



PLAUCHÉ
& CARR^{LLP}

Riparian Taskforce Final Report and Recommendations

Pursuant to Section 117(3), Chapter 475, Laws of 2023

June 2024

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I. Executive Summary

In July 2023, the Washington Governor's Office contracted with Plauché & Carr LLP to reconvene the Riparian Taskforce, initially convened from June through December of 2022, to continue its work developing policy and spending recommendations to improve riparian habitat to ensure salmon and steelhead recovery. The 2023 efforts were funded pursuant to a budget proviso, Engrossed Substitute Senate Bill 5187, Sec. 117(3) (2023) (the 2023 Riparian Taskforce budget proviso), which funded an independent facilitation process engaging tribes, local governments, agricultural producers, commercial and recreational fisher organizations, business organizations, salmon recovery organizations, forestry and agricultural organizations, and environmental organizations. The 2023 budget proviso implements one of Plauché & Carr LLP's 2022 recommendations from the 2022 Riparian Taskforce to continue dialogue and maintain momentum towards a comprehensive suite of strategies for riparian habitat protection and restoration in Washington. The 2023 budget proviso requires that recommendations include strategies that can attract private investment in improving riparian habitat as well as recommendations on developing a regulatory or compensation strategy if voluntary programs do not achieve concrete targets.

The 2023-24 Riparian Taskforce effort, and the recommendations that Plauché & Carr LLP has developed under the 2023 Riparian Taskforce budget proviso, also incorporate and build on key findings and recommendations from a 2022 analysis of the effectiveness of existing riparian-related voluntary and regulatory state programs conducted by Plauché & Carr LLP in collaboration with technical experts at Industrial Economics, Inc. pursuant to Engrossed Substitute Senate Bill 5693, Sec. 130(22) (2022). The [2022 Riparian Taskforce Final Report](#) and the [2022 Effectiveness Analysis](#) can be found on OFM's website.

As required by the 2023 Riparian Taskforce budget proviso, this report details the facilitation process Plauché & Carr LLP undertook, some overarching concerns and observations that have become clear through the ongoing dialogue over the past two years, and Plauché & Carr LLP's final recommendations coming out of the 2023-24 Riparian Taskforce effort. The final recommendations included in this report focus on overall policy and spending approaches for the restoration and protection of riparian habitat to ensure salmon and steelhead recovery in Washington. These recommendations are not intended to be used as legislative language. Strategies for implementing these preliminary recommendations will be developed as part of a facilitated process commencing in July 2024, under a separate proviso, Engrossed Substitute Senate Bill 5950, Sec. 116(4) (2024).

II. The Budget Proviso

The 2023 Riparian Taskforce budget proviso authorizing the independent facilitated process detailed in this report can be found in state law (Section 117(3), Chapter 475, Laws of 2023):

\$480,000 of the general fund – state appropriation for fiscal year 2024 is provided solely for the governor to invite federally recognized tribes, local governments, agricultural producers, commercial and recreational fisher organizations, business organizations, salmon recovery organizations, forestry and agricultural organizations, and environmental organizations to participate in a process facilitated by an independent entity to develop recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon and steelhead recovery.

(a) The independent entity must develop recommendations on furthering riparian funding and policy, including but not limited to, strategies that can attract private investment in improving riparian habitat, and developing a regulatory or compensation strategy if voluntary programs do not achieve concrete targets.

(b) Preliminary recommendations shall be submitted to the legislature and governor by May 1, 2024, with a final report by June 30, 2024.

(c) The office of the governor may contract for an independent facilitator. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

III. The 2023-24 Riparian Taskforce Process

Framework

In June 2023, Plauché & Carr LLP met individually with the 2022 Riparian Taskforce members and state legislators to gain perspective on the 2022 Riparian Taskforce Final Report and Effectiveness Analysis, inform a framework for the 2023-24 Riparian Taskforce effort, and identify additional participants for the 2023-24 Riparian Taskforce discussions. These individual meetings were followed by an in-person Riparian Taskforce meeting to discuss and seek agreement on the framework for the 2023-24 Riparian Taskforce work. An executive summary of the June 2023 Roundtable meeting is provided in [Appendix A](#). Input from that meeting was incorporated into a final framework that was agreed to by the Riparian Taskforce participants, provided in [Appendix B](#).

The final framework called for a series of five Riparian Roundtable meetings from October 2023 through June 2024. The Roundtable meetings were to take place every two months in different locations around the state and cover a range of topics intended to support the development of recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon and steelhead recovery in accordance with the 2023 Riparian Taskforce budget proviso.

To advance these discussions, the framework included establishing a Working Group consisting of Riparian Taskforce members and/or their designated participants that was to meet every two to three weeks between Roundtable meetings to engage more deeply on technical and policy issues that would then inform the Roundtable meetings. Additionally, Plauché & Carr LLP was to provide periodic updates on the progress and status of Roundtable discussions to key state legislators to ensure the legislative branch was informed of the Taskforce's progress.

Riparian Taskforce Meetings

As a result of the discussion at the June Roundtable meeting, Plauché & Carr LLP invited additional participants to join the Roundtable discussions. [Appendix C](#) provides a list of all of the individuals who participated in one or more of the Roundtables.

Generally, Roundtable meetings took place over back-to-back afternoon and morning gatherings. Roundtable meetings started with an afternoon of field visits to riparian habitat projects and other sites that provided context and on-the-ground perspective on a variety of existing land uses of riparian habitat, riparian habitat restoration and protection, and salmon and steelhead recovery needs and efforts. The afternoon field visits were followed by a facilitated meeting the following morning.

Working Group meetings convened virtually for three or more meetings prior to each Roundtable. Working Group meetings involved focused and in-depth technical discussion of specific subject matter critical to the Roundtable discussions. Presenters and additional participants were brought into the Working Group meetings to share information and expertise on particular topics and engage Working Group members in dialogue that informed the Roundtable meetings.

The following section provides an overview of the Riparian Roundtable and Working Group meetings by each series of meetings. This effort informed development of recommendations to further riparian funding and policy recommendations to improve riparian habitat, including strategies to attract private investment in improving riparian habitat and to develop a regulatory or compensation strategy if voluntary programs do not achieve concrete targets. The recommendations are provided in [Section IV](#) of this report.¹

Series Overview

The first series of meetings focused on critical background information and grounding participants in the framework, goals, and objectives of the Riparian Roundtables. At the first Series 1 Working Group meeting, Plauché & Carr LLP walked attendees through the framework for the Riparian Roundtable and Working Group processes and provided a review of the [2022 Riparian Taskforce Final Report and recommendations](#) and the [2022 Effectiveness Analysis](#). At the second Series 1 Working Group meeting, Kara Whittaker, PhD, Land Use Conservation and Policy Section Manager, Ecosystem Services Division at the Washington Department of Fish and Wildlife gave a detailed presentation on, and led a group discussion of, WDFW's Riparian Guidance documents, including significant discussion from participants with respect to existing land use in riparian areas and incentives to meet riparian habitat restoration goals. The last Series 1 Working Group meeting included multiple presentations on voluntary programs by: Alison Halpern, Scientific Policy Advisor and Acting Policy Director at the Washington State Conservation Commission; representatives from the Mason, Spokane, and Skagit Conservation Districts; Brock Milliern, Policy and Legislative Director at the Washington Recreation and Conservation Office; and Melissa Gildersleeve, Water Quality Program Section Manager at the Washington State Department of Ecology. Participant discussion focused on opportunities to improve voluntary program application processes, monitoring and reporting metrics and data management system coordination, communication of available programs and providing resources to landowners and others with riparian projects, and the need to supplement existing programs and to provide for long-term maintenance of riparian planting projects.

The Series 1 Working Group meetings were followed by the Series 1 Roundtable meetings in Yakima. On the first day, the Yakama Nation, Roza Irrigation District, and Yakima Basin Joint Board hosted site visits to agricultural irrigation infrastructure, including the Moxee Drain and Roza fish barrier, as well as a riparian restoration site that highlighted the work of the Yakima Basin Integrated Plan to address water, fishery, habitat, and climate variability challenges in the Yakima River Basin after decades of conflict over water resources. The second day meeting involved discussion of the framework for continued Riparian Roundtable discussions, the Series 1 Working Group meetings, and overall goals and objectives of the group. Additionally, the group discussed

¹ Roundtable and Working Group meeting agendas, executive summaries, and other materials and information can be found in appendices to this report and are compiled by series, as follows:

- Series 1: [Appendix D](#)
- Series 2: [Appendix E](#)
- Series 3: [Appendix F](#)
- Series 4: [Appendix G](#)
- Series 5: [Appendix H](#)

developing shared goals and principles of participation in the Roundtable, as well as potential topics for future Working Group meetings.

The Series 2 Working Group meetings focused on regulatory tools and limitations as they pertain to the protection and restoration of riparian areas. At the first Series 2 Working Group meeting, Ben Rau, Watershed Planning Unit Supervisor, Water Quality Program at the Department of Ecology, gave a detailed presentation and led a group discussion on Washington's Nonpoint Pollution Plan and Voluntary Clear Water Guidance for Agriculture. Participant discussion focused on the Department of Ecology's approaches to identify and address water quality issues with private and public landowners and to ensure that the best management practices being implemented, including riparian buffer options for agriculture, are successful. At the second Series 2 Working Group meeting, Dave Anderson, Managing Director, and Scott Kuhta, Senior Planner, with Growth Management Services at the Washington State Department of Commerce, and Tim Gates, Policy Manager, and Misty Blair, Shoreline Management Policy Lead, with the Shorelands and Environmental Assistance Program at the Department of Ecology, presented on and led discussion of the Growth Management Act, including Critical Areas Ordinances, and the Shoreline Management Act. Roundtable member Paul Jewell, Policy Director – Land Use, Water, Natural Resources and Environment, at the Washington State Association of Counties, added valuable perspective on these laws and their implementation at the local level. The group discussion focused on various challenges associated with implementation, including enforcement, regulatory takings issues, and funding.

At the third Series 2 Working Group meeting, Courtney A. Kaylor, Partner, McCullough Hill PLLC, presented on regulatory takings under the U.S. and Washington constitutions and led a significant group discussion on the legal limits on the use of regulatory tools. The group also discussed challenges to adopting or amending laws and regulations at the state and local levels. At the final Series 2 Working Group meeting, Monty Mills, a professor at the University of Washington School of Law and Director of the UW's Native American Law Center, presented on Tribal Treaty Rights and led a robust group discussion on the relationship between the state and Tribes and co-management of resources. Professor Mills also provided examples of collaborative processes to address issues affecting Treaty Rights.

The Series 2 Roundtable meetings were hosted by the Jamestown S'Klallam Tribe in Sequim. The first-day site visits included on-site presentations by the Tribe, local farmers, the Clallam Conservation District, and others on collaborative efforts on public and private properties to protect and restore riparian habitat along the Dungeness River as well as the challenges and pressures facing these efforts. At the second day meeting, participants reflected on the applicability of the Series 2 Working Group meetings to ongoing Roundtable discussions, which would move on to explore strategies for riparian habitat protection and restoration that would shape the recommendations included in this report. Additionally, the State Conservation Commission provided a presentation on proposed guidelines for the agency's new riparian grant program, and the group continued discussion of the overall objectives and principles of participation in the Roundtable.

The Series 3 Working Group Meetings focused on standards and strategies for restoration and protection of riparian areas. At the first Series 3 Working Group meeting, Bonnie Shorin, Branch Chief for the Central Puget Sound Branch of NOAA Fisheries presented on the Endangered Species Act and Habitat Conservation Plans followed by a panel presentation and discussion on the Forests and Fish process. Panel members included Jamestown S'Klallam Tribe Chairman Ron Allen; Steve Barnowe-Meyer with the Forest Practices Board and, previously, Timber Fish and Wildlife

Policy Committee Representative for the Washington Farm Forestry Association and Weyerhaeuser; Jim Peters, Habitat Policy Analyst with the Northwest Indian Fisheries Commission; and Cassie Phillips, retired, Weyerhaeuser. The second Series 3 Working Group meeting included continued discussion from the Forests and Fish process panel as well as a presentation by Keith Folkerts, Land Use Policy Lead, and Robin Hale, High Resolution Change Detection Coordinator, with WDFW on the agency's Riparian Mapping tool, including a walkthrough of the tool using example questions to demonstrate how it can be used to support decision making and planning efforts. The Working Group discussion touched on datasets used in the Riparian Mapping tool, challenges in tracking short-term improvements, and the application of the tool to stream- and watershed-level efforts versus site-scale decision-making. The last Series 3 Working Group meeting focused on the riparian management frameworks in the Department of Ecology's Clean Water Act funding and guidance and RCO's Salmon Recovery Grant Manual. Plauché & Carr LLP provided an overview of the frameworks followed by detailed presentations and a group discussion led by Nick Norton, Planning and Policy Specialist, RCO, and Melissa Gildersleeve, Section Manager, Water Quality Program at the Department of Ecology. Participant discussion centered on a potential approach to riparian management that could include a combination of watershed-based planning and site-specific analysis, building on existing watershed planning strategies, and involving collaboration with multiple partners, including salmon recovery groups, farmers, and others, to reach agreement and implement projects.

The Series 3 Working Group meetings were followed by a full-day Series 3 Roundtable meeting in Olympia. The Series 3 Roundtable focused on draft recommendations prepared by Plauché & Carr LLP based on the Roundtable and Working Group meetings to that point. The meeting also included a recap of the Series 3 Working Group meetings and an update on two legislative briefings on the work of the Roundtable Plauché & Carr LLP hosted in January, followed by continued group discussion on shared goals and principles of participation in the Roundtable. A summary of the discussion on the draft recommendations is provided later in this report under Recommendation Development Process in [Section IV](#).

The Series 4 Working Group meetings focused on tools and metrics for riparian restoration and protection, attracting private investment in riparian restoration, and the role of land trusts in riparian and farmland preservation. At the first Series 4 Working Group meeting, Kat Moore, Assistant Section Manager, Salmon Section at RCO, provided a walkthrough of RCO's PRISM database, Larry Epstein, Deputy Director at the Puget Sound Partnership, presented on the PSP Action Agenda as well as PSP's work with the American Farmland Trust on agricultural viability, and David Primozych with The Freshwater Trust presented tools TFT has developed to identify, measure, and prioritize restoration activities to meet water quality objectives in both compliance and voluntary settings throughout the West. At the meeting, Working Group participants noted efforts on nonpoint pollution credits and trading in Washington. The second Series 4 Working Group meeting, included presentations by Susan O'Neil, Strategic Planner and Ecosystem Recovery Specialist at Environmental Science Associates, as well as Grace Edinger, Procurement Strategy Lead, and Phoebe Higgins, Director of Markets, with the Environmental Policy Innovation Center, focused on attracting private investment in riparian restoration including "pay for success," a procurement strategy that defines desired restoration outcomes and invites the private sector to deliver those outcomes in advance of payment to ensure outcomes are achieved. The final meeting Series 4 Working Group meeting included an introduction to the role of land trusts in riparian and farmland preservation provided by Vanessa Kritzer, Executive Director at the Washington Association of Land Trusts, and Dani Madrone, Pacific Northwest Senior Policy and Planning Manager at the

American Farmland Trust, as well as presentations on multi-benefit land protection projects by Tom Sanford, Executive Director with the Olympic Land Trust, Hansi Hals, Natural Resources Director with the Jamestown S’Klallam Tribe, Alex Jeffers, Conservation Director with the Whatcom Land Trust, and Fraser Moore, Conservation Manager with the Blue Mountain Land Trust. These presentations were followed by a panel discussion with representatives from the Columbia Land Trust, Jefferson Land Trust, Skagit Land Trust, and Washington Farmland Trust. The panelists shared that land trusts are able to work creatively with partners to accomplish projects with multi-benefits to preserve fish, forests, and farmland, and discussed challenges in finding funding sources to fit these projects and the need for flexible buffer widths on small parcels.

