

**W4 Protecting the Habitat We Have  
and the Habitat We Restore**

**Draft Platform Statement**

**1-20-05**

# Shared Strategy Summit 2005

## Draft Platform Statement

### **Introduction to Platform Statements**

This “platform statement” is one of nine papers drafted to stimulate discussion and make progress on topics related to salmon recovery that cross all the Puget Sound watersheds. These platform statements are not intended to represent positions or decisions of any individual or organization. Rather, they have been developed by the Shared Strategy staff with the help of others and are intended to describe the ideas and questions that have been identified to date by a variety of people working on these issues.

The expectation is that together, Shared Strategy participants will be able to forge a regional consensus on how to make progress on the ideas and questions identified in the papers and that these ideas will be incorporated into the draft regional recovery plan submitted to NOAA and U.S. Fish and Wildlife Service this June.

Under the Endangered Species Act, a recovery plan must identify the threats to survival, the actions necessary to address the threats, measures for delisting, cost of the actions and a schedule for implementation. In the Shared Strategy, all governments and interest groups agreed to add to the federal requirements by including commitments to implement the plan to ensure its success. This will be the first recovery plan ever developed through a partnership of affected parties that includes commitments for implementation.

The Puget Sound recovery plan will be a living document that evolves and improves over time through implementation. Parts of it will be well defined by June, and other parts will need more work in the future, due to limited knowledge, resources or current political or public commitments. Where additional detail is needed to address a significant threat to salmon survival, the plan must provide a schedule with measurable decision points for how the gap will be filled.

We encourage your comments at the Summit or you can contact Shared Strategy staff directly. It will be most helpful for you to indicate where the draft statement is generally heading in the right direction and how to take it further to help achieve recovery goals, as well as to identify which questions or issues will need to be addressed at a future time.

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Protecting the Habitat We Have and the Habitat We Restore  
DRAFT January 20, 2005

**Why protect?**

Protecting existing, functioning habitat in both urban and rural areas is absolutely necessary if we are to ensure the persistence of salmon in the waters of Puget Sound. Across Puget Sound in each watershed and the marine ecosystem, salmon habitats have been degraded and destroyed. This has reduced the overall productivity of each watershed and Puget Sound to support salmon populations.

Salmon populations typically go extinct when periodic poor ocean conditions drive populations in poor quality nearshore and freshwater habitat to low numbers from which they can not rebound. High quality habitat increases fish population productivity that helps maintain adequate numbers. Even during poor ocean conditions, high quality habitat will allow populations to rebound quickly.

As the habitat productivity has declined, the distribution of useful habitats has contracted back to a limited amount of area that now supports a large portion of naturally-spawning and rearing fish. Current and future status of Chinook, bull trout and Hood Canal Summer Chum depends on protecting the remaining places where good habitat functions still exist.

Habitat restoration will ultimately be required to increase fish populations to naturally sustainable levels, but without protecting existing habitat functions, restoration will only stem or slow the decline. In addition, restoring habitat functions is much more costly and much less certain to achieve the needs of the fish than protecting what we have.

Through the use of science and actions taken under the Growth Management Act, the Shoreline Management Act, the Clean Water Act and other regulations, many land and water use practices have improved over the last several decades. However, land use practices and regulations that affect current fish habitat vary between local governments across Puget Sound. More action is needed to ensure protection of existing habitat.

Despite improvements in past practices, the Puget Sound is facing severe challenges in the future. The Puget Sound region is growing –1.4 million additional people are expected to live in this area here by 2020. Water quality continues to decline in Puget Sound and its tributary rivers. Southern Hood Canal is experiencing increasingly severe ecological problems. Research also indicates that the salmon productivity of the Sound and its tributary rivers also continues to decline.

Protection can be achieved with a variety of tools which provide different levels of certainty for long term benefits to the environment, and for specific habitat attributes. These tools are: education, incentives, voluntary actions, and regulations. It is important

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to use a variety of protection tools where the right set of tools is matched to the local situation.

### **Unique Opportunity to Coordinate Salmon Recovery and Growth Management**

Currently in the Puget Sound, there is a unique opportunity for counties and cities to develop protective measures for wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife conservation areas that are consistent with our science to date. As required by state law, all Puget Sound counties and cities planning under GMA will be required to update their Critical Areas Ordinances (CAO) by December 2005; some were due December 2004. To date, only 9% of the entities that were required to complete their update in 2004 have done so, but many are moving forward to take action this year.

