or so actions, to identify a much shorter list of significant legislative, policy, or funding actions that would have the most impact toward restoring Puget Sound (toward meeting the recovery targets). The current NTA list contains so many actions, many of which are not funded. This makes it difficult to understand which are truly priorities, and also implies that many of the listed NTAs are likely to occur (when the reality is that without funding many are not likely to occur). The process also does not evaluate existing programs and actions so we are unable to determine if NTAs in the Action Agenda would produce a cleaner Puget Sound that what we are investing in now.
- Page 24 of the Action Agenda indicates that local actions will not be prioritized along with sound-wide NTAs, because they are to be prioritized at a local level. However, the implementation of actions at the local level can be extraordinarily important at the Sound wide level— such as the Nisqually and Elwha restoration projects. Others may not move the trajectory towards a cleaner Puget Sound, and the PSP could provide valuable regional input to the local implementing agencies.
- The document indicates that the process will endeavor to prioritize ongoing programs, early in 2012 (following the effort to prioritize NTAs). We think this should be done before the Action Agenda is completed.

The funding strategy

- The Action Agenda needs to provide quantitative information of the estimated funding need to complete the high priority actions recommended, as well as information about current focus and investment levels (including current and future investments to comply with existing regulatory mandates). The financial strategy should identify significant funding gaps, drawing from past consultant work to identify current investments in NPDES permit compliance and estimated needs for stormwater retrofits and clean-up of legacy loads, and NOAA’s assessment of salmon recovery plan implementation. Where we don’t have information on estimated funding needs, the funding strategy should outline next steps for developing this information.

- The funding strategy should outline key funding issues up front--such as varying financial capacity of watersheds around the Sound to generate local funding, how and with what criteria to allocate funds among local watershed areas, how to allocate state and federal grants particularly with regard to population and land development pressures, and how to best use and develop new “market-based” mechanisms beyond pilot applications. The Funding Strategy should make recommendations for next steps and the role of the Partnership, the ECB Funding Sub-committee, or other parties in convening and addressing these issues.

- The document should emphasize the importance and need for ongoing federal, state, and local funding as an integrated package to reach the target of a clean Puget Sound.

The proposed biennial science plan

General comments:

- The proposed science plan is logical and the resulting list of 48 high priority science needs is appropriate. The draft plan (as an appendix to the Near Term Action Agenda) is structured in a manner that explains how the list was developed. However, there are areas where additional clarification and detail would be helpful.

- The science plan is a good start and we recommend the plan also include how it would be implemented including the approximate cost for addressing the identified questions, and which entities might be most appropriate to implement certain tasks.

- It would be helpful if the list of 48 actions could be linked to existing programs and/or agencies that may be involved or responsible with implementing them. Also needed is some additional explanation outlining how the items listed in this document will be further prioritized and implemented based on the two year timeline and the existing funding structures throughout the region. This information would also help guide local

governments in attempting to incorporate these actions into existing programs where possible and appropriate.

- On some level, some (or part of) of the 48 actions may already be in progress; could the PSP indicate those actions that have been already been initiated?
- The plan identifies the need for some socio-economic studies, but the need for focused economic research could be made more explicit. Specifically, two areas could be better articulated: (1) the need to ensure that the variety of analytical tools developed are cost-effective (represent the most cost effective approach to achieve objectives); and (2) that information will be gathered to demonstrate the overall contribution of Puget Sound recovery to regional economic prosperity. These types of studies will help gather public support for the overall effort as well as help guide the allocation of scarce resources.
- The document indicates that the review of existing science used to develop the list of “recommended studies” was primarily limited to “PSP” documents. We recommend that more recent available scientific documents be incorporated. For example, in the past 6 months Ecology has released a number of documents outlining the results of the Phase 3 Toxics loading studies, in addition to the final “Assessment” report that summarizes these efforts and makes a number of recommendations to address toxic chemicals in Puget Sound.