The Series 4 Working Group meetings were followed by the Series 4 Roundtable meetings in Wenatchee. On the first day, Mike Kaputa, Director, Chelan County Natural Resources Department, and Ryan Williams, Executive Director, Cascadia Conservation District, led the group on site visits in the Wenatchee area, starting with a presentation by Britt Dudek with Chelan County and Chairman of the Chelan County Voluntary Stewardship Program, on work to protect and restore riparian areas and monitor success through the Chelan County VSP. Site visits included engagement with local farmers and landowners who have made significant efforts toward advancing riparian function on their properties as well as a tour of a large multi-benefit riparian restoration site along the Wenatchee River. At the second day meeting, participant discussion focused on an updated version of the draft recommendations, a summary of which is provided later in this report under the Recommendation Development Process section. The meeting also included updates on a recent legislative budget proviso providing for the implementation of the recommendations resulting from the Roundtable process, Engrossed Substitute Senate Bill 5950, Sec. 116(4) (2024) (the 2024 Riparian Taskforce budget proviso), as well as a summary of the Series 4 Working Group meetings by Plauché & Carr LLP. Participants were also asked to provide feedback on draft principles of participation in the Roundtable as well as example principles of participation for groups working to implement riparian protection and restoration strategies after the meeting. Final principles of participation are provided at [Appendix I](#).

The Series 5 Working Group meetings focused on key issues in the preliminary recommendations, as detailed under Recommendation Development Process in [Section IV](#) of this report. Roundtable and Working Group members were invited to attend two Series 5 Working Group meetings to participate in in-depth discussion and provide feedback on the draft recommendations. These meetings were followed by the Series 5 Roundtable meetings hosted by the Stillaguamish Tribe. The first day meeting included a tour of the Fir Island Farm Reserve, highlighting partnerships with the agricultural community to restore salmon habitat, conversations with local farmers on riparian protection and restoration on agricultural land as well as factors limiting the usefulness of existing voluntary programs, and a visit to a riparian restoration project led by the Stillaguamish Tribe. The following day’s meeting focused on revisions made to the recommendations in response to ongoing dialogue and feedback during the Series 5 meeting. Plauché & Carr LLP also noted that funding was available for the group to reconvene in July to discuss implementation of the recommendations in this report under the 2024 budget proviso.

A final Roundtable meeting was held virtually on June 21 to discuss three of the recommendations that were tabled for further discussion at the Stillaguamish roundtable meeting: Recommendation 1.5, Recommendation 2.4, and Recommendation 5.

Legislative Briefings

Plauché & Carr LLP provided an update on the Riparian Taskforce process to a group of key legislators in two separate but identical briefings. At the briefings, Plauché & Carr LLP walked through a detailed PowerPoint presentation providing an overview of the 2022 Roundtable work and an update on the work under the 2023 proviso. Of the twelve legislators invited to the briefings, Senator Warnick, Senator Muzzall, Senator Van de Wege, Representative Tharinger, Representative Chapman, Representative Lekanoff, Representative Dent, and representative Kretz attended. A copy of the presentation was provided to all legislators invited to the briefings and to Roundtable participants ahead of the Series 3 Roundtable in February and is included in [Appendix J](#) to this report.

IV. Recommendations

Recommendation Development Process

Per the 2023 Riparian Taskforce budget proviso and based on both the detailed technical and policy discussions in the Series 1 and 2 Working Group and Roundtable meetings, Plauché & Carr LLP prepared initial draft recommendations for consideration at the Series 3 Roundtable meeting. These initial draft recommendations addressed three key areas: (1) protecting existing riparian habitat through local land use regulations, (2) restoring degraded riparian corridors through watershed-based plans, and (3) building near-term progress by significantly increasing funding for existing voluntary restoration programs. At the Roundtable, participants shared general support for the broader framework of the recommendations and provided detailed feedback on several topics, including appeals of local land use regulations, challenges in prosecution and enforcement of those regulations, building on existing watershed-level efforts while ensuring broad perspectives are brought into local plans, addressing multi-benefits including agricultural viability in watersheds, and adequate funding for monitoring.

After the Series 3 Roundtable meeting, Plauché & Carr LLP revised the draft recommendations, incorporating input provided during and after the Roundtable meeting and adding to topics addressed in the Series 4 Working Group meetings, including monitoring and creative strategies for funding restoration. The Series 4 Roundtable meetings included discussion of a new, more detailed version of the draft recommendations. Participants engaged in robust dialogue on important distinctions between Volumes 1 and 2 of the WDFW Riparian Guidance, ensuring protections of existing riparian habitat and challenges regarding exemptions and enforcement of local land use regulations, the necessity of sufficient funding for watershed-based restoration strategies and monitoring, and what a regulatory or compensation program might look like, including a discussion of Constitutional takings issues.

At the Series 4 Roundtable meetings, the participants determined that additional joint Roundtable and Working Group discussion of the draft recommendations would help move the group toward agreement on recommendation language in the Series 5 Roundtable meetings. Acknowledging that active discussion on the draft recommendations would continue in the Series 5 Working Group and Roundtable meetings, Plauché & Carr LLP requested written feedback on the draft recommendations in order to incorporate as much of the group's input as possible into preliminary recommendations required to be submitted on May 1 pursuant to the 2023 Riparian Taskforce budget proviso.

As required by the 2023 budget proviso, Plauché & Carr LLP sent Riparian Taskforce Preliminary Recommendations to the Legislature and the Governor's Office in early May. Plauché & Carr LLP

made clear in the transmittal that the preliminary recommendations were a work in progress and were expected to change based on the continued dialogue. Plauché & Carr LLP also made clear that no Roundtable members had agreed to, nor had they been asked to agree to, the Preliminary Recommendations. The [Preliminary Recommendations](#) can be found on OFM's website.

Two Series 5 joint Working Group and Roundtable meetings focused on Preliminary Recommendations 1, 2, and 3. In advance of the Series 5 Working Group meetings, Plauché & Carr LLP provided revised versions of the Preliminary Recommendations to Taskforce participants. The Series 5 Roundtable meeting focused on these revised recommendations. At the end of that meeting, while participants agreed with the language of most of the recommendations, participants agreed that a final virtual Roundtable meeting was needed to continue discussion on three key areas of the recommendations. That final Roundtable meeting, focused on Recommendations 1.5, 2.4 and 3, was held virtually on June 21, and these final recommendations reflect the robust discussion at that meeting.

Over the course of the Series 5 meetings, Roundtable and Working Group participants engaged in extensive, collaborative discussion and provided comments on, and suggested revisions to, the recommendations. Several topics came up repeatedly or garnered significant discussion, summarized by recommendation below

- Recommendation 1 Topics: When change of land use requires a local permit; GMA and SMA requirements for use of best available science in local land use planning; limitations and challenges in the state and local land use regulatory framework under the GMA and SMA including the “no net loss” standard, variances, exemptions, and appeals; provision of technical assistance and guidance for local governments implementing the WDFW Riparian Guidance; and strategies for limiting appeals of local government actions taken to implement Recommendation 1.
- Recommendation 2 Topics: Differences between Eastern and Western Washington riparian and salmon needs; monitoring and metrics; the role of Lead Entities and building off of existing groups and strategies in watershed planning; watershed plan approval processes and oversight; the need for a significant increase in funding.
- Recommendation 3 Topics: Metrics of success for riparian protection and restoration efforts; use of an acquisition versus a regulatory strategy as a backstop to ensure riparian goals are met; safe harbors for landowners participating in riparian programs and in circumstances of insufficient funding.

Plauché & Carr LLP incorporated this feedback into the recommendations provided in this report.

Context for Recommendations

The recommendations reflect four overall themes: (1) protect existing, functioning riparian habitat; (2) use voluntary incentive programs to restore degraded riparian areas to meet concrete restoration goals; (3) strategies that come into effect if those goals are not met by voluntary programs; and (4) continue significant funding of existing programs until the recommendations can be fully implemented. It is important to note that these recommendations are integrated and intended to work together to provide a holistic approach to restoring riparian habitat for salmon and steelhead. Individual recommendations will not work as effectively, or work at all, without the implementation of other recommendations.

Recommendation 1

Recommendation 1 is intended to ensure that existing legal requirements under the Washington Growth Management Act (in particular, local Critical Areas Ordinances) and the Washington Shoreline Management Act are fully implemented at the local level. Those legal structures focus on protecting existing habitat function through the adoption of a “no net loss of habitat function” standard. This focus on no net loss translates to a requirement to protect existing habitat but does not call for restoration of degraded habitat.²

In 2020, the Washington Department of Fish and Wildlife published *Riparian Ecosystems Volume 1: Science and Synthesis and Management – Implications* (2020) (WDFW Riparian Guidance). This document provides a synthesis of science around riparian ecosystem function that provides information that is critical to understanding how the standard of no net loss of ecosystem function is implemented with regard to riparian habitat function. One of the primary objectives of Recommendation 1 is to provide assistance, in the form of guidance and technical assistance, to local governments in using the WDFW Riparian Guidance to ensure the no net loss standard is met in riparian habitats.

Because Recommendation 1 is focused on fully implementing existing law as it applies to protecting riparian habitat, the focus of the recommendation is the no net loss standard. However, it is important to recognize that the Washington Academy of Sciences has recognized that the no net loss standard has not been an effective tool for protecting existing ecosystems:

When considering whether existing ecological standards, including [No Net Loss (NNL)], have been sufficient in safeguarding ecological health and achieving endangered species recovery, **the committee’s consensus view is that NNL has not been an effective approach for ecosystem or habitat management and protection nor for the maintenance of ecosystem services.** Within the larger scientific community, shortcomings of the NNL approach were articulated as long as 30 years ago. For example, two National Academies reports (National Research Council, 1992, 2001) on compensatory mitigation for wetland loss through development were highly critical of NNL. Other global studies have found little to no documented evidence of NNL success and high regional variability in such success (e.g., Bull & Strange, 2018; zu Ermgassen et al., 2019).

Assessment of No Net Loss and Recommendations for Net Ecological Gain Metrics, Indicators and Monitoring, Washington Academy of Sciences (June 2022).

Recognizing this deficiency, Recommendations 2 and 3 focus on advancing ecological uplift through restoration of riparian habitats.

Recommendation 1 also provides strategies for addressing some of the existing challenges around implementation of existing legal requirements, including challenges around compliance monitoring and enforcement and allowance of variances from adopted standards. These issues were identified repeatedly by a variety of roundtable participants, site visit hosts, and working group participants as ongoing concerns. As part of the discussion of variances and exemptions, several local government

² [Swinomish Indian Tribal Community v. W. Wash. Growth Mgmt. Hr’gs Bd.](#), 161 Wn.2d 415, 427-430 (2007).

representatives participating in the Riparian Taskforce emphasized the need for some allowance of variance from adopted standards to avoid a violation of constitutionally-protected property rights.

The Roundtable discussions around Recommendation 1 also emphasized the need for urban areas to take on some of the burden of protecting and restoring riparian areas. While many urban areas are already degraded, there remain opportunities to advance habitat protection in some areas.

Recommendation 1.2, which recommends development of guidance for implementing protections of riparian habitat in consideration of the WDFW Riparian Guidance, provides an opportunity for state agencies, in coordination with tribes and local governments, to more fully consider the best strategies for ensuring urban areas share in the effort to protect and restore riparian habitats.

Finally, local government representatives strongly advocated for Recommendation 1.5, which suggests considering limitations on appeals of local government actions implementing the guidance developed under Recommendation 1.2. Local government representatives' concerns were that appeals of local land use legislative actions are expensive and time consuming, and that it is unfair to force local governments to bear those costs when they are implementing an action that the roundtable participants all agree is appropriate. Details of any limitations on appeals remain to be worked through. Some Taskforce participants, particularly the Washington wheat and potato growers, expressed concerns about these appeal limitations, particularly in light of the uncertainty around the form that the limitations might take and the potential restriction on a landowner's ability to challenge regulations with which they disagree. However, all participants, including the wheat and potato growers, agreed to work together in the next phase of discussions to try to find a mutually agreeable strategy for limiting certain appeals.

Recommendation 2

Throughout the 2023-24 Riparian Taskforce process, participants have broadly agreed and repeatedly emphasized the urgent need for a bold increase in funding for efforts to improve riparian habitat to achieve salmon and steelhead recovery. It is critical that all of these Recommendations, but particularly Recommendation 2, be understood in this context. According to the Governor's Salmon Recovery Office's 2022 State of Salmon in Watersheds Report, 10 out of the 14 species population groups listed as threatened or endangered under the federal Endangered Species Act are not keeping pace with recovery goals or are in crisis.³ Of the several challenges facing salmon recovery, insufficient funding is a fundamental reason for the lack of progress. Only \$1.6 billion of the \$4.7 billion in capital costs identified in 2011⁴ as needed to implement regional salmon recovery plans by 2019 has been received – a deficit of over \$3 billion.⁵

Based in large part upon the finding of significant underfunding to implement salmon recovery plans, Roundtable participants have repeatedly emphasized that the recommendations provided in this report cannot be successfully implemented without sufficient funding. Roundtable participants reiterated concerns that lack of adequate funding could result in placing requirements on landowners for which they have no financial resources to meet, or requiring a regulatory or compensation

³ Governor's Salmon Recovery Office (GSRO). (2022). State of Salmon in Watersheds 2022. Available at: <https://stateofsalmon.wa.gov/>.

⁴ Canty, D. (2011). Funding for Salmon Recovery in Washington State. Evergreen Funding Consultants, Olympia, WA.

⁵ Not adjusted for inflation.

strategy that might be avoided if adequate funding is provided for voluntary programs. For these reasons, while the recommendations offer both immediate- and long- term strategies towards improving riparian habitat for salmon and steelhead recovery, fully funding salmon and steelhead recovery, including funding the implementation of these recommendations, is essential to meeting riparian habitat improvement goals.

Roundtable participants also recognized the importance to the State of both agricultural viability and the “culture” of agriculture in farming communities. Farmers are essential stewards of riparian habitat across Washington, and many farmlands support salmon and steelhead habitat and provide unique opportunities for its protection and restoration. Agricultural lands face multiple threats, from increased development pressure, significant increases in land costs, environmental threats from climate change and a decrease in the numbers of farmers statewide. When agricultural lands are sold and converted to other uses, habitat is frequently lost. Ensuring agricultural viability and supporting farming culture will help to protect riparian corridors from further degradation.

Recommendation 3

The 2023 Riparian Taskforce budget proviso required the Riparian Taskforce to consider regulatory or compensation strategies that will come into effect if the restoration goals established in the watershed implementation plans discussed in Recommendation 2 are not met. This was by far the most difficult task in the proviso charge.

That difficulty arises out of the fact that regulatory and compensation strategies implicate multiple legal regimes, some of which can be in opposition. Tribal treaties guarantee Treaty Tribes the right to fish, a right that courts have interpreted to include the right to have fish. The U.S. and Washington State constitutions prohibit taking of private property without payment of just compensation, including regulatory actions that have the effect of taking private property. And federal and state environmental statutes, like the Endangered Species Act, the Clean Water Act and the state water pollution laws, provide a further layer of legal complexity.

As noted in the summary of Working Group meetings above, participants heard extensive expert presentations on many of these topics. Presenters acknowledged that there is no clear answer, absent litigation, to how to balance tribal treaty rights with constitutional protections against uncompensated takings. In addition, regulatory strategies can render unavailable some federal grant programs that are critical funding sources for riparian restoration.