In addition, cities and counties comprising the Puget Sound region will be updating their Shoreline Management Master Programs between now and 2012 to incorporate the new state Shoreline Guidelines.

This timing provides an unparalleled opportunity to coordinate GMA and CAO updates with salmon recovery. These critical areas regulations ensure certainty of a minimum level of protection throughout the entire region. Such regulations lessen the cumulative negative impacts from multiple developments and land management actions across an entire watershed—something voluntary protection strategies cannot offer because of their focus on individual parcels.

### **The Challenge**

Each type of protection tool is useful when applied appropriately to the purposes it can best fulfill. Finding the appropriate balance in the use of each tool may be the greatest challenge in securing the protection needed to achieve salmon recovery. If we assume that most people in the region generally desire to take care of our environment, what sort of education will help us all to be good land stewards? What incentives will encourage landowners and developers to take good care of the environment we enjoy? How much regulation is needed? Where is regulation the most appropriate and the most effective? How are these tools applied across landscapes, political boundaries, land uses, and habitats so that they make sense to the individual property owner and address the cumulative impact of many actions in a watershed?

These questions are difficult to answer for a number of reasons. The science upon which we base our ideas about how to protect habitat, and which habitat values we protect, is always developing. We now understand the interconnectedness of watershed systems and their susceptibility to land use changes throughout the entire watershed. It is insufficient to apply protections only to the stream's edge if we want to protect the stream system.

Managing at a level that will protect habitat throughout a watershed from the headwaters to the Sound is politically difficult. Protecting private property rights must be balanced with the need to protect the public resources. Both are important. A dialogue that begins to bridge the needs of private property owners with the needs of the public resources

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rather than the mostly polarized responses we see now would help us find solutions not otherwise apparent. The line between private property rights and the rights of the public trust is difficult to draw, and often seems to be as interconnected as the watershed system itself. But perhaps this is exactly the place to start--asking: *How much burden on landowners is too much? How much impact on public resources is too much?* To complicate these questions, Native American Tribes in the Puget Sound region have property rights to the salmon themselves, and the right to fish guaranteed by Treaties with the United States government.

### **Urban and Rural Roles**

As one participant in salmon recovery stated; “There are two things people don’t like, sprawl and density.”

One of the primary tenets of the State’s Growth Management Act and local regulatory and voluntary protection programs is to encourage high density development in urban areas and protect the remaining environmental functions in rural areas through low density land use. The urban areas slated for growth in each county, even the most urban, is a small percent of the total land area. In most counties 95% of future growth is planned to occur in the urban areas.

Focusing growth in existing urban areas and protecting the remaining environmental values in the rural areas will provide a significant level of protection for remaining salmon habitat. However, this approach creates opposition from urban residents because they have to accommodate more dense development, and from rural residents who are increasingly limited in their ability to use their property however they wish. It also raises the issue of equity – sharing the responsibility of salmon protection and restoration by all citizens.

In both urban and rural areas, state and local laws require the protection of existing environmental functions. However the quality of the environment is often less in the urban areas because of past actions. Because there is less environmental quality to protect in the first place in urban areas, it causes a difference in the level of regulation between rural and urban areas.

Many people express concern that applying the same environmental regulations across both urban and rural areas will have limited benefits in the urban area because of past degradation. This could also significantly impact the ability to accommodate higher growth in urban areas, forcing development outside urban boundaries where the negative impacts to a more intact environment can be significant.

Within urban growth boundaries, land owners contribute to environmental protection through larger tax payments, smaller lot sizes, and protection of streams, wetlands, and other important environmental qualities.

Outside urban growth boundaries, rural land uses provide environmental protections through retaining larger lot sizes, providing larger stream buffers, and often by less intensive land use than is found within the urban areas. Retention of these rural land uses is critical to salmon recovery. Additionally, since many of these areas contain habitat

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that is currently used by salmon, many of these areas are more sensitive or susceptible to human impacts that can significantly diminish the survival of salmon.

### **How do we learn from each other as local governments act this year?**

As stated above, protecting existing, functioning habitat in both urban and rural areas is absolutely necessary if we are to ensure the persistence of salmon in the waters of Puget Sound. However, land use decisions have always been full of controversy and the adoption of Growth Management Programs and habitat regulations at the local level have increased the controversy.

