



**Upper Skagit Indian Tribe  
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February 7, 2012

Gerry O'Keefe  
Puget Sound Partnership  
326 E. D Street  
Tacoma, WA 98421

Re: Comments and concerns for the Draft 2012 PSP Action Agenda

Dear Director O'Keefe,

The Upper Skagit Indian Tribe, a federally recognized Indian Tribe with adjudicated Treaty Rights, ("Tribe") appreciates the effort and collaboration put forth by the Puget Sound Partnership ("Partnership") to date, and the Action Agenda represents a significant body of work. The document is lengthy, and complex therefore the Tribe offers these preliminary comments based on the limited review and draft status of the document. The Tribe also envisions the Action Agenda as an adaptable living document, driven by resource protection empirical needs.

Of paramount concern to the Tribe is the manner in which formal consultation, on a government to government basis, is to be conducted with State as to issues presented by the Action Agenda items. There has not been a clear expression of what responsibilities, from a Tribal Co-Management perspective, have been delegated by the State through RCW 90.71 *et seq.* or otherwise, to the Partnership. This clarification is imperative in order to ensure that the Tribe is consulting with the Partnership on resource issues it has Co-Management authority over; as opposed to WDFW or the Department of Ecology for example. Although the Tribe has participated in various meetings and has submitted comments on the recovery plan it does not acquiesce, in any manner, to the Partnership its Co-Management authority to its Treaty protected resources. Furthermore similar to the comments expressed by the Tribe in its comments of June 3, 2005 regarding the Chinook recovery plan, the Action Agenda is incomplete and has a number of placeholders that make it difficult, at best, for the Tribe to provide meaningful comments. It is critical for the Partnership to understand the legal standing of the Tribe as a Co-Manager and to engage with the Tribe on a government to government basis. Although the Tribe has not reached a position as to its participation in a LIO it will not participate in a forum that elevates other entities who are not Co-Managers to equal standing as the Tribe. The Tribe's participation in the process in no way alleviates the federal obligation owed to the Tribe by its Federal Trustees.

For the Tribe, the restoration of Puget Sound means far more than achieving a list of targets and goals identified in the Agenda. The Tribe's health and quality of life have been directly tied to the Sound and its resources. Today Treaty Rights have been put at jeopardy due to habitat degradation and pollution. Harvest reductions to conserve ESA listed species limit harvest opportunities for all salmonid populations, and recent attempts to provide safe shellfish resources to Tribal members are currently at risk in Samish Bay. To the Tribe ESA

listings have profound impacts to Treaty Rights, and the number one natural resource priority is recovering ESA stocks, so that Treaty Rights can be exercised across all salmonid stocks.

The Tribe is concerned that The Skagit Chinook Recovery Plan's local focus and watershed specific data are muddled within the Action Agenda's focus on Puget Sound Health. These Chinook Plans were developed, reviewed and accepted at both the state and federal levels, yet implementation of these actions have not met expected timeframes for implementation. Significant funding was identified to restore the habitat that supports this iconic species, yet funding for these efforts has fallen short of expectations. Additionally budgetary constraints have also limited the manpower available for carrying this work forward. Now the Tribes are also faced with addressing the new ESA listing of Puget Sound Steelhead, yet funding has not been secured to implement the recovery plans for the Chinook listings. The focus on recovery of listed ESA species has also restricted the ability to implement projects that benefit non-listed salmonids, even though these Treaty resources are important for Tribal cultural identity. Some of the near term actions are intended to protect listed salmon recovery. Yet to the Tribe all salmonids are part of this responsibility, which will sustain the health of Puget Sound and its citizens.

The upland and terrestrial chapter highlights both areas of common ground and areas of differing priorities and realities. For example on pg 30, The Wild and Scenic Rivers Act designation is described as a tool to protect key ecological processes. The Tribe does not agree that this designation provides real protection of the aquatic resources. Emergency permits to protect capital infrastructure have been used to rip rap stream banks in the Skagit, yet mitigation plans to address these impacts have to complete the permit process under Wild and Scenic Corridor Act. Plans to mitigate these impacts have to overcome significant scrutiny and costs under the review of the Wild and Scenic Rivers Act requirements.

The Land Development target 1: "Basin wide, by 2020, loss of vegetation cover on indicator land base over a 5-year period does not exceed .15 percent of the 2011 baseline land area." Pg 32. It appears that a no net loss of key ecologically sensitive lands should be the target put forth in this ambitious planning. Salmon stocks are in peril; habitat fragmentation, habitat productivity, and pollution are the cause so why aspire for continued degradation of key landscape features? The current status and trajectory of key ecological process loss, has resulted in multiple ESA listings across the basin. The target utilizes the Puget Sound Basin Characterization (PSBC) assessment to identify key lands for protection. The level of detail produced from the PSBC will most likely generate broad generalizations and not truly inform or identify local priorities for protection. Integration of the local Recovery Plans should be the driver for identifying protection of key ecological processes for aquatic systems. For example the Middle Skagit Project has completed the necessary assessment for the decision support tool for local acquisition and/or protection projects in the Skagit floodplain

The Tribe agrees and supports the target of protecting and restoring floodplain functions. The no net loss of function will be more meaningful once these values are identified as described in A5.1 NTA 1. The Tribe would like to participate in future discussions surrounding this indicator due to its direct relationship to improve non listed stocks as well as recovery of listed stocks. In addition the Tribe has completed an inventory of hydromodified bank structures in the Middle Skagit, and found 5280 ft of new rip rap structures since the last inventory was completed in 1998. These and 88 new submods have been installed or placed in the landscape since the ESA listing of the 6 independent stocks of Skagit Chinook. The Tribe is also expanding this inventory for the Upper Skagit and Sauk watersheds, courtesy of funds from the EPA and Puget Sound Partnership. It is anticipated the Tribe will be able to identify

restoration projects before the entire Chinook spawning and rearing range is inventoried for these impacts, and will look toward the PSP to implement these projects.