In light of the challenges presented by regulatory approaches, earlier drafts of Recommendation 3 proposed a targeted acquisition program whereby, in those instances where fully-funded voluntary programs guided by framework described in Recommendation 2 are implemented and a watershed is still not meeting its riparian habitat restoration goals, the State could acquire the land necessary to meet those goals, preferably voluntarily, but through the use of eminent domain if voluntary acquisition is not feasible. Plauché & Carr LLP’s objective in proposing a targeted acquisition program was to suggest a strategy that would avoid the time delay and likely litigation entailed with a new regulatory approach requiring private property owners to restore and protect riparian habitat on their properties. Many Roundtable participants pushed back on this suggested approach; some argued that the use of eminent domain was unfair, while others argued that a regulatory approach should be required to meet riparian habitat goals.

In response to these discussions, in advance of the Roundtable 5 meeting, Plauché & Carr LLP modified Recommendation 3 to include, in addition to the targeted acquisition program, several

regulatory strategies suggested by some of the Roundtable participants. Those regulatory strategies were discussed at the Roundtable 5 meeting, and each of the strategies gave rise to serious concerns from one or more of the participants.

Not surprisingly, given the complexity of the underlying legal issues, the Riparian Taskforce was not able to reach agreement on a regulatory or compensation strategy that would come into effect if restoration goals are not met through the voluntary programs discussed in Recommendation 2. However, the Roundtable dialogue on this difficult issue has been productive and respectful, and Roundtable participants expressed a desire to continue to work through these issues. For these reasons, the final version of Recommendation 3 is now a recommendation that these discussions continue, including continued discussion of both compensation and regulatory strategies.

Recommendation 4

Recommendation 4 is intended to ensure that riparian habitat improvement efforts continue while the concepts in Recommendations 1 through 3 are refined, further developed and implemented. Riparian Taskforce members generally agreed that continued funding of riparian programs that have been developed, and are continuing to be refined, by the State Conservation Commission and the Governor's Salmon Recovery Office is essential, with the caveat that those programs should reflect some of the provisions included in Recommendation 2 related to ensure restoration strategies are consistent with current science around riparian habitat values.

Language of Recommendations⁶

A. Recommendation 1

Objective: Recommendation 1 addresses the protection of existing, functioning riparian habitat. Protecting currently functioning riparian habitat is consistent with existing regulatory requirements to protect the functions and values of critical areas, including fish and wildlife habitat conservation areas, under the Growth Management Act and to assure no net loss of shoreline ecological functions under the Shoreline Management Act. The intent of Recommendation 1 is to provide funding, technical assistance and legal protections that support local governments expeditiously moving forward to ensure existing riparian function is protected.

Recommendation 1 Text:

Protect existing healthy, high-quality riparian areas, and where the riparian area does not meet the Washington State Department of Fish and Wildlife *Riparian Ecosystems Volume 1: Science and Synthesis and Management – Implications* (2020) (WDFW Riparian Guidance) for fully functioning riparian areas but provides some level of riparian ecosystem function, ensure that the current level of riparian ecosystem function is not degraded. Ensure that local government land use regulations protect existing riparian ecosystem functions in accordance with the WDFW Riparian Guidance and the guidance developed in Recommendation 1.2. When reviewing land use applications for new development, or a redevelopment of currently developed land, including redevelopment that

⁶ At the conclusion of the final virtual Roundtable meeting on June 21, 2024, one of the Riparian Taskforce participants, the Washington Farm Bureau, asked that this report reflect that it does not agree with the language of these recommendations.

involves a change in use (for example, a change from agriculture use to residential use), local governments should delineate and protect existing, functioning Riparian Management Zones as set forth in the WDFW Riparian Guidance and the guidance developed in Recommendation 1.2.

1.1. Provide sufficient funding to local governments, WDFW, the Washington Department of Commerce, the Washington Department of Agriculture, the Washington Department of Ecology, the Washington State Conservation Commission, and the Puget Sound Partnership to carry out all of the actions required in Recommendation 1.

1.2. Require WDFW to coordinate with Commerce, WSDA, Ecology, SCC, and the Governor's Salmon Recovery Office to develop guidance, in collaboration with local government representatives and federally recognized tribes, for protecting existing riparian ecosystem functions in accordance with the WDFW Riparian Guidance. The guidance developed pursuant to this recommendation shall also consider *Riparian Ecosystems, Volume 2: Management Recommendations* (2020), and should include, without limitation, technical recommendations regarding common permitted activities; ensuring no net loss of riparian ecosystem function under exemptions, variances, and reasonable use exceptions; compensatory mitigation strategies; and enforcement/compliance.

1.3. State agencies, including WDFW, Commerce, WSDA, SCC, and Ecology, shall work together to provide technical assistance to local governments with regard to the WDFW Riparian Guidance, including assistance with identifying and applying for grant opportunities to facilitate protecting existing riparian ecosystem function. Such technical assistance can include, for example, resources to support workshops or other opportunities for education and information sharing on strategies and approaches for effective implementation of the WDFW Riparian Guidance and discussions of other local regulatory controls that may present barriers to effective implementation of the WDFW Riparian Guidance. This technical assistance should incorporate the guidance developed pursuant to Recommendation 1.2, once that guidance is developed.

1.4. Set a target date, subject to the provision of sufficient funding, by which local governments must protect existing riparian ecosystem functions in accordance with the guidance developed pursuant to Recommendation 1.2.

1.5. Provide limitations on appeals, consistent with due process rights, for local government legislative actions that incorporate the guidance developed pursuant to Recommendation 1.2.⁷

1.6. Provide local governments adequate, dedicated funding for compliance monitoring and enforcement of protections of existing riparian habitat.

1.7. Provide sufficient funding to conduct a targeted evaluation of the effectiveness of existing compliance and enforcement processes for riparian-related regulatory programs under the SMA and locally implemented GMA critical areas protections as well as funding to implement recommendations that stem from the evaluation.

⁷ As noted in the report discussion above, the Washington wheat and potato growers expressed concerns about this recommendation, particularly considering the lack of specificity as to the limitations being considered. Nevertheless, the wheat and potato growers expressed willingness to engage in continued discussion of this recommendation in the next phase of this process.

- 1.7.1. The evaluation should identify existing compliance and enforcement procedures, authorities, and structures; evaluate whether existing local government code enforcement authorities are sufficient to meet needs; determine which aspects of enforcement and compliance approaches are effective at assessing and achieving compliance (e.g., monetary penalties for noncompliance and other tools that spur voluntary compliance); identify any barriers (e.g., lack of capacity, lack of clear delineation of responsibilities, cost of litigation, lack of judicial resources, reluctance of prosecutors and courts to support local code enforcement); and make recommendations for improvement. Consider how current compliance monitoring and enforcement such as the Washington State Department of Natural Resources' efforts to monitor compliance with Forest Practices Rules and enforcement-related changes to the Hydraulic Code pursuant to HB 1579 (2019) could be adapted for application in other programs as appropriate.
- 1.7.2. This evaluation should build on Ecology's ongoing efforts to develop a compliance program under the SMA, ensuring that the program considers the WDFW Riparian Guidance, the recommendations in *Riparian Ecosystems, Volume 2: Management Recommendations* (2020) regarding implementation monitoring and adaptive management to improve the implementation feedback loop for Shoreline Master Programs ("SMPs") and the SMP Guidelines, and the guidance developed pursuant to Recommendation 1.2 once that guidance is complete.

1.8. WDFW, Ecology, Commerce, and PSP shall work collaboratively with Tribes and local governments to develop alternatives to permittee-responsible riparian mitigation to offset unavoidable impacts to riparian functions caused by existing and future uses and developments. Such alternative mitigation strategies include, without limitation, mitigation banking, payment of fees in lieu of mitigation, or a riparian habitat crediting program. Such strategies shall be dedicated to mitigation/restoration projects in the same watershed as the impacts and shall be consistent with the prioritization in the watershed-based riparian implementation strategies developed under Recommendation 2, below.

B. Recommendation 2

Objective: Recommendation 2 addresses the voluntary restoration and acquisition of riparian areas, using a watershed-based approach to riparian restoration and conservation targeted toward salmon and steelhead recovery. Recognizing the substantial and underfunded regional-level salmon and steelhead recovery and riparian restoration planning efforts that have already been taken and are currently taking place around the State, Recommendation 2 is crafted to leverage and sufficiently fund implementation of completed regional riparian restoration plans, build on preliminary regional restoration planning and prioritization efforts, and require riparian restoration planning and prioritization in areas where it has not yet taken place. Recommendation 2 also includes funding and policy recommendations related to agricultural viability; establishment of concrete riparian restoration, protection and stewardship targets; monitoring of restored riparian areas; and strategies that can attract private investment in improving riparian habitat.

Recommendation 2 Text:

To restore and conserve riparian areas, establish and ensure sufficient funding for a watershed-based riparian implementation program (Program) focused on improving and protecting riparian

habitat for salmon and steelhead recovery that builds on existing and ongoing watershed restoration and salmon recovery efforts and establishes firm, readily measurable outcomes.

2.1. The Program shall:

- 2.1.1. Utilize and build upon existing salmon recovery, watershed planning, and Voluntary Stewardship Program riparian restoration and conservation efforts.
- 2.1.2. Expand or combine existing watershed-based groups, or establish new groups as needed, to include federally recognized Tribes with rights to fish in the watershed; counties, cities, and other local government entities within the watershed; agricultural producers within the watershed; commercial and recreational fishing organizations; business organizations; salmon recovery organizations; forestry and agriculture organizations; and environmental and conservation organizations. State agencies may also participate in the watershed-based group at the invitation of the watershed-based group or if they are an existing member of a watershed-based group that is expanded or combined to implement the Program.
- 2.1.3. Sufficiently fund planning, implementation, and monitoring of the riparian restoration strategies and projects that result from the efforts outlined below, while prioritizing near-term funding for riparian restoration and acquisition projects identified as priorities in already adopted watershed-level plans.
- 2.1.4. Use decision making processes that foster and support collaborative and cooperative planning to meet salmon and steelhead recovery goals while maintaining the viability of the agriculture industry.

2.2. Each lead entity, existing watershed-based group that is not a lead entity, or newly formed watershed-based group shall adopt or amend an existing riparian watershed-based implementation strategy, or develop and adopt a new watershed-based riparian implementation strategy, that identifies and prioritizes specific riparian restoration and protection projects within the watershed that support salmon and steelhead protection and recovery. The watershed-based riparian implementation strategies shall:

- 2.2.1. Be based upon existing regional or watershed-scale plans or processes such as the regional recovery plans created under RCW 77.85.090; watershed-scale recovery plans and habitat project lists developed pursuant to RCW 77.85.050; the action agenda developed under RCW 90.71.260; Voluntary Stewardship Work plans created pursuant to RCW 36.70A.705; Total Maximum Daily Load water quality improvement plans developed pursuant the Section 303(d) of the federal Clean Water Act; and watershed health plans developed pursuant to chapter 90.82 RCW. If a plan has already been adopted pursuant to one of these authorities, and that plan identifies and prioritizes riparian restoration and acquisition projects, near term funding should be directed in the first instance towards implementation of those projects.
- 2.2.2. Establish a clear goal of achieving restoration of the full Riparian Management Zone (RMZ), as defined by WDFW, while recognizing exceptions where that standard is not achievable.

- 2.2.3. Establish criteria for determining when restoration to the outer edge of the RMZ is not currently achievable. Examples of criteria that the watershed-based groups could consider include, but are not limited to, the presence of structures or infrastructure, topography constraints, location of property lines, parcel size or configuration, economic hardship and the likelihood that restoration to the outer edge of the RMZ might become achievable in the future.
- 2.2.4. In those instances where restoration to the outer edge of the RMZ is not currently achievable, establish restoration and acquisition strategies to optimize riparian habitat benefits, based on technical and scientific expertise. Alternatively, the watershed-based riparian restoration plans shall adopt a process for determining such strategies on a case-by-case basis.
- 2.2.5. Prioritize restoration and protection activities in reaches of streams that Ecology has included in its list of impaired waters in its Clean Water Act Section 305(b) Report.
- 2.2.6. Prioritize connectivity between areas of riparian habitat providing high levels of functionality. This is intended to prioritize restoration efforts in riparian areas that do not currently have barriers to connectivity and to prioritize removing barriers to connectivity between areas that currently have disconnected areas of high levels of riparian functionality.
- 2.2.7. Include restoration criteria for both fish-bearing and non-fish-bearing waters in accordance with Washington Department of Fish and Wildlife recommendations. For non-fish-bearing waters prioritize those that have a significant nexus to salmon and steelhead recovery over non-fish-bearing waters that do not have a significant nexus to salmon and steelhead recovery.
- 2.2.8. Be coordinated with local governments' GMA Comprehensive Plans and provide policy guidance for the development of local GMA Critical Areas Ordinances, and SMPs.
- 2.2.9. With regard to agricultural viability, in addition to the riparian restoration programs discussed in this Recommendation 2:
 - 2.2.9.1. Identify and quantify critical factors for ensuring the viability of agricultural production within the watershed, utilizing available resources including the SCC's Agricultural Viability Toolkit;
 - 2.2.9.2. Identify and implement public and private sector strategies to ensure an adequate land base for continued viable agricultural activity;
 - 2.2.9.3. Identify and implement strategies to increase productivity of non-riparian agricultural lands within the watershed. Examples include investments in infrastructure and technology, support for collaborative water solutions, support for increasing markets and market access, technical assistance, and other proactive strategies to support agricultural viability. Where available, utilize and ensure sufficient funding for existing programs that promote agricultural viability to implement these strategies. To fill gaps, provide flexible funding for local governments, conservation districts,

and agricultural support organizations to plan for and implement agricultural viability projects;

- 2.2.9.4. Support succession planning for farmers and establish programs that encourage land access for the next generation of farmers; and
- 2.2.9.5. Establish and fund a monitoring program that inventories the amount of farmland conversion and loss within the watershed as a result of voluntary riparian protection and restoration actions as well as all other drivers of farmland conversion and loss.

2.2.10. By June 30, 2027, establish specific targeted outcomes at the watershed level with respect to quantity and quality of riparian habitats to be restored or protected by December 31, 2030. These targeted outcomes are to be updated every four (4) years thereafter. At a minimum, these outcomes must be established for the following categories:

- a) acres planted in riparian areas,
- b) miles of streambank planted,
- c) average riparian width,
- d) miles of streambank protected by land or easement acquisition, and
- e) acres of restored land maintained.

2.2.11. Include a monitoring and adaptive management program that includes project monitoring using quantitative metrics that are designed to evaluate whether the restoration performed under the plan achieves the four-year targeted outcomes established in the strategy. At a minimum, these quantitative metrics must include the following Recreation and Conservation Office (“RCO”) metrics used to measure riparian restoration:

- a) acres planted in riparian areas,
- b) miles of streambank planted,
- c) average riparian width,
- d) miles of streambank protected by land or easement acquisition, and
- e) acres of restored land maintained.

The results of this monitoring and adaptive management program shall be reported to GSRO every two years and shall be timed to allow this information to be timely included in the biennial reports on the statewide status of salmon recovery and watershed health required under RCW 77.85.020.

2.3. Ensure sufficient, flexible, reliable and rapidly accessible long-term funding to implement the priority riparian projects identified in the watershed-based riparian implementation strategies. Target funding to achieve significant landowner participation, implement adopted riparian restoration plans, and support stewardship and monitoring of restored riparian areas, including but not limited to:

- 2.3.1. Provide substantial, near-term funding for the implementation of riparian restoration and conservation projects identified as priorities in already adopted watershed-based plans.

