



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE

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SUBJECT: Department of Commerce review comments on the draft 2011 Action Agenda

Thank you for the opportunities provided to comment on the proposed draft Puget Sound Action Agenda and related documents. We realize this is a significant undertaking and that there are numerous issues, stakeholders, and science gaps to address as we continue to work on recovering Puget Sound from its current condition.

The Department of Commerce offers the following comments that we believe will enhance the draft Action Agenda:

Priority Setting

The proposed response scales for the priority setting criteria are too detailed to readily evaluate the criteria. We suggest using a scale of High, Medium, and Low to capture the relative values of each criteria. We also suggest you request survey respondents include any relevant information used to weigh the criteria or judge its potential effectiveness.

A clearer picture of relative priorities might emerge if it is possible to combine some of the proposed criteria, and otherwise to minimize the total number of criteria to evaluate. We suggest combining #3 **Expected effectiveness of the action** & #5 **Extent this action prevents loss of key ecological attributes of the main ecosystem component benefiting from the action**. #9 **Technical feasibility** & 10 **Readiness to implement**, and perhaps eliminating #8 **Relative cost**, which could better be used to evaluate implementation options. We also support the suggestions provided by the EPA in this regard.

Near Term Actions

p. 15 Under the list of potential state legislative actions, there may need to be additional items, including the action proposed under **C7.1 NTA 2**, regarding urban sanitary sewer service extensions beyond UGAs. This proposed NTA might require legislation to implement fully.

A1.1 Identify and prioritize areas that should be protected or restored and those that are best suitable for (low impact) development.

p. 34-35 The stream typing discussion states that only some local governments use DNR stream classifications to regulate land uses near water bodies. This should be more accurately quantified, as current Commerce estimates are that most local governments do this, though many may not include the DNR-required protocol of field verification of mapped and designated streams. Commerce includes recommended guidance for local governments in WAC 365-190-130 (4)(f) that suggests this is a useful method to classify streams, which are usually locally designated as critical fish and wildlife habitat conservation areas. Also, we suggest that DNR clarify the status of this Forest Practices rule, regarding the use of modern stream typing based on fish suitability and presence, versus the older ("interim") scheme of Types 1 through 5 (-030 vs. -031.) Currently the older ("interim") scheme (in WAC 222-16-031) is still the adopted version under the Forest Practices Rules.

p. 36 The timing of the Salmon Recovery Council agreement on a set of actions should be clearly stated, especially as it is proposed to be "folded into the Action Agenda." Uncertain timing of key actions can undermine selected strategies.

A1.1 NTA 1: PSP will convene an interagency workgroup by 2012 that, by 2013, will prepare regional ecosystem protection standards with a decision-making framework.

This appears to be directed at achieving broad agreement on consistent standards that can be adopted by local governments. It remains unclear how such an effort could succeed, if it consists only of state and federal agencies. Even with the participation of local governments and Tribes, such an undertaking would be time consuming and would ultimately rely on the existing legal framework to impose these standards. It is not certain that this effort would result in meaningful changes on the ground.

A1.1 NTA 2: By 2012, The Puget Sound Institute will work with Ecology, Commerce, WDFW and other partners to develop a tool to improve and support spatial landscape data collection, sharing, and analysis to improve the ability of agencies to make land use decisions based on watershed assessments.

P. 37 This needs to clarify how it interrelates with the PS Watershed Characterization work, the emerging NEP-funded Watershed Characterization Technical Assistance Team (WCTAT), and the NEP-funded Commerce Permitting Data project. This section should specifically mention the WCTAT work, and perhaps the Washington State Geographic Information Council's (WAGIC) ongoing work and website <http://geography.wa.gov/wagic/default.htm> . This NTA appears to connect with A. 1.2 more than with A. 1.1, as it is focused on applying the information to local land use decisions.

p. 37, last par. Proposed edits (added underlined words): "These goals and policies encourage compact urban growth patterns, increased density, strategic redevelopment, and resource and rural lands protection."

(This sentence repeats on top of p.38.)

A1.2 NTA 2: By 2013, Ecology and Commerce will develop and distribute a set of local model planning land development and growth policies and goals that are consistent with protection and recovery targets and the Growth Management and Shoreline Management Acts, and DNR's Aquatic Lands Habitat Conservation Plan when approved by NMFS.

