



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Northwest Region  
7600 Sand Point Way NE  
Seattle, Washington 98115

February 3, 2012

Chris Townsend, Program Director: Planning and Policy  
Puget Sound Partnership  
326 East D Street  
Tacoma, WA 98421  
Re: Draft Action Agenda Update

Dear Mr. Townsend,

Thank you for the opportunity to comment on the draft Action Agenda Update. The update is a major undertaking and we recognize efforts the Puget Sound Partnership (Partnership) has made to ensure this endeavor is comprehensive and includes input from diverse interests across the region. Our comments include contributions from staff in several divisions of the NOAA Fisheries' Northwest Regional Office with expertise in habitat management, marine mammals, mitigation and salmon recovery. We focused our comments on portions of the update we believe are most pertinent to salmon, steelhead, marine mammals and the habitat upon which they depend.

### **General comments**

The Action Agenda provides a useful organizational framework of strategies, conceptual models and targets. It could be strengthened during the update process by adding specificity to the near term actions (NTAs) and clarifying responsible parties. Several of the NTAs describe important action steps, but do not explain what entity is responsible for taking the action.

It is our understanding that the "strategic initiatives" which establish the Partnership's priorities for the next biennium are still under development. We recommend the Partnership include implementation of existing recovery plans as a strategic initiative. NOAA approved recovery plans for Puget Sound Chinook and Hood Canal Summer Chum salmon and Southern Resident Killer whales. Those plans are scientifically sound and include specific actions that directly relate to recovery of the Puget Sound ecosystem. The salmon recovery plans include detailed workplans for each watershed and identify priority actions for habitat and population recovery.

Strategies that emphasize compliance with existing regulations may warrant additional review. Recent research from NOAA's Northwest Fisheries Science Center, for example, has shown that salmon experience lethal and sub-lethal effects from heavy metals at levels below existing state standards. We recommend strategies and actions in the update focus on desired ecological conditions. Effective regulation and compliance should ensure habitat and species protection and reference best available scientific information.

### **Additional comments on specific elements of the Action Agenda Update**

Floodplains: *A5.1 Improving data and information to accelerate floodplain protection, restoration and flood hazard management.* Traditionally, several factors have impeded floodplain recovery (and related salmon recovery and water quality goals). These factors include a lack of public support, expense of restoration, and uncoordinated agency goals and policies. At the local government level, loss of revenue from protected or undevelopable lands also has inhibited floodplain protection.

Yet seemingly divergent floodplain management goals—flood damage prevention, control, clean water, salmon—are not inherently at odds with one another. Those portions of the river corridor that present the greatest risks to people (i.e., incur the most flooding and erosion) are often the same areas where salmon habitat, water filtering wetlands, groundwater recharge and flood storage are most likely to occur.

The Action Agenda Update includes a proposal to convene a group to establish a working definition of floodplain, floodplain functions, and frequently flooded areas. We do not believe that is a necessary action, as this information already exists. Floodplains and frequently flooded areas are defined as locations that annually have a 1% chance of inundation from the 100-year storm. Currently, federal, state, and local regulatory agencies use this definition from the Federal Emergency Management Agency (FEMA). Further, floodplain functions are described thoroughly in the scientific literature and agency publications.

In recent years, FEMA worked closely with local governments in Puget Sound to develop a multi-objective approach to managing floodplains under the National Flood Insurance Program. We recommend the Partnership and local governments review and reference that work rather than initiating the Action Agenda Update's proposed review of policies and programs by 2013. Similarly, rather than gathering data on public perception of flood risk, we recommend the Partnership focus on public education about floodplain benefits and risks of developing in flood-prone areas. A good example of an effective public communication campaign is the U.S. Army Corps of Engineers' (Corps) recent outreach to residents of the Green River valley about flood risks from the Howard Hanson Reservoir in 2008 through 2011. The Corps emphasized that floodplains will flood even when levees are fully functional, and flood risk is never negligible. This information is available as public guidance at <http://www.asce.org/>.

*A5.2 Aligning policies, regulations, planning efforts, and agency coordination in floodplain management.* Many regulatory programs already include elements to protect floodplains (e.g. – existing watershed plans, Hydraulics code, Growth Management Act, Shoreline Management Act, RCW 90.48, Clean Water Act (sections 404, 402, 401) Coastal Zone Management Act). The Joint Aquatic Resource Permits Application (JARPA) is designed to enhance coordination to improve and align resource management in the floodplain. Exploring alternative methods for valuing flood attenuation and water storage functions of functioning floodplains may be more effective than another effort to align policies and programs.