Recent local government actions required by state law have left many property owners, the people we need to be good stewards, angry and frustrated. Many property owners manage their property in a way that *does* protect the greater good on their own; imposed regulation of their land uses instills a feeling that the government does not trust them to continue their stewardship.

Regulations are not intending to “punish” good stewardship of current landowners, rather they are intended to provide certainty that in the future the land is managed in a manner that does not adversely impact the environment. Constructive dialogue inclusive of all the parties could identify ways to recognize good stewardship while enacting necessary regulations to protect the future.

In both King and Pierce Counties, new critical areas ordinances (CAOs) were adopted in 2004 that updated extensive environmental protections based on the best scientific research that has been compiled to date. These ordinances apply only to unincorporated county areas but to both rural and urban environments. Critical areas ordinances will also be adopted by the incorporated areas within the counties.

Both ordinances provide strong levels of protection for critical areas. Significant differences between the ordinances are larger buffers on urban streams and wetlands in Pierce County and the addition of a salt water riparian buffer in King County. Pierce County also allows for a reduction in buffer widths in exchange for completed restoration work within the buffer provided. Both ordinances put limits on clearing of native vegetation.

Both King and Pierce Counties’ ordinances provide options for compliance ranging from following the strict prescriptions of the ordinance to the creation of individual land use plans (farm plans and rural stewardship plans) based on the needs of individual parcels. Options for individual land users and situations provide for specific land needs to be met and to increase landowners’ confidence that their interests are being met in the best way possible.

The two counties’ ordinances were met with very different public opinion when they were passed by the County Councils in November 2004. In Pierce County, the ordinance was passed unanimously. In King County, the passage of the ordinance was met with vocal rural landowner opposition and continued legal challenges.

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How do we learn from the experiences in both King and Pierce Counties so other counties and cities in Puget Sound can be efficient and effective in protecting the existing environment and encouraging support from property owners?

### **Principles for Protection**

Protection can be achieved through a variety of regulatory and incentive-based tools. There is currently no common standard for the regulations required of local governments or approach for the use of other tools like incentives. Past efforts to develop standards at the state level have been met with substantial opposition.

**To achieve salmon protection we need a common level of certainty for protection across the region.** In each situation, decisions must be made as to whether to protect through regulatory or non-regulatory means, and how this protection is to be implemented. The following principles are recommended for discussion as the region approaches the issues of protection:

- 1) Ensure that existing environmental functions are protected in both urban and rural areas using the array of protection tools available. Protection of existing environmental functions is the responsibility of all local governments and property owners.
- 2) Environmental regulations should provide a basic level of protection for habitat but also be flexible to adjust to local environmental conditions and functions based on science;
- 3) Property owners should be recognized for good stewardship. Land values, taxes and incentives should support good stewardship and appropriately recognize the economic limitation created by regulations.
- 4) If a property owner is asked to make an improvement *beyond that which is necessary to provide adequate protection of the natural resources, environment, or public trust*, then they may be compensated.
- 5) Private property owners' actions have a cumulative effect on public trust resources--regulation is necessary to ensure that the integrity of the public trust is maintained. These limitations on land use are in the best interest of the public trust, and the benefits received to the public trust are compensation, received by the public.
- 6) Education of landowners on the need for protection, the actions needed to protect habitat and actions detrimental to habitat should be a priority;
- 7) Stakeholder involvement should be a priority in the development of regulations.

### **Where do we go from here?**

The Puget Sound region is growing. We need to advance and build upon our successes, and create a dialogue to better understand our mistakes and forge new solutions to this difficult problem. The land use structure that we put in place now can ensure that people and salmon can coexist into the future. We have developed a system to manage our

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development through Growth Management in a way that makes sense for people and for the environment. Our timing now is crucial – Critical Area Ordinance updates, Shoreline Master Program updates, salmon recovery plans, and HB2514 watershed plans have the potential to all come together and provide effective and fair protections for salmon habitats, our watersheds, and our future.

### **Questions for the Summit Session:**

1. What assistance is most helpful for local governments as they update their growth management programs and critical areas ordinances this year?
2. When is regulation the appropriate tool and when should a property owner receive incentives or compensation? How can we accommodate both property rights of landowners and property rights of tribes for salmon? What principles should guide local protection efforts across Puget Sound?
3. What would increase the political support necessary for local governments to enact and implement effective regulatory and incentive-based protection programs?
4. What role should non-regulatory programs such as education have in salmon recovery? How much protection and restoration can be achieved through non-regulatory tools?