Performance measure: By 2013 Model growth policies are distributed to local governments

p. 38 Commerce does not agree with the language presented, and suggests that "best practices" might be better than "model policies". This language is too vague, as there is no relevant science that points to clear, direct connections between general growth policies and protection and recovery targets. This effort would need additional funding to support Commerce efforts, as it is not within existing agency resources. It would likely be a large effort including multiple programs at these two agencies, other agencies, local governments, tribes and other groups with expertise. The timing of NMFS approval of the DNR Aquatic Lands Habitat Conservation Plan could also affect meeting the performance measure. We suggest the following edit to the performance measure would be more realistic, assuming funding is provided: "*By the end of 2013 example growth policies that include best practices are distributed to local governments.*"

A1.2 NTA 3: By 2012, Ecology and Commerce will work with local governments to identify the primary barriers to incorporating policies consistent with implementation of the Action Agenda and identify assistance needed to overcome these barriers; including understanding how ecosystem characterization information and methods, and related protection strategies, and encouraging compact growth patterns, increased density, redevelopment and rural lands protection can be better incorporated into land use decisions.

Performance measure: By 2012, five barriers & assistance needed are identified for all jurisdictions

p. 38 Commerce thinks this is duplicative of, and could be combined with, A1.2 NTA 2 – any effort to identify best practices would need to include identifying barriers. If this stays as a separate NTA, we need to get the performance measure changed – we cannot have a predetermined number of barriers to identify. The measure should focus on meeting the timeline, not a set number of barriers. Also, Commerce will need additional resources to implement, as it is not within existing agency resources.

A1.3 NTA 1: By 2013, Commerce will coordinate broad partner discussion of ways to promote state financial support for local governments for GMA comprehensive plan implementation, enforcement, management, training, and education.

Performance measure: State financial support to local governments for plan and regulatory implementation, enforcement, management, training, and education will have increased by 2013

p. 39 Commerce will be happy to coordinate this effort, but budget uncertainties may delay the achievement of actual state financial support. Suggest this date be focused on including state funding in the 2013-15 state biennial budget rather than by calendar year 2013. This would be better timed for the scheduled GMA update actions required of local governments.

A1.4 NTA 1: [Who?] will convene a workgroup, by 2012, that will, by 2013, conduct a cumulative effects assessment of the 'no net loss policy' in producing net gain toward the recovery targets and articulate how cumulative effects assessment could be integrated into existing programs.

Performance measure: Workgroup convened by 2012, assessment complete by 2013

p. 39 This language should specify what types of permits or programs are to be addressed (if any), other than shoreline master programs and substantial development permits. Existing SMP updates are required to assess their cumulative impacts of adopted policies and development regulations based on a "no net loss" policy - is this task to assess the likely impacts of adopted SMPs over time? The only other program that includes an explicit "no net loss" policy that we are aware of is wetlands protection. The appropriate lead agency must be identified, and will depend on the intended scope of this NTA. Funding would likely be needed for the lead agency to implement.

A2.1 NTA 1: This action is to complete a process began in 2009, when: " using the authority of PSP's fiscal accountability legislation (RCW 90.71.340), the RCO, PSP staff, stakeholders, and the two RCO funding boards (Recreation and Conservation Funding Board and Salmon Recovery Funding Board) identified policies to align the grant processes with the 2008 Action Agenda."

p. 42 This action is scheduled for 2014, but it is not clear why 2 years is needed to do this, especially as it has been a goal since 2009. Perhaps identifying the reason(s) for the delay in completing this recommended action could help inform a better path forward to complete it sooner.

p. 43 Combine A 2.1, NTA 5 & 6 as they address the same thing and have the same performance measures.

A2.2 Use Special designations to protect intact areas

p. 44 Suggest adding more programs to this list to include all state and local government special designations: Marine Protected Areas, Marine Conservation Areas, Shellfish Protection Areas, GMA critical areas, etc. The current list is much too small.

p. 51 "The Voluntary Stewardship Program at the Washington State Conservation Commission (WSCC), created in 2011, requires counties across the state to either opt into the program or resume the process of updating their critical areas on agricultural lands under existing GMA processes." (Emphasis added.)