*A5.3 Implement and maintain priority floodplain restoration projects.* As floodplain managers know, the single most effective floodplain restoration strategy is to set levees back from rivers to

re-establish some connection between the river and its overbank areas. The cost of the land acquisition is a significant obstacle to reconnection. If the Partnership could identify those areas where levee setbacks were of highest priority, then interim steps could be taken such as purchasing rights of first refusal for property adjacent to levees, buying development rights or acquiring flood easements. Once levees are set back, the floodplain between the levees typically requires little to no maintenance. Landowner willingness to sell is important to the success of these efforts. Levee setbacks are most likely to be successful in areas that have limited development and large parcels held by relatively few owners. We suggest the Partnership focus on cost effective strategies for securing property interests that support levee setbacks and floodplain restoration.

*A5.4 Protect and maintain intact and functional floodplains.* This item is probably the most important and the most difficult task identified. The Partnership could assist in floodplain protection by working with the local government representatives who participate in recovery plan implementation, local watershed councils, and local governments tasked with growth management and zoning responsibilities. The Partnership is well positioned to enhance communication about floodplains with local groups, providing clear information on which areas of functional floodplain retain fish values and why. Also, Partnership staff could explain how strengthening local codes (e.g., under GMA critical areas ordinances, zoning, or comprehensive flood management planning) supports recovery plan commitments and reduces flood risks to life and property. That reduction in risk results in financial benefits to local communities by reducing their flood insurance rates.

*A5.5 Protect, enhance, and restore floodplain function on forest and agricultural lands.* We agree that floodplains on lower valleys now covered by agricultural lands are potentially some of the most productive habitats for salmon. Purchasing development rights and land swaps may begin to restore functional conditions. The Skagit Tidegate and Fish Initiative provides a good model for using watershed-specific salmon recovery plan targets to set numerical objectives for restoring functional conditions in lower valley salmon habitats. We encourage other watersheds to consider how to develop their own approach. We recommend the Partnership expand the list of Near Term Actions (NTAs) to include locating levee setbacks on agricultural lands in valleys with natal salmon habitats. The WA Forest Practice Board Manual (2004) provides useful guidance for identifying channel migration zones (CMZs) on commercial forest lands and relocating stream-adjacent roads outside CMZs.

*A5.6 Incorporate climate change forecasts into floodplain protection and restoration strategies.* We agree with the Partnership that restoring floodplain functions can help mitigate climate change impacts, creating resilient communities. Rather than the proposed NTAs for planning and studies, we recommend on-the-ground action to restore floodplains such as levee setbacks, floodplain reconnection and active restoration.

### **Mitigation**

We agree with the Partnership that broader, more strategic and well-designed mitigation is an important element in the overall approach to Puget Sound recovery. We offer the following specific suggestions to the mitigation section of the Action Agenda Update.

*A7.1 Reinforce the importance of avoiding and minimizing impacts to resources, particularly those with high ecological value and that are difficult to replace. Develop and implement updated avoidance and minimization guidance consistent with the ecosystem protection decision-making framework described in A1.2.* We recommend the Partnership emphasize that nothing in supporting increased, science-based mitigation should undermine existing statutory requirements. For example, NOAA Fisheries will continue to consider mitigation sequencing and avoidance of impacts when evaluating proposed actions under Section 7 of the Endangered Species Act (ESA).

*A7.2 Establish and implement a watershed-based approach to mitigation.* This is an interesting proposal and one we would like to explore with the Partnership. As this concept is developed we recommend the Partnership consider how this proposal would work in places that are influenced by conditions outside the watershed or that aren't directly linked to a watershed. Examples of such places include estuarine and nearshore-marine locations in Puget Sound and some tidally-influenced portions of lower rivers near the estuary.