Specific Comments

- Toxics (pg. iii of the Executive Summary): Although we understand that not all elements of the grant process have been defined, we would encourage a strong connection between the four bullet items listed here and the recent EPA funding awarded to Ecology to address toxics. Currently only two of the four actions (product alternatives and fish consumption rates) listed in the Science Plan have been addressed by the Ecology grant process. 4th Bullet - “Synthesize information on emerging contaminants of concern” – We suggest that the process of synthesizing this information also includes a data gap assessment and that some type of prioritization process be developed for addressing this broad issue.
- Runoff from the built environment (pg. iii of the Executive Summary); 5th bullet – metals in stormwater, especially copper, are also a concern-- it’s not clear why only pesticides are called out. Recent work by NOAA suggests that both metals and pesticides, particularly pesticide mixtures, can have adverse impact to aquatic life, especially salmon.

- Although there is mention of effectiveness monitoring later in the document, the topic is not specifically mentioned in the Executive Summary. We think it is important that this issue be highlighted - it is a high priority for understanding if our actions are making a difference and key to helping the public understand that their tax dollars are being effective at improving Puget Sound.

- Page 6 – Freshwater systems are not included in this figure. Are they part of another category? Is freshwater included in the terrestrial component?

Attachment 2

E-mail that Fred Jarrett Sent to PSP on 11/7

From: Jarrett, Fred [<mailto:Fred.Jarrett@kingcounty.gov>]
Sent: Monday, November 07, 2011 8:01 PM
To: (gerry.okeefe@psp.wa.gov); martha kongsgaard
Cc: Smith, Megan; True, Christie; Burns, Bob; Berry, Rhonda; Richey, Joanna
Subject:

Dear Gerry and Martha,

On October 5th, I sent a letter on behalf of the South Central Sound Caucus Group, outlining local priorities for the Action Area update. As we look ahead to the November 18th meeting of the Ecosystem Coordination Board, I also wanted to weigh in from a King County perspective on the proposed process for prioritizing actions.

We recognize the statutory need for the Partnership to update the Action Agenda, and the need to be responsive to the Joint Legislative Audit and Review Committee (JLARC) Report, which called for linking near-term actions to benchmarks and prioritizing actions with cost estimates to inform budget decisions. I am pleased to see the progress the Partnership is making on establishing recovery targets but I have concerns about the proposed approach for prioritizing actions.

To recover Puget Sound (implement AA to achieve targets) the Partnership should consider four questions:

1. What actions are most important and in what sequence should implementation occur (based to the greatest extent possible on science; i.e., what are the major pollutants & how which AAs impact these challenges)?
2. Who is responsible for implementation and with what funds (including both public and private parties)? What is the likelihood those resources will be available?
3. How does implementation play out geographically throughout Puget Sound?
4. What are the mechanisms for holding responsible parties accountable (including incentives and consistent regulatory standards)?

As a precursor to choosing priority AAs, I encourage the PSP (1) identify which actions are needed and the appropriate sequence (based on available science) in order to achieve the recovery targets; and (2) based on those needs, identify the top priorities for focus by the

Partnership and accountable parties based on their scope of authority, available resources, and appropriate influence, (3) serve as a basis for mapping out actions and holding parties accountable.

I am very concerned that a “voting” approach for prioritizing more than 250 actions with varying levels of specificity and connection to the recovery targets is unlikely to answer these four questions or to establish a clear understanding of what is needed to restore Puget Sound. The necessary information for multi-voting simply doesn’t exist yet.

Given the unavailability of the necessary information about the universe of AAs, I recommend focusing on a core set of significant actions that are essential to “shifting the trajectory” of the targeted metrics. Focusing on a smaller number of actions would enable us to refine the actions, and identify necessary sequencing, barriers to implementation, next steps, and points of accountability. A smaller set of focused actions would also be easier to communicate to the public and decision makers. The IDTs, with primarily technical representatives, are the right parties to weigh in on functional sequencing of actions. The LIOS and ECB, with parties likely to be responsible and accountable for delivering actions, should refine actions including addressing priority geographic (watershed) areas, identify gaps in authority and resources, and map out next steps.

At the end of the day, we’ll need political will, funding, and engaged property owners to recover Puget Sound. Being ready to talk about a focused and compelling set of actions – rather than a numerically ranked matrix of hundreds of actions – will be essential.

We acknowledge the difficulty of the task and are committed to the successful clean up of Puget Sound. I’d be happy to discuss this further with Partnership staff and ECB members.

Take care,

<image001.jpg>

□ Please consider the environment before printing this e-mail.