- 2.3.2. On agricultural lands, provide landowner payments that align with market rental rates and commodity pricing.
- 2.3.3. Complement and leverage federal funding opportunities.
- 2.3.4. Identify opportunities to better align state and federal funding sources for farmland and riparian protection to support multi-benefit projects.
- 2.3.5. Fund a substantial outreach and education effort addressing the importance of riparian habitat restoration and protection and providing information about available opportunities to support agricultural viability.
- 2.3.6. Fund technical assistance for aggregating projects and funding sources to provide greater riparian habitat improvement and protection. Ensure funding to support the continued work of the inter-agency Align Partnership (RCO, PSP, Ecology, WDFW, and SCC) to identify and implement administrative improvements in state voluntary restoration funding programs and implementation of its recommendations. Provide funding to establish a “one stop shop” website or database for riparian grant funding opportunities for applicants.
- 2.3.7. Provide for creative contracting approaches, such as pay for success contracts, that allow landowners and restoration practitioners to implement riparian restoration projects with payments based on delivery and verification of outcomes.
- 2.3.8. Leverage Climate Commitment Act funding to develop voluntary carbon credit payments to farmland owners that establish, enhance, and maintain riparian areas to accelerate conservation at scale.
- 2.3.9. Ensure long-term or dedicated funding for multi-year implementation of larger restoration projects and for ongoing stewardship, maintenance, monitoring and adaptive management of already implemented riparian restoration projects.
- 2.3.10. Provide funding for the SCC Integrated Science Hub for Agriculture and Ecosystems specifically to support riparian ecosystem restoration and protection.
- 2.3.11. Provide on-request funding for technical assistance with riparian restoration project identification and prioritization for watershed groups and facilitate information and technology sharing among watershed-based groups.
- 2.3.12. Provide continued funding for WDFW monitoring of riparian management zones as part of WDFW’s change detection monitoring program, including sufficient funding to include detection of both gains and losses in riparian ecosystems.
- 2.3.13. Provide funding to conduct a study and develop a report evaluating the status and trends of environmental factors that sustain healthy riparian ecosystems, including but not limited to riparian water supply, river flow regimes, groundwater levels, changes in disturbance regimes, effects of climate change, and other potential threats to Washington state riparian ecosystem sustainability.
- 2.3.14. Fund and support ongoing permit streamlining efforts for riparian restoration projects.

2.4. Consider whether the watershed-based riparian implementation strategies should be reviewed, monitored, adaptively managed, and actively supported through existing state salmon recovery structures and roles that could include GSRO and/or the Salmon Recovery Funding Board, and including WDFW, Ecology, WSDA, SCC, PSP, federally recognized tribes, local governments, agricultural producers, commercial and recreational fisher organizations, business organizations, salmon recovery organizations, forestry and agricultural organizations, and environmental organizations.

2.5. The Program shall provide a simplified process and include incentives to ensure robust participation in implementation of the watershed-based implementation strategies, including:

- 2.5.1. Sufficient funding for landowner outreach and technical assistance within each watershed.
- 2.5.2. Creating a single, simplified application process that is readily usable by all potential funding recipients across watersheds.
- 2.5.3. Providing incentives for early participation such that “early adopters” are rewarded, including through higher landowner payments and exemption from the state regulatory and/or compensation approaches set forth in Recommendation 3.
- 2.5.4. Creating a Sustainable Farm and Fish certification program under WSDA that builds on existing certification programs and includes requirements for riparian and habitat conservation consistent with and implementing the watershed-based riparian implementation strategies. Develop agreements that provide certainty to landowners to ensure that landowners committing to long-term enrollment are deemed compliant with established and new regulatory requirements.

C. Recommendation 3

Objective: The legislative proviso requires the independent facilitator to include recommendations on “developing a regulatory or compensation strategy if voluntary programs do not achieve concrete targets.” With regard to protecting existing riparian habitat functions, Recommendation 1 proposes a regulatory program that would be imposed on new development or certain redevelopment. With regard to restoring degraded riparian areas, Recommendation 2 recommends the establishment and sufficient funding of a voluntary, watershed-based approach to riparian restoration. If the voluntary programs established under Recommendation 2 do not achieve the concrete restoration targets adopted in the watershed-based implementation strategies, Recommendation 3 proposes a continued discussion of several options that could come into effect in those watersheds to help meet those targets.

Recommendation 3 Text:

As part of the 2025 Riparian Roundtable effort funded through Engrossed Senate Substitute Bill 5950, Sec. 116(4), Chapter 376, Laws of 2024, the Riparian Roundtable should continue discussing regulatory or compensation strategies that would come into effect if the concrete targets adopted in the watershed-based implementation strategies are unable to be met through the voluntary actions identified above. These strategies should not be employed where intervening events out of the control of the watershed-based groups prevent targets from being achieved. Examples of such events include insufficient funding; natural events such as drought, wildfire or earthquake; or acts of

war. These continued discussions should include continued exploration of the following concepts, as well as any other ideas that may be developed during those discussions:

- 3.1. A Washington State riparian acquisition program targeted toward land within a particular watershed if, once all voluntary and incentive actions have been exhausted, such acquisition is necessary to achieve the established outcomes as determined by local watershed groups for acres planted in riparian areas, miles of streambank planted, average riparian width, miles of streambank protected by land or easement acquisition, and acres of restored land maintained. The state's targeted riparian acquisition program would pay fair market value for property interest acquired and would acquire the minimum ownership interest required to achieve long-term outcomes. In the next phase of discussions, the group should explore what situations could trigger the use of the State's authority under eminent domain as a tool of last resort if that is the only way to meet riparian habitat goals.
- 3.2. Regulatory approaches for achieving the concrete targets adopted in the watershed-based implementation strategies, including, without limitation:
 - 3.2.1 Innovative approaches such as a riparian calculator that calculates impacts and determines the number of riparian credits a landowner needs to offset the lack of a buffer on their property.
 - 3.2.2 Requiring public and private landowners owning property adjacent to a riparian area that do not participate in the voluntary incentive programs discussed in Recommendation 2 above, to establish, maintain, and protect a riparian management zone on their property.
 - 3.2.3 Removing exemptions and exceptions under GMA/SMA in the Riparian Management Zone.
 - 3.2.4 Imposing a development moratorium on properties within the watershed until outcomes are met.
 - 3.2.5 Regulatory approaches that have succeeded in other jurisdictions or under different regulatory frameworks, such as the Minnesota Buffer Law,⁸ which requires perennial vegetative buffers of up to 50 feet along lakes, rivers, and streams and buffers of 16.5 feet along ditches.

D. Recommendation 4

Objective: Recognizing the processes outlined in Recommendations 2 and 3 will take time to fully implement, Recommendation 4 addresses the strategy for continuing the funding of riparian habitat restoration while those processes move forward but haven't yet been completed. In 2023, the Legislature provided \$50 million to RCO and SCC to increase the pace of riparian habitat restoration for the benefit of salmon and steelhead. RCO and SCC have adopted guidance for the use of those funds (SCC adopted interim guidance and is continuing to work with Tribes and

⁸ <https://bwsr.state.mn.us/minnesota-buffer-law>

stakeholders to develop final guidance). Recommendation 4 proposes that those programs continue to be funded to ensure significant, near term funding for riparian restoration and protection.

Recommendation 4 Text:

For the next two years, maintain or increase the level of funding for the voluntary riparian restoration incentive programs established in the 2023-25 capital budget, Engrossed Substitute Senate Bill 5200 for RCO (Section 3074) and SCC (Section 3087). RCO and SCC shall consider Recommendations 2.2.1 through 2.2.7 and Recommendation 2.3.1 in developing or updating their guidelines for these voluntary riparian restoration incentive programs.

Appendix A | June Roundtable Executive Summary

Tuesday, June 27, 2023; 9am – 12pm

Washington PUD Association
212 Union Ave SE
Suite 201
Olympia, WA 98501

Agenda

- I. Welcome and Introductions
- II. Discussion of 2023-25 budget proviso for continued roundtable discussions
Funding provided solely for the governor to invite federally recognized tribes, local governments, agricultural producers, commercial and recreational fisher organizations, business organizations, salmon recovery organizations, forestry and agricultural organizations, and environmental organizations to participate in a process facilitated by an independent entity to develop recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon and steelhead recovery.
 - (a) *The independent entity must develop recommendations on furthering riparian funding and policy, including but not limited to, strategies that can attract private investment in improving riparian habitat, and developing a regulatory or compensation strategy if voluntary programs do not achieve concrete targets.*
 - (b) *Preliminary recommendations shall be submitted to the legislature and governor by May 1, 2024, with a final report by June 30, 2024.*
- III. Discussion of draft Framework for continued roundtable discussions
- IV. Discussion of potential additional roundtable participants
- V. Discussion of dates, location and agenda items for next meeting

Meeting Materials

Draft Reconvened Roundtable Framework

Executive Summary

Welcome and Introductions

- Peter Dykstra and Billy Plauché welcomed the group and participants introduced themselves.
- Jim Peters welcomed the group to the lands of the Squaxin Island Tribe.

- Billy Plauché provided context for the discussion. He noted that the work going forward has more time and structure under the new budget proviso. Billy also noted that Plauché & Carr had conducted interviews to get a sense of where things are at, process going forward, and thoughts on the final roundtable and technical report recommendations. He urged the group to review and provide feedback on the recommendations as they will provide the foundation for the discussion moving forward. Billy also provided that the technical efforts of last year will be merged into the process going forward.

Discussion of 2023-25 budget proviso for continued roundtable discussions

- Peter Dykstra gave an overview of the 2023-25 budget proviso and highlighted differences from the previous proviso, including that there is additional time and flexibility this round. He emphasized that the 2023-25 budget proviso focuses on coming together to find solutions towards riparian habitat improvement and protection for salmon and steelhead recovery. Peter noted that a draft and final report are due in May and June next year and that Plauché & Carr hopes to have more engagement with roundtable participants around recommendations this round.

Discussion of draft Framework for continued roundtable discussions

- Billy Plauché noted that the meeting would focus on the draft framework and process for moving forward and that the group would dig into substantive items in later discussions. He provided an overview of the roundtable group's role in the framework and the process for that group to meet, including the following: the group would consist of policy leaders; the group would meet every other month for a full day, either in one day or over the course of two days with half-day meetings; the meetings would take place in different locations around the state; and the meetings would include field visits to farms and Tribal restoration projects and other sites to learn more about challenges and successes in riparian habitat improvement and salmon and steelhead recovery.
- Vice Chair Bowe chop commented that the flexibility under the new proviso and the new course of the effort was encouraging. He emphasized that Tribal sovereignty must be recognized in the process and that Tribes cannot be treated as stakeholder groups or report to state committees.
- David Herrera emphasized the group should be careful not to stage riparian buffers as an agriculture-versus-Tribes issue, and that Tribes are thinking about all the parties in riparian areas and not just agriculture.
- Jim Peters shared his experience at the SCC that it is helpful to visit different places and get out in the field. He shared his hope that the group can build on a coalition of landowners and farmers who can see successful riparian projects as the right way to do things. Jim stressed that half-day meetings are not long enough and that longer meetings that provide an opportunity to build connections are needed.
- Jason Spadaro expressed support for Jim Peters' comments. He commented that the working group needs to have some roundtable participation. He also expressed support for meeting in different locations around the state and suggested that the group discuss and see the work of state programs, such as VSP, on field visits.
- David Bergvall expressed support for field visits and welcomed the group to visit their lands and to discuss other important matters like labor.
- Daryl Williams commented that a full day meeting, at the least, makes sense and supported overnight meetings to allow for social time.

- Peter Dykstra emphasized Jason Spadaro’s comment, that roundtable participation in the working group is important, and shared that the pace of the meetings is intended to allow back-and-forth between the roundtable group and the working group.
- Jason Spadaro expressed support for David Herrera’s comments and interest to get to know different watersheds.
- Chairman Johnstone expressed support for Vice Chair Bowe chop’s comments regarding Tribal sovereignty. He shared about the work that has been done to recover salmon and steelhead, the changes that development has brought to the state, and that salmon stocks have not been delisted. He emphasized the budget proviso language: “to ensure salmon steelhead recovery,” and that he interprets “ensure” to mean that the group will move forward in a positive manner and make changes, even if incremental. He commented that there are many challenges in salmon and steelhead recovery, including climate change, and that Tribes are working at all levels and on all aspects of the issue. He also commented that the proper time for land acknowledgement is before the meeting starts.
- Billy Plauché provided an overview of the working group’s role in the framework and the process for the group to meet, including the following: the group may include roundtable participants as well as trusted seconds, technical advisors, and others; there would be some constant participants but also flexibility in participation depending on the issues being discussed; the meetings would be largely virtual with in-person meetings on an as-needed basis; the group would work on detailed issues that the broader group needs to address and that those may include the WDFW Guidance, local laws and regulations, how to not let the perfect be the enemy of the good in riparian improvement, and setting metrics for where the effort is going and how it gets there and what to do when those targets are not met, as required by the Legislature; and that the working group would provide recommendations to the roundtable group and bring other issues to the roundtable to address obstacles.
- Margen Carlson asked whether the group might be sustained through the biennium.
 - a. Peter Dykstra responded that the group would be sustained through the year’s body of work and shared that, if the group is developing policy and funding recommendations, the best arc of that would be into late 2024 with the long session being the right time to introduce new policy concepts.
- Daryl Williams commented that there are not enough people, trees or shrubs for riparian planting, and that increased staffing is needed to meet riparian goals.
- Peter Dykstra commented that the group may be able to provide some help in addressing obstacles in the implementation of the RCO and SCC programs.
 - a. Kirk Robinson agreed and commented that the SCC might use the roundtable process to guide their process.
 - b. Erik Neatherlin supported Kirk Robinson’s comments. He commented that they might look to the group for early actions or things to address now, such as increasing staffing and hatchery capacity for planting riparian areas.
 - c. Daryl Williams noted that DNR has funding to increase its hatchery work.
 - d. Jim Peters supported taking action to get funds to help the hatcheries and others.
 - e. Alison Halpern commented that the group will help the SCC coordinate communication and connect with groups to understand needs and get work going.
 - f. Billy Plauché provided that the working group would meet before the next roundtable meeting and start with what can be done now.
- Ruth Musgrave asked how large the working group would be.

- a. Billy Plauché responded that it would be larger than the roundtable group but focused on one issue at a time.
- Peter Dykstra shared that Plauché & Carr would let the roundtable and working group participants know which topics will be discussed in advance so that they can communicate with each other. He also noted that folks are not required to allocate people to the working group, but that the detail-level work will occur there.
- Jim Peters commented that knowing what expertise is needed in advance is important to plan for the right people to attend.
 - a. Peter Dykstra responded that Plauché & Carr is working to plan out the year to make best use of participants' time and that the group will discuss what works best in terms of capacity and timing in September.
- Peter Dykstra provided an overview regarding engagement of the legislative process, including: Billy Plauché and Peter would bring together key legislators on a quarterly basis to bring thoughts from the roundtable group; they would let the roundtable group know what they would bring to those meetings; they would share feedback from the legislators; and there would be a meeting with lobbyists in advance of meeting with the legislators to let them know what information would be brought to those meetings.
 - a. Chairman Johnstone supported the approach and emphasized that it is important to keep lobbyists informed. He commented that legislators should join field visits with the roundtable group.
 - b. Vice Chair Bowechop asked if the proposal is to have the legislators speak directly with the roundtable group.
 - i. Peter Dykstra clarified that was not the case, and that Billy Plauché and Peter would meet with the legislators and that they would speak with the roundtable group on what they planned to say and get their thoughts.
 - ii. Vice Chair Bowechop commented that the Makah Tribe wants to be able to go to legislators directly. He suggested bringing legislators into roundtable meetings so they can understand the interests of the different participants.
 - iii. Peter Dykstra responded that the meetings with legislators would not substitute anyone's direct communications with legislators and would only be to share an update on where the roundtable group is at.
 - iv. Vice Chair Bowechop commented that his concern with the process would be around the facilitators representing the Tribe's interests.
- Ruth Musgrave shared that federal partners are interested in the roundtables and suggested that there could be a separate set of meetings to update them.
- Rob Duff responded to Vice Chair Bowechop's comments, commenting that the facilitators would be keeping the legislators informed on the process and that there will be an opportunity to correct what would be shared.
- Jim Peters supported the proposed process and that it is important to inform the group on what will be said to legislators. He shared, in his personal experience with Timber Fish & Wildlife, there was a ground rule that individuals could not speak with legislators or the media unless they were saying the same things as the group.