The Tribe has been engaged in a wide variety of elk enhancement projects, and although no near term actions have been identified under A6.2 "Implement and maintain priority terrestrial restoration projects pg. 78." The Tribe would like to acknowledge their priority of restoring terrestrial ecosystems for the betterment of elk populations in the Skagit and South Fork Nooksack watersheds. The Tribe has successfully worked with partners to develop and implement continuing elk habitat enhancement and protection projects. The tribal priority is protection and restoration of terrestrial ecosystems of elk.

Under the Marine Nearshore B1.1 pg 116. "Ensure complete, accurate and recent information directly assists shoreline planning and decision making at the site specific and regional levels". B1.1 NTA 1: PSP will develop a work plan for implementing a network of marine protected area in Puget Sound. Any further discussions surrounding this item need the attention of Tribal leaders, who have voiced repeated concern over the use and validity of these preserves. A broad range of other management tools and actions must be implemented to enhance and or protect natural resources prior to even examining the scientific validity on a case by case review of these MPA's as a recovery tool. Ultimately these reserves remove areas from the already limited usual and accustomed fishing grounds for the Tribe's to exercise Treaty Rights. Consequently there is a lack of Tribal policy support for such actions.

The goal (A9) to protect and recover Salmon is mutually supported by the Tribe. The three year work plan is the reasonable mechanism for identifying near term actions. Comments submitted during the development and review of the Recovery Plan should also be used as mechanism for identifying actions for recovering Chinook stocks. The Tribe supports the VSB approach to rebuilding stocks and encourages a balanced portfolio for recovery actions across the watershed for all life history types, life stages and known limiting factors. The Tribe would encourage and support the identification and implementation of more real near term on the ground actions in the Action Agenda. We understand the need for broad scale planning and policy efforts, but on the ground actions needs to be the primary driver for salmon recovery.

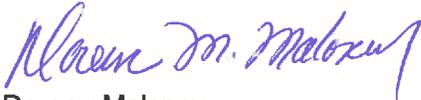
The Skagit Chapter Profile 27 pg 346-361 lacks a creditable or tangible path forward. It is well understood that this deficiency is the result of a lack of a coordinated discussion and agreement on the Local implementation membership, structure, and function. Once some of the issues previously stated in the letter are addressed, the Tribe would like to further discuss moving forward on the Skagit chapter. The Tribe supports the reference to 2 projects ready for implementation from the Middle Skagit Restoration planning work. Although no detail is provided the Tribe supports the implementation of habitat protection and restoration projects that are ready to implement. In addition The Tribe has partnered with Skagit County on developing the conceptual design of the Freestad Lake Project, and encourages financial support to implement this restoration project. Programmatic implementation is necessary across air, terrestrial, riverine, near shore and marine resources at federal, state and local levels. Continued data collection through assessment and monitoring, maintenance and stewardship are requisite actions. Essential efforts in response to Treaty resource risks require the Tribe to maintain response flexibility in harvest and hatchery management, all H integration, and monitoring and adaptive management needs while supporting restoration through programmatic implementation.

In several locations throughout the document actions refer to state agencies to conduct or implement resource management plans, without acknowledgement of Tribal Rights defined in U V WA as Co-managers. Examples of this oversight can be found in A9.2 NTA 2, pg 97, B1.2 "DNR will ... pg 117, and B7.2 NTA 1 pg 154.

The Tribe has augmented a programmatic response with the recent potential downgrade in the Samish Bay. The Tribe has increased and staffed monitoring efforts within the Samish Bay Watershed, collecting riverine and bay water quality samples, along with attending local work groups and committees under the Clean Samish Initiative. The near term actions and priorities for any activities that lead to shellfish bed improvement should be rated as high, and the Ten Point Action Plan should also be captured as an immediate and sustainable funding program.

The Tribe wishes the PSP well on administering the task of cleaning up the Sound by the year 2020, it truly is a noble task. The issues threatening Treaty resources and the Puget Sound are widely broadcast, not intrinsically unique but require locally independent responsiveness as well as regional and integrated partnership efforts. We look forward to coordinating with the Partnership both directly as we move forward with the Action Agenda and indirectly through local on the ground efforts we are currently engaged in. Once the task of identifying a set of tools for recovering salmon and the Sound are identified, Tribal participation of prioritizing these actions will be critical for long term success. If you have any questions please contact my staff representative Jon-Paul Shannahan, and we will participate to the best of our ability on moving forward with these common areas of interest.

Sincerely,



Doreen Maloney  
Director of Treaty Entitlements