*A7.3 Support the development and piloting of innovative compensatory mitigation tools including market-based techniques and other approaches.*

- a) We recommend the Partnership clarify the training needs and audiences under this sub-strategy.
- b) We would like to support the Partnership's effort to develop guidance on crediting for multi-resource conservation banks.
- c) Mitigation banks are nearly- or fully-developed in both King County and Hood Canal. Additional banks are just getting underway. We propose the Partnership focus on marketing and informing prospective participants (developers, governmental action agencies, permit issuers) of their availability and how they will integrate with existing regulatory requirements.
- d) We agree there is a need for guidance on the construction of sustainable, valuable mitigation projects and banks that integrate existing resource recovery goals under ESA and other authorities. We recommend investigating opportunities for mitigation on a broader scale such as the watershed level. Our staff can provide assistance on mitigation for listed species as this effort gets underway.

## **Protect and Recover Salmon**

*A9.2 Implement salmon recovery strategies and actions not listed elsewhere in the Action Agenda.*

*C) Habitat, harvest and hatchery action integration:* NOAA Fisheries recognizes the need to integrate recovery actions across habitat, harvest and hatchery disciplines. Our 2006 Supplement to the Puget Sound Chinook Salmon Recovery Plan noted that coherent integration of activities across the "Hs" is necessary to enhance salmon recovery effectiveness. H-integration remains a challenging issue. We support the Partnership, Recovery Implementation Technical Team, watershed technical teams and others trying to develop an H-integration approach. Our staff will provide input and guidance on H-integration as this sub-strategy develops.

*D) Monitoring and adaptive management:* We agree that monitoring for population status, and compliance and effectiveness of recovery actions are necessary, and have staff dedicated to the

effort. Further, we agree that watershed-level adaptive management plans remain important gaps for Puget Sound Chinook salmon recovery.

We do not believe a “*significant gap in our understanding of how landscape changes impact our ability to recover salmon*” substantially impairs salmon recovery. There is a growing body of scientific research linking watershed conditions to human development and climate change. Watershed groups leading recovery of salmon habitat will benefit from this emerging science. In addition, results from Puget Sound’s Intensively Monitored Watersheds will inform watershed-scale actions. Recent reviews, including an investigation done by NOAA in 2011, identify a failure to implement recovery actions, rather than a lack of scientific understanding, as the impediment to salmon recovery progress.

We concur with the Partnership’s proposal that watershed-level adaptive management programs will require additional technical and funding support. These investments will help the watersheds and the region as a whole focus on the most important actions for species and ecosystem recovery.

*E) Our staff is actively involved in the coordinated efforts with the Governor’s Salmon Recovery Office, Washington Department of Fish and Wildlife, the Partnership’s Salmon Recovery Council, watershed groups and others to develop a recovery plan for Puget Sound Steelhead. We look forward to strengthening that collaboration in the coming months and to charting an effective course for recovery of that species.*

*A9.3 Maintain and enhance the community infrastructure that supports salmon recovery. We are concerned that salmon recovery practitioners participate in multiple reviews and processes that reduce resources available for recovery actions. We encourage the Partnership to scrutinize current and proposed Ongoing Programs to look for opportunities to trim process and focus on implementing actions for both species and habitat.*

#### **Nearshore and Marine Protection and Restoration – B14**

The proposed strategies are reasonable and could be enhanced if more specific NTAs were added to ensure targets will be met.

*B1. Use anticipated population and economic growth as a catalyst for recovery by building on existing efforts to establish protection and restoration priorities.*

*B1.1 Ensure complete, accurate and recent information directly assists shoreline planning and decision making at the site-specific and regional levels.” In the near term, we recommend the Partnership work directly with each county and city to “ensure complete, accurate and recent information directly assists shoreline planning and decision making” rather than focusing on marine protected areas. We agree the most recent and accurate information should be used in decision-making at all levels of government.*

*B1.2 Monitor projects to effectively evaluate results and implement adaptive management. We recommend this sub-strategy focus on establishing greater Sound-wide monitoring, including*

stratified sampling of all coastal landforms and habitats, including restoration projects rather than limiting monitoring to Aquatic Reserves.

*B1.3 Use outreach and education to encourage actions to protect and restore nearshore and marine habitats.* We suggest the Partnership include additional NTAs for all Puget Sound counties.

*B2.6 Give permitting agencies and local governments the tools and resources they need to ensure protection of nearshore and marine environments.”* We recommend the Partnership expand the NTAs for this sub-strategy to ensure necessary protection will result. For example, the Partnership or another appropriate entity could audit a sub-sample of recently constructed new shoreline structures to confirm proper permitting and mitigation sequencing to limit intertidal fill and site-disturbance. Audit results would enable permitting entities to protect habitat more effectively by reviewing actual development impacts.