Discussion of potential additional roundtable participants

- Billy Plauché shared the intention to engage more Eastern Washington Tribes, folks with on-the-ground perspective (e.g., farmers), federal partners, and fishing interests such as the American Sportfishing Association.

- David Bergvall expressed support for engaging farmers and Eastern Washington Tribes.
- Council Member Bizyayeva expressed support for getting out in the field with farmers and including fishing interests other than the Tribes.
- Ruth Musgrave commented that the state-federal riparian group is interested in participating and that it may be good to keep them informed.
- Erik Neatherlin emphasized that it is important to take advantage of federal infrastructure funds and that the group should consider federal funding.
- Peter Dykstra shared that federal partners have not been a part of the roundtable because they were not listed by the Legislature and cautioned that taking on the federal aspect could be too much. He commented that coordinating with them like the legislative engagement process would make sense and that Plauché & Carr can bring its experience coordinating pursuit of federal infrastructure funds to inform this work.
- Billy Plauché commented that there may be a role in the working group to bring in agencies, like NRCS and NOAA, to talk about their funding programs.
- Kirk Robinson commented some federal partners could provide helpful information and that they may not be involved in the roundtable group but could join for tours.
- Daryl Williams supported bringing in a couple federal partners from the state-federal riparian group so that the roundtable group can keep informed on their work. He commented that Eastern Washington Tribes and Tribes that have Treaty rights in the State of Washington, like the Nez Perce, should be considered.
- Phil Rigdon shared appreciation for including Eastern Washington Tribes in the conversation and that there is a lot of work the Yakama Nation is doing to see and that they would like to share challenges they have had, as well.
- Derek Sandison and Margen Carlson expressed support for including NRCS.
- Jim Peters commented that, in addition to funding agencies, the EPA and others also play an important role and that their expertise may be helpful.
- Jeff Dickison cautioned not to overly involve government and to avoid putting some people on defense who might have good solutions.
- Rob Duff supported a couple state-federal riparian group folks attending at times. He commented that the current federal funding opportunity should not be missed and that the group should be tracking and communicating on funding opportunities.
- Peter Dykstra commented that that is what Plauché & Carr has done in the Yakima Basin Integrated Plan and can share with this group. He commented that it is the role of the collaborative group to do the work with those funding opportunities, and that it is more about awareness and access to those opportunities rather than forcing projects through another process.
- Jay Gordon commented that the Conservation Districts play an important role, that more younger farmers need to be involved, and suggested there are good places to visit in Yakima, Walla Walla, and Jamestown. Also, that there are issues with so many different funding programs out there and with some people choosing one over another.
- David Herrera commented that technical expertise from the federal agencies would be helpful. He suggested that American Farmland Trust may be good to engage, as well.
- Jay Gordon shared that Dani Madrone at American Farmland Trust would be a good contact.

- Alison Halpern commented that it is important for federal and state funding programs to coordinate messaging and provide a one-stop-shop model for engaging landowners.
- Daryl Williams expressed support for engaging American Farmland Trust, or another conservation trust because conservation easements are another way to protect riparian areas and that they would be best to speak to that. He also emphasized the importance of pursuing federal funding to meet riparian habitat goals.
- Justin Allegro supported engaging American Farmland Trust and suggested that the Washington Association of Land Trusts would be good to reach out to, as well.
- Billy Plauché provided that Plauché & Carr will reach out to the American Sportfishing Association, Washington Association of Land Trusts, and American Farmland Trust.

Discussion of dates, location and agenda items for next meeting

- Billy Plauché shared that Plauché & Carr is looking to get the working group together in August with a September roundtable meeting and that the roundtable could be in the Yakima area.
- Phil Rigdon commented that could work.
- Ruth Musgrave shared that the Centennial Accord is September 18 and 19.
- Peter Dykstra shared that Plauché & Carr hopes to propose a 2023-2024 calendar for the roundtable group's approval at the September meeting and that it will be provided in advance. He thanked the group for coming and thanked the Squaxin Island Tribes and Washington Public Utilities District Association.

Appendix B | Reconvened Roundtable Framework

Riparian Roundtable Discussion: Framework for 2023-24 Dialogue

I. Introduction

The final 2022 Riparian Roundtable Report recommended the continuation of the Riparian Roundtable discussions that began in 2022. This recommendation came from a strongly expressed collective desire among the Roundtable participants for more time to strengthen the relationships and build upon the substantive progress that we made in our 2022 discussions.

In response to that recommendation, the Washington Legislature appropriated funds to continue the Riparian Roundtable dialogue. The team at Plauché & Carr LLP drafted a proposed Framework for these continued discussions. We received feedback on the proposal from Roundtable participants at the June 27 meeting. The following provides a final Framework informed by that discussion.

II. Participants:

The Roundtable discussions will include the following organizations:

- All organizations that participated in the 2022 Roundtable meetings
- Representative of the American Sportfishing Association, Washington State
- Representatives of Eastern Washington Tribal Governments
- Representative of American Farmland Trust
- Representative of the Washington Association of Land Trusts
- Agricultural producers (potentially on a meeting by meeting basis)
- Conservation District staff (potentially on a meeting by meeting basis)

III. Framework for Roundtable meetings:

A. Structure:

We believe a bifurcated structure will allow for higher level policy input as well as more focused and in-depth technical discussion of specific subject matter.

- Roundtable: This group will be made up of key leaders, as set forth in Section II above, who are charged with working toward a consensus on concrete approaches for addressing Riparian restoration.
- Working Group: This group will be made up of representatives of Roundtable participants and other participants that will meet more frequently than the Roundtable and will engage more deeply in some of the technical and policy details than is feasible with the Roundtable itself. Some Roundtable participants may choose to participate on the Working Group. Other Roundtable representatives may designate a “trusted second” to participate in the Working Group. Still other Roundtable participants may choose to be represented in the Working Group by a more technical representative. It will be up to each Roundtable participant to decide their representative(s) on the Working Group. Additional participants and presenters may be brought into the Working Group on an as-needed, meeting-by-meeting basis, depending on the agenda for a particular meeting.

B. Meeting schedule/frequency:

• Roundtable:

- In person, full-day or back-to-back half-day meetings, occurring approximately every two months, starting in September of 2023.
- Meeting location to rotate around the state.
- High preference for in-person with virtual option available if absolutely necessary and where feasible.
- Meetings will include a field component, visiting agricultural operations, riparian restoration projects, timber operations, and other field visits to provide on the ground perspective to Roundtable members.
- The other half of the meeting to be in a meeting room, similar to the 2023 Roundtable meetings.

• Working Group:

- Meetings more frequent, bi-weekly or once every 3 weeks.
- Primarily virtual meetings, 1-3 hours, depending on the subject matter, convening in person on an as-needed basis.
- The overall objective of the Working Group is to discuss more intensely the technical and policy issues that are critical to meeting the goals of the Roundtable discussions. The intent is that the Working Group will provide technical support and recommendations to the Roundtable as to policy and funding strategies for the protection and restoration of salmon and steelhead.
- In addition to regular working sessions, the Working Group will also conduct study sessions to develop a more detailed understanding of important background information relevant to riparian protection and restoration, for example:
 - Discussion of the findings and recommendations in the 2022 Effectiveness of State Programs on Riparian Habitat Protection and Restoration Final Report.
 - Discussion of the WDFW Riparian Ecosystems Documents, particularly question and answer discussion of how the documents are implemented in specific situations.
 - Review of results of riparian mapping efforts being undertaken by WDFW.
 - Discussion of state and federal voluntary programs providing funding for riparian protection on agricultural and forest lands.
 - Discussion of regulatory/legal backdrop, including Critical Areas Ordinances, local permit processes, enforcement issues and takings issues
- Working Group will make recommendations to the Roundtable group on issues where consensus is reached. Where the working group cannot reach consensus, the issues will be taken to the Roundtable group for further discussion.

C. Legislative Engagement:

We believe that providing occasional updates to a group of key legislators will help build a bridge between the Roundtable efforts and the Legislature that could serve to ensure that work of the Roundtable and any recommendations that come from the Roundtable are understood by the legislative branch.

The facilitation team will convene a group of 10 to 12 key legislators (as well as selected legislative staff) in 2 to 3 meetings over the course of the Roundtable meetings to brief the

legislators on the progress and status of the Roundtable discussions. The facilitation team will coordinate the substance of its briefing to legislators with the Roundtable in advance and will report back to the Roundtable on these meetings and any feedback received.

The facilitation team will also convene an information-sharing meeting with interested lobbyists from Roundtable participants in connection with but separate from the facilitation team briefings with legislators.

D. Federal Engagement:

The facilitation team will convene one or more information-sharing meetings with representatives of federal agencies, including, without limitation, the Natural Resources Conservation Service, the U.S. Environmental Protection Agency, and the National Marine Fisheries Service, to discuss the progress of the Roundtable. In addition to this coordination, the facilitation team will track emerging and available federal funding sources related to riparian protection and restoration to inform the Roundtable dialogue.

IV. Implementation:

The facilitation team spent time in June and July meeting virtually with the Roundtable participants to understand their perspectives on the final reports submitted for the 2022 budget provisos, to understand their perspectives coming out of the riparian discussions during the 2023 legislative session, and to hear feedback regarding the process during the 2022 Roundtable discussions. These discussions were followed by an in-person Roundtable meeting on June 27, 2023, to discuss and seek agreement on the framework; discuss additional Roundtable participants; begin identifying Working Group participants; establish a schedule moving forward, including an initial Working Group meeting and the first substantive Roundtable meeting; and discuss a location for the next Roundtable meeting.

V. Initial Draft of Overall Goals for the reconvened Roundtable Effort (to be refined in the September Roundtable meeting)

Overall goal (from the Proviso): to develop recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon and steelhead recovery.

Specific topics that potentially fit within that overall charge:

- Provide a forum for collaborative discussion of new SCC and RCO riparian programs included in 2023-25 Capital Budget provisos.
- Develop recommendations for a longer-term riparian program, either through longer term implementation of the SCC and RCO programs in future biennia or through implementation of a new program, consistent with initial Roundtable recommendations. Aim is to articulate a program with clear goals and objectives, metrics for measuring whether those goals and objectives are being met and alternative strategies for riparian protection if the established goals and objectives are not met.
- Develop recommended goals, outcomes and targets/metrics, consistent with the goals and objectives established for the longer-term riparian program, that can be adopted into other riparian habitat plans and programs.
- Develop strategies for sequencing and aggregating riparian habitat protection and improvement to maximize benefits to salmon and steelhead recovery.

- Explore and articulate recommendations regarding alternative funding strategies (mitigation banks, performance-based contracting, fees in lieu, urban corridors), including private investment in improving riparian habitat, to provide additional funding for riparian habitat restoration.

Appendix C | Roundtable Participants

The following list provides the individuals invited to participate as members in the Riparian Roundtable process convened by Plauché & Carr under the 2023 budget proviso. Those members and/or their designees were also invited to participate in the Riparian Working Group convened to support Roundtable discussions. Working Group members are listed separately, below.

Riparian Roundtable

1. Alison Halpern, Scientific Policy Advisor and Acting Policy Director, Washington State Conservation Commission
2. Bill Clarke, Attorney at Law and Lobbyist, Washington Realtors and Washington Public Utilities District Association
3. Bre Elsey, Director of Governmental Affairs, Washington Farm Bureau
4. Carl Schroeder, Deputy Director of Government Relations, Association of Washington Cities
5. Chad Bowechop, Tribal Council Vice Chair, Makah Tribe
6. Craig Bill, Director, Governor's Office of Indian Affairs
7. Dani Madrone, Pacific Northwest Policy Manager, American Farmland Trust
8. Darcy Nonemacher, Government Affairs Director, Washington Conservation Action
9. Daryl Williams, Environmental Contractor, Tulalip Tribes
10. David Herrera, Fisheries and Wildlife Policy Advisor, Skokomish Tribe
11. Derek Sandison, Director, Washington State Department of Agriculture
12. Diana Carlen, Vice-President, Gordon Thomas Honeywell Governmental Affairs, and Consultant, Washington Association of Wheat Growers, Washington Potato and Onion Association, and Manulife Investment Management
13. Edward Johnstone, Chairman, Northwest Indian Fisheries Commission
14. Erik Neatherlin, Executive Director, Governor's Salmon Recovery Office
15. Fran Wilshusen, Executive Director, Northwest Indian Fisheries Commission
16. Gretchen Lech, Senior Policy and Engagement Manager, North America, Manulife Investment Management
17. Heather Bartlett, Deputy Director, Washington State Department of Ecology
18. James Thompson, Executive Director, Washington State Conservation Commission
19. Jarred-Michael Erickson, Tribal Business Council Chairman, Confederated Tribes of the Colville Reservation
20. Jason Spadaro, Executive Director, Washington Forest Protection Association

21. Jay Gordon, Policy Director, Washington State Dairy Federation
22. Jeremy (J.J.) Wilbur, Tribal Council Vice Chair, Swinomish Indian Tribal Community
23. Jim Cahill, Senior Budget Assistant to the Governor for Natural Resources, Office of Financial Management
24. Jim Peters, Habitat Policy Analyst, Northwest Indian Fisheries Commission
25. Jon DeVaney, President, Washington State Tree Fruit Association
26. Justin Allegro, Policy Director, The Nature Conservancy in Washington
27. Kadi Bizyayeva, Tribal Council Member and Fisheries Director, Stillaguamish Tribe
28. Kate Dean, Commissioner, Jefferson County
29. Kirk Robinson, Interim Executive Director, Washington State Conservation Commission
30. Kris Peters, Tribal Council Chairman, Squaxin Island Tribe
31. Laura Bradstreet, Executive Director, Puget Sound Partnership
32. Leonard Forsman, Tribal Council Chairman, Suquamish Tribe
33. Lisa Wilson, Tribal Council Member, Lummi Nation
34. Loni Greninger, Tribal Council Vice Chair, Jamestown S’Klallam Tribe
35. Margen Carlson, Conservation Director, Washington State Department of Fish and Wildlife
36. Mark Streuli, Lobbyist, Washington Cattlemen’s Association, Potato Commission
37. Matt Harris, Director of Governmental Affairs, Washington State Potato Commission
38. Megan Duffy, Director, Washington Recreation and Conservation Office
39. Michelle Hennings, Executive Director, Washington Association of Wheat Growers
40. Mike Ennis, Government Affairs Director, Washington Farm Bureau
41. Mindy Roberts, Puget Sound Program Director, Washington Conservation Action
42. Paul Jewell, Policy Director – Water, Land Use, Environment & Solid Waste, Washington State Association of Counties
43. Phil Rigdon, Director, Department of Natural Resources, Yakama Nation
44. Rob Duff, Executive Director of Policy & Outreach, Office of Governor Jay Inslee
45. Ron Allen, Tribal Council Chairman, Jamestown S’Klallam Tribe
46. Ron Wesen, Commissioner, Skagit County
47. Rosella Mosby, President, Washington Farm Bureau
48. Ruth Musgrave, Senior Policy Advisor for Natural Resources, Office of Governor Jay Inslee
49. Sarah Groth, Interim Executive Director, Washington State Conservation Commission