Many counties will likely have to do both things, but in different watersheds within their jurisdictions. As currently written, this is not clear. It is also dependent on securing non-state funding, which is uncertain. Recommend requesting the Conservation Commission to clarify this item, and specifically how different areas within counties will be addressed differently, by either the VSP approach or through the standard CAO update process.

p. 50-51 In general, most of the mentioned state agency environmental protection incentive programs have been defunded. This is not clear when reading the text. Transparency demands a clear statement as to whether these financial assistance programs are really available or not.

Puget Sound Basin Ecosystem Characterization: Check for consistency of terminology.

p. 53 What is the status of “the (2008-09) establishment of a legislatively appointed Task Force to direct and produce an overall plan” for protecting forests?

p. 53 “In addition, potential legislative actions associated with the Open Space Tax Program are described in the Introduction to this Section.” It is not clear to what this final phrase refers, as there are no clear changes proposed to the Forestry and Agriculture Open Space Tax Act, only a mention of it.

p.15 The following is stated under potential State Legislative actions:

- Amend the Open Space Tax Program to improve incentives for small landowners and to reduce tax and administrative burden on working farm and forest landowners.

It is not clear what this is referring too, so some added clarification would be helpful.

p. 56 The following statement is not accurate and needs clarification: “In particular, regional transportation planning organizations could strengthen their required regional land use plans to do integrated land use planning across the jurisdictions.” Most RTPO’s do not adopt regional land use plans, nor are they required to. Only the central Puget Sound region is required to adopt multi-county planning policies under the Growth Management Act, with which city and county comprehensive plans must be consistent. Where regional land use plans have been developed, such as PSRC’s VISION 2040, it is through member-supported action. Clarification of this approach is needed, and suggest citing example work plans of regional entities that have taken this approach (not all of which are RTPOs), to show what is possible or what is intended.

A4.1 NTA 1: Commerce will launch a regional program similar to the federal sustainable communities program by 2013.

Performance measure: To be determined

Major Activities or Milestones:

- Convene stakeholder group to plan program, incentives, and desired outcomes
- Identify funding sources
- Develop and issue RFPs
- Award grants
- Implement ongoing policy institutes and training programs

p. 56 This action would likely have a pretty big price tag, so Commerce would need additional funding/staff resources to implement this effort, as it is not within existing agency resources. A source of funding is not currently available, so it may also take legislative action to implement.

A4.2 Provide the necessary infrastructure and incentives within urban growth areas to accommodate new and re-development.

p. 57 “Potential legislative actions associated with tax increment financing as described in the Introduction to this Section.”

This is very unclear as a standalone NTA, and would require a far more comprehensive set of tools than just tax increment financing. Commerce recommends either: 1) include a much more robust

set of actions/tasks that would more likely implement the action, 2) replace with a task to develop a robust set of legislative and other actions by 2013, or 3) delete this NTA.

A4.3 Enhance and expand the benefits of living in compact communities to increase consumer demand for them.

No near-term actions were identified.

p. 57 This is very unclear as a standalone NTA, so Commerce recommends deleting it. Emerging demographic trends, energy costs, and market responses are beginning to address this action, and may further accomplish it over time. Commerce recommends that ongoing education about changing housing and urban designs be continued as needed, to increase exposure to housing and urban design alternatives and examples.

A5.4 Protect and maintain intact and functional floodplains.

A5.4 NTA 2: Ecology, Commerce, and other interested state agencies will develop a strategy for and lead effective state engagement with local governments in the next round of CAO updates on frequently flooded areas.

Performance Metric: TBD

p. 69 Commerce would need additional budget and staff resources to effectively engage in this effort with Ecology and other agencies. Ongoing efforts by local governments to address the federal Bi-Op's Reasonable and Prudent Measures to ensure program certification by FEMA will be the primary driver of this work locally. Due to the new Voluntary Stewardship Program option being administered by the state Conservation Commission, certain floodplains with existing agriculture may not be directly affected by local CAO updates, but rather by state approved local stewardship programs with monitoring oversight.

p. 70 The following edit is needed: "As a public resource, fish are protected by state Forest Practice Rules which require landowners to restructure fish barriers by 2016 in a way that allows unobstructed fish passage. The program provides 75-100 percent of the cost of removing the barrier, with the funding provided varying based on the quality of the habitat, number of salmon and trout species benefiting from the correction, and project cost."

Is the Family Forest Fish Passage Program (or are any of the other listed state incentive programs) currently funded? If not, then the AA should state this to avoid creating false expectations of funding when it is unavailable. It is also noteworthy that this Program only addresses small forestry operations, not agricultural operations.