*B3. Implement and maintain priority nearshore and marine ecosystem restoration projects.* We agree implementation is critical for restoring nearshore ecological function and recovery of ESA-listed species. In addition to implementing large-scale nearshore projects, widespread gains in ecological function could be met by routinely adding riparian trees and shrubs to every shoreline modification project. In order to best link locations of restoration actions to salmon recovery, we will provide the Partnership a sub-set of the PSNERP candidate restoration actions that would benefit the greatest number of salmon populations, e.g., Hood Canal, eastern Puget Sound, Nooksack, and eastern Straits.

In *B7.2 Implement existing marine and nearshore species recovery plans in a coordinated Way.* This section lists plans for sea otters, Southern Resident killer whales and rockfish, but does not include the salmon recovery plan (although there is an empty inset box for salmon recovery plan priorities). We support the Partnership’s recommendation is to identify overlapping actions within these plans and eliminate redundancies. This approach provides an effective method for prioritizing actions that benefit multiple species and support ecosystem recovery.

Near-Term Action B7.2 NTA1 is limited to state agencies prioritizing implementation of "restoration projects" within existing species recovery plans. There are many actions in recovery plans beyond restoration that are carried out by responsible parties other than states. This action could be broader and include implementation of all types of actions in the recovery plans.

This section does not mention ongoing programs. We recommend the Partnership include ongoing recovery implementation for Southern Resident killer whales and reference the 2011 5-year review which describes ongoing actions and makes recommendations for future actions. <http://www.nwr.noaa.gov/Marine-Mammals/Whales-Dolphins-Porpoise/Killer-Whales/ESA-Status/KW-ESA-5-yr.cfm>

More information about ongoing programs for killer whale recovery complements the Orca target view in this section.

**Reducing Pressures on the Puget Sound Ecosystem from Runoff from the Built Environment C2; Agricultural Runoff – C3; and Surface Runoff from Forest Lands – C4**

We agree with the proposed strategies and targets based on Benthic Index of Biotic Integrity for Urban Runoff. In order to better link these sections to salmon recovery, each watershed chapter of the Puget Sound Chinook salmon recovery plan should be revisited with new information about locations, amounts, and qualities of runoff from all human development (urban, agricultural, and commercial forest lands). We understand the challenge involved here, as many watershed chapters were developed before 2007, and lack the necessary information to understand and tackle this emerging issue.

*B4.1 Use, coordinate, expand and promote financial incentives and programs for best practices at ports and in the marine industry that are protective of ecosystem health...Key Ongoing Program Activities: Ecology, in conjunction with the Clean Boatyard Washington program, will work toward ensuring Puget Sound boatyards meet the requirements as described in the Boatyard General Permit with a goal that 100% of Puget Sound boatyards covered under the Boatyard General Permit will meet the benchmarks for copper and zinc in stormwater discharges by 2014...Puget Sound ports and marinas covered under the NPDES Industrial Stormwater permit will comply with the permit's benchmarks and SWPPP requirements.”* Note that “benchmarks for copper and zinc in stormwater discharges” are, according to best available science, too high to protect ecosystem health.

*Section C, "Reduce and Control the Sources of Pollution to Puget Sound"* encompasses all of the actions in NOAA's killer whale recovery plan to minimize pollution and chemical contaminants in Southern Resident killer whale habitats and address oil spills. Although orcas are not listed as a target for this section, the actions address two of the primary threats. A priority area for killer whale recovery is increasing our knowledge of Polybrominated diphenyl ethers (PBDEs), PBDE inputs, transport and bioaccumulation and minimizing effects on the whales. PBDEs are mentioned in the introduction and the section covers a range of activities that would further this objective. Also, there is a recovery target specific to PBDEs under the "Toxics in fish" indicator that will facilitate tracking efforts to minimize PBDEs in Puget Sound. We recommend the Partnership focus control efforts on specific bioaccumulative contaminants of concern, such as PBDEs, for top predators like killer whales.

We appreciate the opportunity to provide these comments. Please contact me if you have questions or need clarification regarding our recommendations (206) 526-4505. We look forward to working with you as you update the Action Agenda and advance recovery of the Puget Sound ecosystem.

Sincerely,

Elizabeth Babcock  
Puget Sound Salmon Recovery Coordinator