50. Vanessa Kritzer, Executive Director, Washington Association of Land Trusts
51. Wes McCart, Commissioner, Stevens County
52. Willie Frank III, Tribal Council Chairman, Nisqually Indian Tribe

Riparian Working Group

1. Alison Halpern, Scientific Policy Advisor and Acting Policy Director, Washington State Conservation Commission
2. Alison O'Sullivan, Ecosystem Recovery Program Manager, Suquamish Tribe
3. Amber Lewis, Amber D. Lewis Consulting, Suquamish Tribe
4. Amy Trainer, Environmental Policy Director, Swinomish Indian Tribal Community
5. Ash Roorbach, Forest Practices Coordinator, Northwest Indian Fisheries Commission
6. Ben Rau, Water Quality Program, Watershed Planning Unit, Washington State Department of Ecology
7. Ben Smith, Owner, Maple View Farm
8. Bill Clarke, Attorney at Law and Lobbyist, Washington Realtors and Washington Public Utilities District Association
9. Bob Carey, Strategic Partnerships Director, The Nature Conservancy in Washington
10. Brandon Rogers, Northern Treaty Territories Habitat Manager, Yakama Nation Fisheries
11. Bre Elsey, Director of Governmental Affairs, Farm Bureau
12. Carl Schroeder, Deputy Director of Government Relations, Association of Washington Cities
13. Craig Bill, Director, Governor's Office of Indian Affairs
14. Dan Wood, Executive Director, Washington State Dairy Federation
15. Dani Madrone, Pacific Northwest Policy Manager, American Farmland Trust
16. Daryl Williams, Environmental Contractor, Tulalip Tribes
17. David Blodgett III, Fisheries Program Manager, Yakama Nation Fisheries
18. David Herrera, Fisheries and Wildlife Policy Advisor, Skokomish Tribe
19. Dewey Holliday, Senior Vice President of Operations, Manulife Investment Management
20. Diana Carlen, Vice-President, Gordon Thomas Honeywell Governmental Affairs, and Consultant, Washington Association of Wheat Growers, Washington Potato and Onion Association, and Manulife Investment Management
21. Edward Johnstone, Chairman, Northwest Indian Fisheries Commission

53. Elizabeth Spaulding, Habitat Policy Specialist, Governor's Salmon Recovery Office
22. Erik Neatherlin, Executive Director, Governor's Salmon Recovery Office
23. Evan Sheffels, Senior Policy Advisor to the Director and Tribal Liaison, Washington State Department of Agriculture
24. Fran Wilshusen, Executive Director, Northwest Indian Fisheries Commission
25. Gretchen Lech, Senior Policy and Engagement Manager, North America, Manulife Investment Management
26. Hansi Hals, Natural Resources Director, Jamestown S'Klallam Tribe
27. Heather Spore, Environmental Policy Analyst, Swinomish Indian Tribal Community
28. James Thompson, Executive Director, Washington State Conservation Commission
29. Jarred-Michael Erickson, Tribal Business Council Chairman, Confederated Tribes of the Colville Reservation
30. Jason Spadaro, Executive Director, Washington Forest Protection Association
31. Jay Gordon, Policy Director, Washington State Dairy Federation
32. Jeff Dickison, Natural Resources Contractor, Squaxin Island Tribe
33. Jeff Janosky, Senior Asset Manager, Cottonwood Ag Management
34. Jens Rasmussen, Land Manager, AgReserves
35. Jeremy (J.J.) Wilbur, Tribal Council Vice Chair, Swinomish Indian Tribal Community
36. Jim Cahill, Senior Budget Assistant to the Governor for Natural Resources, Office of Financial Management
37. Jim Peters, Habitat Policy Analyst, Northwest Indian Fisheries Commission
38. Jon DeVaney, President, Washington State Tree Fruit Association
39. Joshua Rubenstein, Conservation Policy Associate, The Nature Conservancy in Washington
40. Julie Owens, Assistant Director, Natural Resources Department, Squaxin Island Tribe
41. Justin Allegro, Policy Director, The Nature Conservancy in Washington
42. Justine Capra, Director of Government Affairs, Nisqually Indian Tribe
43. Kadi Bizyayeva, Tribal Council Member and Fisheries Director, Stillaguamish Tribe
44. Kate Dean, Commissioner, Jefferson County
45. Kate Delavan, Office of Farmland Preservation Coordinator, Washington State Conservation Commission
46. Kelly McLain, Legislative Liaison and Policy Advisor, Washington State Department of Agriculture

47. Kirk Robinson, Interim Executive Director, Washington State Conservation Commission
48. Kris Peters, Tribal Council Chairman, Squaxin Island Tribe
49. Larry Epstein, Deputy Director, Puget Sound Partnership
50. Leonard Forsman, Tribal Council Chairman, Suquamish Tribe
51. Levi Keesecker, Ph.D., Ecosystems Manager and Science Hub Lead, Washington State Conservation Commission
52. Lisa Wilson, Tribal Council Member, Lummi Nation
53. Loni Greninger, Tribal Council Vice Chair, Jamestown S’Klallam Tribe
54. Mark Streuli, Lobbyist, Washington Cattlemen’s Association, Potato Commission
55. Matt Harris, Director of Governmental Affairs, Washington State Potato Commission
56. Matthew Hunter, Natural Resources Budget Advisor, Office of Financial Management
57. Melissa Gildersleeve, Water Quality Program Section Manager, Washington State Department of Ecology
58. Michelle Hennings, Executive Director, Washington Association of Wheat Growers
59. Mike Ennis, Government Affairs Director, Washington Farm Bureau
60. Mindy Roberts, Puget Sound Program Director, Washington Conservation Action
61. Natalie Lowell, Environmental Policy Analyst, Makah Tribe Office of Marine Affairs
62. Paul Jewell, Policy Director – Water, Land Use, Environment & Solid Waste, Washington State Association of Counties
63. Peter Headley, Head of Ag, Cascade Asset Management Company
64. Phil Rigdon, Director, Department of Natural Resources, Yakama Nation
65. Rico Vinh, Forests and Fish Project Manager, Washington Conservation Action
66. Rob Duff, Executive Director of Policy & Outreach, Office of Governor Jay Inslee
67. Robinson Low, Habitat Policy Manager, Washington Conservation Action
68. Ron Wesen, Commissioner, Skagit County
69. Rosella Mosby, President, Washington Farm Bureau
70. Ruth Musgrave, Senior Policy Advisor for Natural Resources, Office of Governor Jay Inslee
71. Sarah Groth, Interim Executive Director, Washington State Conservation Commission
72. Scott Baird, Vice President of Land, Farmland Reserve
73. Thomas O’Brien, Ecosystem Services Division Manager, Habitat Program, Washington State Department of Fish and Wildlife
74. Tom Davis, Government Relations Director, Washington Forest Protection Association

75. Tom Elliott, Tributary Enhancement Special Project Leader, Yakama Nation Fisheries
76. Valerie Combs, Vice President and Corporate Counsel, PGIM Real Estate
77. Vanessa Kritzer, Executive Director, Washington Association of Land Trusts
78. Wes McCart, Commissioner, Stevens County
79. Willie Frank III, Tribal Council Chairman, Nisqually Indian Tribe

Appendix D | Series 1

Riparian Working Group Series 1, Meeting #1

September 6, 2023; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Overview of Riparian Working Group/Roundtable Processes
- III. Overview of Series 1 Working Group meetings
- IV. Review of 2022 Effectiveness Analysis and Recommendations
- V. Review of 2022 Roundtable Recommendations
- VI. Next Steps

Presenters

None.

Meeting Materials

[Effectiveness of State Programs on Riparian Habitat Protection and Restoration: Final Report](#)

[Riparian Taskforce Final Report: Facilitation Process and Recommendations](#)

Executive Summary

The first Working Group meeting provided an overview of the Riparian Working Group and Roundtable processes and the topics for the first series of discussions. The meeting also provided a review of 2022 Effectiveness Analysis and Roundtable recommendations. Those recommendations can be found in the full reports, available at the links below.

- [Effectiveness of State Programs on Riparian Habitat Protection and Restoration: Final Report](#)
- [Riparian Taskforce Final Report: Facilitation Process and Recommendations](#)

Plauché & Carr shared that this effort started with a 2022 legislative proviso that was continued in 2023 with the aim of providing policy recommendations and spending priorities for riparian habitat and salmon and steelhead recovery. To accomplish this, Plauché & Carr is facilitating discussions through June, including a series of two-day Roundtable meetings held around the state with a group of policy leaders. The Working Group will meet a few times virtually ahead of each Roundtable and

will focus on digging into technical and detailed issues that will help prepare for Roundtable discussion. That group will include Roundtable participants and/or their designees. The first series of Working Group meetings is focused on understanding critical background information to help set a foundation for discussions moving forward, the second series will discuss regulatory tools and limitations, the third series will look at protecting existing intact riparian areas and what standards are needed, the fourth series will discuss on entrepreneurial strategies such as mitigation banking to get to greater riparian restoration and protection, and the final series will focus on priorities and recommendations for the state.

Amanda Carr presented the nine cross-program recommendations from the 2022 Effectiveness Analysis and Billy Plauché provided a review of the 2022 Roundtable report and recommendations. Effectiveness analysis recommendations included better coordination across programs and agencies, including on metrics and application processes; increase the reach of and funding for existing voluntary programs; incorporate the WDFW Guidance into programs, including via incentives and technical assistance; streamline application processes and simplify criteria; enhance the role of Tribes in programs so that Tribes are a part of developing, supporting, and selecting projects; and develop criteria both within a watershed and between watersheds for prioritization. The Roundtable recommendations included protecting what we have; aim to meet WDFW Guidance where feasible and address circumstances where it is not feasible; enhance existing voluntary programs and create a new program focused on riparian corridors that addresses challenges of existing program and that incorporates the WDFW Guidance; establish a clear set of goals and objectives that can be measured; and look at regulations where riparian goals are not met. Participant comments and discussion included limitations of federal voluntary program monitoring and reporting; challenges for local governments and “no net loss” standards in the Shoreline Management Act and Growth Management Act; and finding balance between avoiding duplication of existing voluntary programs and supplementing those programs to ensure they provide adequate compensation, protection, and coverage of various land uses. Billy and Amanda also shared that the two reports and sets of recommendations work together and refer to each other and that the technical report and recommendations inform and help support the Roundtable recommendations.

Riparian Working Group Series 1, Meeting #2

September 22, 2023; 1pm – 4pm

Agenda

- I. Brief Introductions
- II. Presentation by WDFW on Riparian Ecosystems Volume 1 and Volume 2 (2020)
- III. Working Group Q&A and Discussion
- IV. Next Steps

Presenters

Kara Whittaker, Ph.D., Land Use Conservation and Policy Section Manger, Ecosystem Services Division, Habitat Program, WDFW

Meeting Materials

WDFW's Riparian Science Synthesis and Management Recommendations, presentation by Kara Whittaker

[WDFW Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications \(2020\)](#)

[WDFW Riparian Ecosystems, Volume 2: Management Recommendations \(2020\)](#)

Executive Summary

The second Working Group meeting included a presentation from WDFW on the Riparian Ecosystems [Volume 1](#) and [Volume 2](#) (2020) as well as questions and discussion with the group on what the WDFW Guidance does and does not do. WDFW presented the goals of Vol. 1 of the Guidance – to serve as best available science and as a foundation for the recommendations in Volume 2 – and provided that Vol. 1 looks at riparian functions (e.g., pollution removal function) and how those are provided over riparian widths up to SPTH, where full functions are achieved. WDFW shared that Vol. 1 led to recommendations to delineate the Riparian Management Zone and that Volume 2 includes a variety of recommendations including monitoring and adaptive management, designating riparian areas as critical areas, and recommendations around common uses both existing and new. WDFW noted up front that management decisions about what is allowed in the RMZ should take into account environmental, economic, and social considerations and that is something that the Guidance does not do. The group discussed where there are needs to accommodate existing uses in the RMZ; for voluntary programs, how to use the WDFW Guidance

and to structure programs to get “good, better, best” outcomes; and current efforts on a menu of options among voluntary programs.

1. [PDF 1: PowerPoint presentation titled “WDFW’s Riparian Science Synthesis and Management Recommendations”](#) by Kara Whittaker, Ph.D., Land Use Conservation and Policy Section Manger, Ecosystem Services Division, Habitat Program, WDFW, and presented at the second Riparian Working Group meeting in Series 1 on September 22, 2023.

Riparian Working Group Series 1, Meeting #3

October 2, 2023; 1pm – 4pm

Agenda

- I. Brief Introductions
- II. Presentations on Current State and Federal Voluntary Programs
 - a. State Conservation Commission
 - b. Recreation and Conservation Office
 - c. Department of Ecology
- III. Working Group Q&A and Discussion
- IV. Next Steps

Presenters

Alison Halpern, Scientific Policy Advisor and Acting Policy Director, SCC

Walt Edelen, Water Resources Program Manager, Spokane Conservation District

Evan Bauder, Executive Director, Mason Conservation District

Brock Milliern, Policy and Legislative Director, RCO

Melissa Gildersleeve, Water Quality Program Section Manager, Department of Ecology

Meeting Materials

SCC Voluntary Riparian Programs, presentation by Alison Halpern

Spokane Conservation District Commodity Buffer Program Fact Sheet (2020)

Asotin County Project Tour Handout (September 20, 2023)

Targeted Riparian Buffer Incentives Pilot Project Summary Report (June 1, 2023)

Spokane Conservation District Riparian Restoration and Conservation Programs, presentation by Walt Edelen

Mason Conservation District Riparian Restoration Program Overview, presentation by Evan Bauder

Department of Ecology Water Quality Grants and Loans, presentation by Melissa Gildersleeve

RCO Riparian Policy Summary as of September 19, 2023

Executive Summary

The third Working Group meeting included presentations from the SCC, RCO, and the Department of Ecology on federal and state voluntary programs focused on riparian areas. The SCC touched on CREP, NRI, Sustainable Farms & Fields, VSP, Salmon Recovery Funding Program, and the new riparian program being developed. The SCC discussed the new program's requirements, including Tribal engagement and monitoring, and relayed that they are aiming to adopt guidance in January. Spokane CD presented their Commodity Buffers Program and Hangman Creek Restoration Program. Mason County CD shared on technical complexities in riparian projects and the need for adaptive management over the long term. Skagit CD shared about recent reports on their riparian incentives pilot program and a study on barriers and incentives to engaging landowners, the biggest takeaways being to provide proper incentives, consistent funding, and clear and straightforward application processes. RCO focused on their new riparian program and that the agency is coordinating with the SCC to make sure the two new programs at a minimum do not conflict and hopefully are complementary and that RCO is required to rely on its existing processes and structure. The Department of Ecology focused on nonpoint pollution funding in their Water Quality Combined Funding Program and that the program is providing incentives for larger no-touch riparian zones such as no match requirements and greater funding. The group discussed that the Governor's Salmon Recovery Office has been hosting a conversation about providing a menu of options among voluntary programs that will be easy for landowners to digest. Participant comments and discussion included need for long-term maintenance of riparian planting projects; improving monitoring and reporting metrics to track and share success; opportunities to improve or supplement federal programs such as CREP; streamlining application processes and outreach with landowners; resources such as a website to provide information and assistance to those with riparian projects; and efforts to address improve and coordinate data management systems.