A5.5 NTA 2: The conservation districts, agricultural community, watershed planning groups, and local jurisdictions will use the outputs from the characterization work (A5.1 NTA 1) to identify potential land swaps (i.e., county land use and conservation districts) and identify candidate areas available to expand for agriculture outside of priority floodplain areas by 2012.

Performance Metric: (Status of list) By 2012, potential land swaps and candidate areas available to expand for agriculture are identified.

p. 72 It is not clear that all these groups know they are supposed to do this in 2012. The Watershed Characterization Technical Assistance Team will be focusing major efforts on assisting NEP-grant funded projects in 2012 and 2013. Perhaps the scheduled date could be changed to 2013, to allow additional time to seek engagement with these groups. Suggest that the Conservation Commission might be the best lead entity for this effort.

A5.6 NTA 3: PSP and Ecology will work with EMD, and other interested agencies, to change state comprehensive flood management planning and project funding policies....

p. 73 This links back to A 5.4 NTA 2 above, so they might be able to be combined.

p.120 Recommend the following edit: "GMA and SMA direct local jurisdictions to plan for growth and development while ensuring the ongoing functioning of the ecosystems supported by critical areas (wetlands, streams, slopes, etc.) or of no net loss of shoreline ecosystem functions and processes." It is important to note that the GMA definition of critical areas includes their associated ecosystems.

p. 131 The existence of many miles of rippapped shoreline railroad lines is not even mentioned in this discussion of shoreline armoring, which is a big information gap that should be filled. Even if changing this situation is considered unlikely, keeping the current reality in front of the public and decision-makers is very important.

C7.1 Include assessment of cumulative impacts in planning and permitting for centralized and decentralized wastewater systems in comprehensive plans.

C7.1 NTA 1: Commerce, Ecology, and DOH will encourage communities to more comprehensively provide for wastewater treatment on a watershed basis, using water budgeting tools and striving to use all water resources available (including reclaimed water) to meet the needs of people and the environment by aligning existing plans and planning processes to more effectively meet wastewater treatment and management needs. This might take the form of a pilot program in a watershed that has or will soon have a full TMDL assessment and a water cleanup plan.

Performance measure: Pilot project done or not

p. 235 Commerce is willing to assist in this effort, but this might best be lead by Ecology, especially with the emphasis on water resource planning. Commerce focuses complementary efforts through its Small Communities Initiative on assisting smaller and less populated communities complete wastewater and other infrastructure system upgrades, by working jointly with Ecology and other agency staff. There is an opportunity for additional resources to be provided to this program if more focus is desired in the Puget Sound basin.

C7.1 NTA 2: Commerce, Ecology and DOH will identify shoreline areas outside urban growth boundaries where residential densities are great enough that it may be appropriate to extend centralized wastewater collection systems and that are in close enough proximity to centralized treatment that extension of infrastructure may be feasible. The goal of this effort is completion of one pilot project by 2012.

Performance measure: Pilot program in place or not

Mr. Gerry O'Keefe
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February 2, 2012
Page 8

p. 235 This second NTA would likely require new legislation, or significant comprehensive plan amendments by local governments. The goal of a pilot program by the end of 2012 is completely unrealistic given the likely need for legislative change or local plan amendments, as well as extensive work with residents and local wastewater utilities to determine feasibility and adequate benefit. We suggest a timeline of 2015 would be the soonest possible date to identify shoreline areas where this approach may be feasible. Commerce would also need additional budget resources to engage in this effort, as it is not within existing agency resources.

p. 278 Local Integrating Organizations (LIO) status: Please consider a near term action to set a date for completing forming the remaining 3 LIOs? Absent a full suite of LIOs, the transition from Action Areas to the LIOs remains incomplete, state agencies are without a central local entity to communicate with about local priorities for a broad area of Puget Sound, local actions in these areas may remain uncoordinated, coordinated local reviews of locally proposed grant applications remains uncertain, and the voices of local citizens within these areas are disadvantaged relative to other areas with functioning LIOs.

Again, thank you for the opportunity to provide these comments. If you have any questions, please contact me at 360.725.3055 or Doug Peters (360.725.3046).

Sincerely,



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LB:lw

cc: Martha Neuman, Puget Sound Partnership