1. [PDF 2: PowerPoint presentation titled “WA State Conservation Commission Voluntary Riparian Programs”](#) by Alison Halpern, Scientific Policy Advisor and Acting Policy Director, SCC, and presented at the third Riparian Working Group meeting in Series 1 on October 2, 2023.
2. [PDF 3: Fact sheet titled “Commodity Buffer Program” \(2020\) by the Spokane Conservation District](#), and provided by Alison Halpern, Scientific Policy Advisor and Acting Policy Director, SCC, for the third Riparian Working Group meeting in Series 1 on October 2, 2023.
3. [PDF 4: Handout titled “Asotin County Project Tour Handout” \(September 2023\) by the Asotin County Conservation District](#), and provided by Alison Halpern, Scientific Policy Advisor and Acting Policy Director, SCC, for the third Riparian Working Group meeting in Series 1 on October 2, 2023.
4. [PDF 5: Report titled “Targeted Riparian Buffer Incentives Pilot Project: Summary Report” \(June 2023\) by the Skagit Watershed Council, the Washington State Conservation Commission, Skagit Conservation District, and PEAK Sustainability](#), and provided by Alison Halpern, Scientific Policy Advisor and Acting Policy Director, SCC, for the third Riparian Working Group meeting in Series 1 on October 2, 2023.
5. [PDF 6: PowerPoint presentation titled “Spokane Conservation District: Riparian Restoration and Conservation programs”](#) by Walt Edelen, Water Resources Program Manager, Spokane Conservation District, and presented at the third Riparian Working Group meeting in Series 1 on October 2, 2023.
6. [PDF 7: PowerPoint presentation titled “Mason County Conservation District: Riparian Restoration Program Overview”](#) by Evan Bauder, Executive Director, Mason Conservation District, and presented at the third Riparian Working Group meeting in Series 1 on October 2, 2023.
7. [PDF 8: PowerPoint presentation titled “Water Quality Grants and Loans”](#) by Melissa Gildersleeve, Water Quality Program Section Manager, Department of Ecology, and presented at the third Riparian Working Group meeting in Series 1 on October 2, 2023.
8. [PDF 9: Providing the RCO Riparian Policy Summary as of September 19, 2023](#) provided by Brock Milliern, Policy and Legislative Director, RCO, and discussed at the third Riparian Working Group meeting in Series 1 on October 2, 2023.

Riparian Roundtable Series 1

October 9 and 10, 2023

Yakima, Washington

October 9 Site Visits

October 9, 2023; 12:30pm – 4pm

- 12:30** **Meet at Department of Ecology Central Regional Office conference room**
Washington Department of Ecology
Central Regional Office
1250 West Alder Street
Union Gap, WA 98903
- Group welcome and introductions
- 12:50** **Board bus and depart for site visits**
- 1:30-1:45** **Moxee A Drain**
Presentation by Scott Revell (Roza Irrigation District)
- 2:15-2:45** **Roza Fish Barrier**
Presentation by Scott Revell (Roza Irrigation District)
- 3:05-3:40** **WDFW Sunnyside Wildlife Area Riparian Site**
Presentation by Tom Elliott (Yakama Nation)
- 4:00** **Adjourn for the day, dinner on your own**

Site Visit Materials

None.

October 10 Meeting

October 10, 2023; 8am – 12pm

Yakima Valley Community College Conference Center
Meeting Room D
1704 W. Nob Hill Blvd., Building #38
Yakima, WA 98902

Agenda

- I. Welcome and Introductions
- II. Recap of site visits, follow-up discussions
- III. Overview of framework for roundtable discussions
- IV. Summary of Series 1 Working Group meetings
 - a. WG 1: 2022 Recommendations
 - b. WG 2: WDFW Riparian Guidance
 - c. WG 3: Voluntary Programs
- V. Discussion of overall objectives for the group

Meeting Materials

Reconvened Roundtable Framework

Roundtable Meeting Topics, Locations, and Dates

Federal Riparian Funding Opportunity Highlight

Executive Summary

Welcome and Introductions

- Phil Rigdon welcomed the group and participants introduced themselves.

Recap of site visits, follow-up discussions

- Peter Dykstra noted that the idea for site visits emerged at the June Roundtable meeting and their purpose is to get people out on the ground to see and discuss riparian restoration throughout the state. He expressed gratitude for the Roza Irrigation District and Joint Board, the Yakama Nation, and WDFW, for hosting site visits the day before. Peter noted that the group will try site visits again and asked participants to reach out with ideas. He then opened the meeting for participants to share their perspectives.

- Ruth Musgrave shared that it was interesting to see that the irrigation district was able to address salmon needs as well as their own needs on the site visits.
- Vice Chair Greninger shared that it was meaningful to hear Roza Irrigation District and Yakama Nation representatives speak to the unique riparian and salmon needs in the Yakima Basin and that it reinforced for her the Jamestown S’Klallam Tribe’s advocacy for a flexible strategy.
- Commissioner Wesen expressed gratitude for the tour and noted that he found it powerful that some areas (i.e., irrigation canals) were not meant for salmon habitat.
- Mark Streuli shared that he was impressed to hear how the Roza Irrigation District and the Yakama Nation came together after being at odds and that the solutions they came up with appear to be working.
- Justin Allegro commented that it was interesting to hear from the Yakama Nation and WDFW about the importance of maintaining riparian areas to protect investments in riparian planting.
- Paul Jewell shared that he enjoyed learning about the connectedness between riparian cottonwood forests and the Yakima Basin’s hydrological cycle at the last site. He also commented that it was helpful to have time between the site visits to talk with other participants and encouraged others to attend future site visits.
- Jason Spadaro shared his observation that local partners have worked on local solutions to local issues with flexibility in the Yakima Basin. He also shared his takeaway from visiting the apple orchard that farmers face many kinds of pressures and that those should be considered when asking farmers to do more.
- Jon DeVaney noted that more funding is needed for fish screens and other projects in the Basin and that there is a disconnect between projects needed and funding available.
 - a. Phil Rigdon responded that the fish screen project is on their priority list. He noted other important projects, including the Bateman Island Causeway removal and Wapato Irrigation Project diversion, and the importance of working together with the irrigation districts.
- Mindy Roberts shared that she was interested to hear about the irrigation districts’ enforcement on customers and that they have a lot of leverage as they are able to turn off water to those who won’t comply.
- Gretchen Lech relayed that flexibility stood out as important on the tour.
- Tom McBride shared that he enjoyed the tour but felt that the broader context – what is happening upstream and downstream – was missing.

Overview of framework for roundtable discussions

- Billy Plauché provided an overview of the framework for the process going forward and arc of discussions over the next year. He relayed that the Working Group will have a couple meetings ahead of each Roundtable to prepare for discussion. Billy also noted that there will be briefings to keep legislators informed. He noted that federal agencies may be invited into some meetings. Billy noted that there would be summaries of the first set of Working Group meetings and that the next set will have a regulatory/legal focus to set up the December Roundtable to discuss legal considerations and regulatory tools. The second set of Working Group meetings include meetings on Tribal treaty rights, state and local programs like Critical Areas Ordinances and the Shoreline Management Act, and on limitations of regulatory programs such as takings. Billy provided that the February Roundtable will dive

into what to do to protect existing, functioning riparian corridors and to restore fully functioning corridors; the following meeting in Wenatchee will consider how to sequence and prioritize riparian restoration and other strategies to protect and restore riparian areas; and the last meeting will be in June in the Skagit / Stillaguamish area and will talk about coordination between state programs. Billy then opened the meeting for discussion and feedback on the framework and arc of discussions.

- Commissioner Wesen asked if water adjudication is something the group could learn more about.
 - a. Phil Rigdon responded that the Yakima Basin was adjudicated but that they are looking at the timing of water now.
 - b. Peter Dykstra responded that adjudication is part of the story in the Yakima Basin but that there is also the 10 years of the Yakima Basin Integrated Plan and that we could consider a briefing on how adjudication led to the Integrated Plan, if helpful.
- Jim Peters commented, considering his past experiences with similar processes, that the group needs commitment from participants to the Roundtable process.
 - a. Vice Chair Greninger voiced appreciation for Jim's comment. She also shared, from the Jamestown S'Klallam Tribe's perspective, that kind of commitment is not necessary and that she expects that participants are coming to the group genuinely and bringing their full selves.
 - b. Dani Madrone shared concern that participants may not raise an issue until the end of the process and asked whether there were ground rules.
 - i. Peter Dykstra responded that the Roundtable is convened via a budget proviso by the legislature, and that the group communicated a desire to move forward last fall, but that there wasn't necessarily ground rules. He provided that, like last fall, Plauché & Carr expects to provide recommendations and to be clear about where there is and is not consensus from participants. He noted that the group may come together around a suite of solutions but isn't at that point yet.
 - ii. Billy Plauché emphasized that folks have and should continue to bring their authentic self to the process and to share disagreements as they come up.
 - iii. Paul Jewell shared that it is hard to make a commitment at this stage, that there isn't a structure to support that at this point, and noted that the group was not in full agreement on the recommendations from last fall. He noted that doesn't mean the participants aren't coming to the table genuinely and that it is still possible the group can come together to support recommendations coming out of the process.
 - iv. Mindy Roberts commented that it may be something the group does at some point and that it was important to acknowledge that not all perspectives were represented in the room due to the timing of the meeting.
 - v. Daryl Williams shared that Tribes have put a lot of time and effort into processes that were torpedoed at the end. He encouraged folks to be open about challenges, raise issues as they come up, and be open to compromise.
 - vi. Phil Rigdon commented that it is important to recognize that there is a lot going on for Tribes currently, and that it is important if Tribes are committing time to processes like this that there is something tangible to bring back that will have value for Tribes.

- vii Jim Peters added that he understood the group may not come to full consensus on recommendations but that the group should agree on the collective goal and commit to not blindsiding each other at the end. He also commented that he doesn't see that a solution would be applied the same way across the state and that there will be variances and flexibility.
- Jason Spadaro shared that solutions require local efforts and parties working together and asked if the group should consider funding for regional plans like the Yakima Basin Integrated Plan rather than a centralized solution coming from Olympia.
 - a. Billy Plauché responded that he had heard from multiple roundtable participants that there needs to be regional solutions to account for each place's unique qualities.

Summary of Series 1 Working Group meetings

WG 1: 2022 Recommendations

- Billy Plauché provided a summary of the first Working Group meeting as follows: The meeting discussed the two sets of recommendations from last fall from the Roundtable and from the effectiveness analysis of state programs related to riparian restoration and protection. Effectiveness analysis recommendations included better coordination across programs and agencies, including on metrics and application processes; increase the reach of and funding for existing voluntary programs; incorporate the WDFW Guidance into programs, including via incentives and technical assistance; streamline application processes and simplify criteria; enhance the role of Tribes in programs so that Tribes are a part of developing, supporting, and selecting projects; and develop criteria both within a watershed and between watersheds for prioritization. The Roundtable recommendations included protecting what we have; aim to meet WDFW Guidance where feasible and address circumstances where it is not feasible; enhance existing voluntary programs and create a new program focused on riparian corridors that addresses challenges of existing programs and that incorporates the WDFW Guidance; establish a clear set of goals and objectives that can be measured; and look at regulations where riparian goals are not met.
- Commissioner McCart commented that implementing SPTH or the WDFW Guidance may not be the priority issue in a particular watershed.
- Tom McBride agreed with Commissioner McCart that riparian restoration and protection is not the only issue and commented that the WDFW Guidance is part of the solution, not a stumbling block.
- Justin Allegro commented that, in creating incentive programs, they should aim for a certain standard plus a little more to be effective.
- Daryl Williams noted that all priorities, including riparian, need to be hit all at once to recover salmon. He also commented that long-term maintenance of riparian plantings is important and funding is needed to support that.

WG 2: WDFW Riparian Guidance

- Amanda Carr provided a summary of the second Working Group meeting as follows: The second meeting included a presentation by Margen Carlson and Kara Whittaker on the WDFW Guidance and group discussion on what the Guidance does and does not do. WDFW presented the goals of Vol. 1 of the Guidance – to serve as best available science and as a foundation for the recommendations in Volume 2 – and provided that Vol. 1 looks at riparian functions (e.g., pollution removal function) and how those are provided over riparian widths up to SPTH at 200 years, where full functions are achieved. WDFW shared

that Vol. 1 led to recommendations to delineate the Riparian Management Zone and that Volume 2 includes a variety of recommendations including monitoring and adaptive management, designating riparian areas as critical areas, and recommendations around common uses both existing and new. WDFW noted up front that management decisions about what is allowed in the RMZ should take into account environmental, economic, and social considerations and that is something that the Guidance does not do. The group discussed where there are needs to accommodate existing uses in the RMZ; for voluntary programs, how to use the WDFW Guidance and to structure programs to get “good, better, best” outcomes; and current efforts on a menu of options among voluntary programs.

- Jay Gordon noted that the 4700’ RMZ delineation referenced in the meeting summary includes the floodplain area.
 - a. Tom McBride expressed that this was an inaccurate characterization of the way that the Guidance recommends delineating the RMZ.
- Paul Jewell noted there is a need to be careful to use the right language. He shared that he hears that SPTH is necessary for fully functioning riparian areas and that is distinctive of riparian restoration and protection.
 - a. Tom McBride agreed that fully functioning riparian areas is more than just restoration and preservation. He added that progress towards fully functioning riparian ecosystems must be incremental but that incremental progress should continue until that goal is met.

WG 3: Voluntary Programs

- Diani Taylor E. provided a summary of the third Working Group meeting, as follows: The third meeting included presentations from the SCC, Conservation Districts, RCO, and Department of Ecology on federal and state voluntary programs focused on riparian areas. The SCC touched on CREP, NRI, Sustainable Farms & Fields, VSP, Salmon Recovery Funding Program, and the new riparian program being developed. The SCC discussed the new program’s requirements, including Tribal engagement and monitoring, and relayed that they are aiming to adopt guidance in January. Spokane CD presented their Commodity Buffers Program and Hangman Creek Restoration Program. Mason County CD shared on technical complexities in riparian projects and the need for adaptive management over the long term. Skagit CD shared about recent reports on their riparian incentives pilot program and a study on barriers and incentives to engaging landowners, the biggest takeaways being to provide proper incentives, consistent funding, and clear and straightforward application processes. RCO focused on their new riparian program and that the agency is coordinating with the SCC to make sure the two new programs at a minimum do not conflict and hopefully are complementary and that RCO is required to rely on its existing processes and structure. The Department of Ecology focused on nonpoint pollution funding in their Water Quality Combined Funding Program and that the program is providing incentives for larger no-touch riparian zones such as no match requirements and greater funding. The group discussed that the Governor’s Salmon Recovery Office has been hosting a conversation about providing a menu of options among voluntary programs that will be easy for landowners to digest.
- Daryl Williams added that SCC hopes to have guidance for the new riparian program issued at the end of October for Conservation District review and that the SCC aims to adopt final program guidance and open up funding in January. He offered to share information on the guidance when it comes out. Daryl noted that the SCC and RCO are coordinating.
 - a. Vice Chair Greninger asked how CREP can be improved.

- b. Daryl Williams responded that, like other USDA programs, CREP has complex procedures and does not provide funding to fully compensate landowners for areas taken out of production by a buffer. He shared that the SCC is considering ways to supplement CREP with other programs.
- c. Jason Spadaro asked if the Roundtable group can do something about CREP losing funding for some contracts in Washington.
- d. Daryl Williams responded that the SCC and OFM are working together on a solution, and that the agencies are waiting for USDA to address things on their end and will then assess remaining gaps.
- e. Rob Duff asked if, in addition to requests for one-stop shopping and simplified application processes, people are running into issues with back-end processes such as reporting requirements.
- f. Daryl Williams responded that the Skagit Conservation District did a report on these issues and that the SCC may have more information in a few months.
- g. Jon DeVaney shared that challenges with different programs can depend on an individual grower's experiences.
- h. Justin Allegro noted that better monitoring and reporting requirements were part of the recommendations from last year and that the question is who does that work, the landowner or someone else.
- i. Mindy Roberts noted that many programs are increasing capacity and knowledge to provide technical assistance and asked whether that was discussed at the meeting.
- j. Billy Plauché responded that there was some discussion of a new position the Governor's Salmon Recovery Office is bringing on, a riparian coordinator, and the role they could play.
- k. Diani Taylor E. added that the SCC provided that there is additional funding from the legislature for education and outreach.
- l. Larry Epstein commented that there are a suite of things to consider in monitoring riparian areas, including fish survivability, riparian function, preventing land conversion, and local food production.
- m. Rob Duff shared it is important to agree on monitoring and intermediary measures.
- n. Commissioner McCart commented that it is possible that salmon may not return, and monitoring should consider concrete targets.
- o. Rob Duff commented that it is important to continuously consider whether the right measures are in place, especially considering change in technology.
- p. Mindy Roberts commented that each region has developed monitoring metrics and that some results take a long time to realize, such as fish passage. She suggested the group could hear from the landowner perspective on what they experience related to long-term goals at the next Roundtable meeting.
- q. Daryl Williams commented that more funding is needed for monitoring. He noted monitoring is instructive on how to do restoration successfully.

Discussion of overall objectives for the group

- Peter Dykstra reminded participants that the budget proviso provides for this process, facilitated by Plauché & Carr, and invites participants to provide recommendations on policy and spending priorities for riparian improvement and salmon recovery, including recommendations for if riparian targets are not met. He invited the group to identify areas for discussion and to share ideas that can be refined over the next several months.

ESSB 5187, Section 117(3):

\$480,000 of the general fund—state appropriation for fiscal year 2024 is provided solely for the governor to invite federally recognized tribes, local governments, agricultural producers, commercial and recreational fisher organizations, business organizations, salmon recovery organizations, forestry and agricultural organizations, and environmental organizations to participate in a process facilitated by an independent entity to develop recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon and steelhead recovery.

(a) The independent entity must develop recommendations on furthering riparian funding and policy, including but not limited to, strategies that can attract private investment in improving riparian habitat, and developing a regulatory or compensation strategy if voluntary programs do not achieve concrete targets.

(b) Preliminary recommendations shall be submitted to the legislature and governor by May 1, 2024, with a final report by June 30, 2024.

- David Herrera commented that he would like to start by addressing some landowner concerns in addressing SPTH buffers and that there is an opportunity to pick a handful of watersheds, apply a SPTH buffer via GIS, and discuss with the Working Group. He noted that those could address challenges and get into solutions.
 - a. Peter Dykstra posed a question whether the goal of a pilot project like that would be to bring capacity to do the same work in each watershed and consider which voluntary programs would best apply, or another purpose to inform the Roundtable’s objectives.
 - b. David Herrera responded that the exercise would identify challenges and where certain voluntary programs might apply in certain circumstances.
 - c. Dani Madrone commented it would be important to bring local perspectives to those.
 - d. Phil Rigdon shared that it is important to bring people to the table to help them be part of the solution and noted a lot of work that has already been done in watersheds.
 - e. Heather Bartlett commented that she sees the purpose of a pilot as identifying themes across watersheds to inform solutions.
 - f. Billy Plauché provided that a pilot could be included in Working Group meetings leading up to the Series 3 Roundtable in February. He asked the group to consider identifying a small group to help pick out watersheds and places with some translation to other areas and identify local representation.
 - g. Justin Allegro cautioned that the pilot could impact sensitivities for some folks in the watershed and may risk causing frustration.
 - h. Amanda Carr noted that WDFW provided some examples in the Working Group meetings of areas with challenges and may have other good examples that are illustrative of themes that may carry through in different areas.
 - i. Commissioner Wesen shared that maps need to be accurate and account for areas where there should be no buffer such as swales on long-time agricultural lands.
 - j. Peter Dykstra noted that the facilitation team would take the group’s comments and consider how to move forward. He noted not all watersheds are in the same place in terms of relationships and funding, and asked how to make it possible and what resources would be needed to do this kind of work in other watersheds if the pilot is helpful in addressing challenges.
 - k. Phil Rigdon noted that it is important to speak with credibility regarding funding sources and to come through on funding with landowners.

- l. Larry Epstein commented that bringing in local practitioners to get into their challenges and difficulties in addition to the GIS portion would be helpful.
 - m. Jason Spadaro shared that a GIS analysis on buffer widths could cause a lot of controversy and give the impression that a decision has already been made on buffers. He shared the purpose of a pilot could be to go to a proof of concept for other areas to bring them along.
 - n. Daryl Williams shared, from the Tulalip Tribe's experience in the Snoqualmie Valley, that they worked with agriculture and mapped out buffers, identified where there were the biggest impacts to farmers and what could be done that was acceptable to them but would get salmon back, and that, while discussions were tough, they were able to get to mutual solutions, including aiding farmers with irrigation issues. He emphasized understanding each other's needs is important.
 - o. Commissioner McCart asked the group to consider how to provide a safe harbor for those who take steps to protect and restore riparian areas.
- Paul Jewell emphasized, in terms of overall goals of the roundtable group, that a goal should be to achieve balance between varied uses in riparian areas.
 - Ruth Musgrave recommended adopting a set of principles that the group can all agree on, as follows: keep salmon from declining any further, not hurt agriculture, respect and honor Tribal Treaty rights, adapt to and mitigate impacts of climate change, sensitivity to local needs and concerns, trust, communication, and protecting water for fish and people.
 - a. Heather Bartlett shared support for Ruth's suggestion.
 - b. Phil Rigdon shared that, for the Yakima Basin Integrated Plan, it took a lot to get to that kind of commitment.
 - c. Jason Spadaro commented that the principles suggested by Ruth could be added to the next agenda for the group to consider and agree on.
 - d. Peter Dykstra added that the facilitation team will consider guidelines and principles for the group and noted last year's reports included areas of shared agreement.
 - Peter Dykstra noted the goals in the framework document and that one is to provide a forum for discussion of the new SCC and RCO programs. He asked whether there were objections to bringing that into the next discussion. [None were voiced].
 - Jon DeVaney commented that it is difficult to address regulatory tools before it's determined whether voluntary approaches work.
 - a. Peter Dykstra responded that the budget proviso includes addressing a regulatory approach and asked if Jon was comfortable with dialogue on that.
 - b. Jon responded that he was but cautioned that the group should refrain from getting too prescriptive with what would result in that situation.
 - c. Mark Streuli supported Jon's comment and noted it is important to recognize that the failure of a program can be caused by many factors.
 - d. Billy Plauché responded that Plauché & Carr can be careful in articulating various strategies could be and strike a balance in terms of level of specificity, given where we are in the implementation process.
 - e. Daryl Williams shared that the SCC set goals to meet in a few years and that, if not met, that they will come back together on how to meet them but that the legislature has also asked the SCC to consider a regulatory approach.
 - f. Tom McBride shared that legislators are looking to see if the RCO and SCC riparian programs will be successful and, if not, what the regulations will be.
 - Dani Madrone commented that supporting agriculture was missing from the goals.

- a. Commissioner McCart noted that it is not just agriculture, but also counties and cities, and urban and rural areas.
- b. Peter Dykstra responded that Plauché & Carr can tweak the language.
- Phil Rigdon commented that the goals should include long-term sustainable salmon populations, not just minimum recovery.
- Mindy Roberts commented that the goals should acknowledge that they are not redoing the work of Salmon Recovery Groups.
- Overall, Plauché & Carr will work on developing a set of goals based on the discussion that include:
 - a. The requirements from the budget proviso funding Plauché & Carr's work with the Roundtable participants.
 - b. Using some sort of watershed-specific evaluation (details to be determined) to illustrate impacts of and obstacles to the implementation of the WDFW Guidance.
 - c. Some sort of balance among competing uses of riparian areas that ensure the Roundtable's overall goals are met.
 - d. An articulation of shared principles to be agreed to by Roundtable participants (using the principles articulated by Ruth Musgrave as a starting point).
 - e. The goals listed in the Framework document, slightly modified as follows:
 - i Provide a forum for collaborative discussion of new SCC and RCO riparian programs included in 2023-25 Capital Budget provisos.*
 - ii Develop recommendations for a longer-term riparian program, either through longer term implementation of the SCC and RCO programs in future biennia or through implementation of a new program. Aim is to articulate a program with clear goals and objectives, metrics for measuring whether those goals and if the established goals and objectives are not met.*
 - iii Develop recommended goals, outcomes and targets/metrics, consistent with the goals and objectives established for the longer-term riparian program, that can be adopted into other riparian habitat plans and programs.*
 - iv Develop strategies for sequencing and aggregating riparian habitat protection and improvement to maximize benefits to salmon and steelhead recovery.*
 - v Explore and articulate recommendations regarding alternative funding strategies (mitigation banks, performance-based contracting, fees in lieu, urban corridors), including private investment in improving riparian habitat, to provide additional funding for riparian habitat restoration.*

Appendix E | Series 2

Riparian Working Group Series 2, Meeting #1

November 6, 2023; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Presentation by Department of Ecology: Nonpoint Plan and Voluntary Clean Water Guidance for Agriculture
- III. Working Group Q&A and Discussion
- IV. Next Steps

Presenters

Ben Rau, Watershed Planning Unit Supervisor, Water Quality Program, Department of Ecology

Meeting Materials

Department of Ecology Nonpoint Plan and Voluntary Clean Water Guidance for Agriculture, presentation by Ben Rau

Executive Summary

The first Series 2 Working Group meeting included a presentation by Ben Rau with the Department of Ecology and group discussion of Washington's Nonpoint Pollution Plan and Voluntary Clean Water Guidance for Agriculture. Ben first presented on the [Nonpoint Plan](#) (2022). The Nonpoint Plan is required by Section 319 of the Clean Water Act and must be approved by EPA and be in place for the state to receive Section 319 funding. It aims to capture everything the state is doing to address nonpoint pollution. Clean Water Act Section 319 requires nonpoint plans to address best management practices (BMPs) to address nonpoint sources of pollution and maintain water quality standards, state regulatory and non-regulatory programs and sources of funding to address nonpoint pollution, intersection with certain federal land management programs, and a description of monitoring and program evaluation to address effectiveness. Ben noted that EPA's guidance emphasizes explicit short- and long-term goals and milestones, partnerships, working with other agencies and programs to integrate the nonpoint plan, among other things. Ben walked through Total Maximum Daily Loads (TMDLs) (watershed clean-up plans) and Straight to Implementation (STI) Plans (less resource- and time- intensive clean-up plans to address simpler watershed issues) and other mechanisms to address water quality issues. Ecology has dedicated staff for these mechanisms, but funding has been critical to allowing the agency to provide sufficient staff

resources to do more than address complaints and to be proactive. Ben noted that Ecology's regulatory backstop can be used if needed and is important to getting people to take advantage of funding resources. Once a strategy for a watershed is in place, the agency prioritizes sites to address.

Ecology must also develop BMPs to address water quality, and Ben presented on riparian buffer requirements to meet water quality standards from the [Voluntary Clean Water Guidance for Agriculture](#). In their agricultural BMPs on riparian buffers, different activities are allowed in different zones. There is also a preferred fully forested buffer option and allowance for times when that option cannot be met. Projects funded by Ecology must meet the three-zone standard. Ecology's [GIS map tool](#) can be used to see what the different options would look like. The agency is also considering ecosystem service payments.

1. [PDF 1: PowerPoint presentation titled “Nonpoint Plan and Voluntary Clean Water Guidance for Agriculture”](#) by Ben Rau, Watershed Planning Unit Supervisor, Water Quality Program, Department of Ecology, and presented at the first Riparian Working Group meeting in Series 2 on November 6, 2023.

Riparian Working Group Series 2, Meeting #2

November 13, 2023; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Presentations on state and local land use planning tools: Growth Management Act, Shoreline Management Act, Critical Area Ordinances
 - a. Department of Commerce
 - b. Department of Ecology
- III. Working Group Q&A and Discussion
- IV. Next Steps

Presenters

Dave Anderson, Managing Director, Growth Management Services, DOC

Scott Kuhta, Senior Planner, Growth Management Services, DOC

Angela San Filippo, Ecosystem Services Program Manager, Growth Management Services, DOC

Tim Gates, Policy Manager, Shorelands and Environmental Assistance Program, Department of Ecology

Misty Blair, Shoreline Management Policy Lead, Shorelands and Environmental Assistance Program, Department of Ecology

Meeting Materials

DOC Critical Areas and the GMA, presentation by Scott Kuhta, Dave Anderson, and Angela San Filippo

Department of Ecology SMA, presentation by Tim Gates and Misty Blair

Executive Summary

The second Working Group meeting included presentations from the Department of Commerce and the Department of Ecology and group discussion regarding the Growth Management Act (GMA), Shoreline Management Act (SMA), and Critical Area Ordinances (CAOs). The GMA requires local governments to designate and protect critical areas, including riparian areas, and provides a “no net loss” standard relative to the baseline of existing conditions. Critical areas within

shoreline jurisdiction are regulated under the SMA, which also uses the “no net loss” standard. The group heard that CAOs are working, at least on paper, as long as they are being implemented. CAO regulations cannot require enhancement of areas already impacted, but mitigation requirements may require restoration related areas impacted by new activities. There are also requirements for new agricultural activities to meet CAO requirements. The meeting did not focus on the Voluntary Stewardship Program, but it is the alternative to addressing agriculture outside of CAO regulations. The group also discussed enforcement and funding. For GMA, the Department of Commerce coordinates with and supports local governments but does not have approval authority for local plans. Enforcement is the local jurisdiction’s responsibility. Paul Jewell provided valuable local government perspective: with takings law, counties can be held financially responsible; there is not a lot of funding for monitoring and adaptive management for local governments; this, in turn, poses challenges for enforcement which is also not well funded; and support from the state would be very helpful in that regard. This is a little different with regards to the SMA. If a local Shoreline Master Program is appealed, the Department of Ecology must defend it and the same goes for regulatory takings issues. Ecology also spoke about its new shoreline enforcement program, formed earlier in 2023. This year, six new positions were funded for enforcement and additional funding from the legislature is important.

1. [PDF 2: PowerPoint presentation titled “Critical Areas and the GMA: Riparian Working Group”](#) by Scott Kuhta, Senior Planner, Growth Management Services, DOC, and presented at the second Riparian Working Group meeting in Series 2 on November 13, 2023.
2. [PDF 3: PowerPoint presentation titled “Riparian Roundtable – Shoreline Management Act”](#) by Tim Gates, Policy Manager, and Misty Blair, Shoreline Management Policy Lead, Shorelands and Environmental Assistance Program, Department of Ecology, and presented at the second Riparian Working Group meeting in Series 2 on November 13, 2023.

Riparian Working Group Series 2, Meeting #3

November 20, 2023; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Presentation on Regulatory Takings by Courtney A. Kaylor, Partner at McCullough Hill PLLC
- III. Working Group Q&A and Discussion

Presenters

Courtney Kaylor, Partner, McCullough Hill PLLC

Meeting Materials

Regulatory Takings in Washington, presentation by Courtney Kaylor

Executive Summary

The third Working Group meeting included a presentation by Courtney A. Kaylor, Partner at McCullough Hill PLLC, and group discussion on regulatory takings. Courtney presented on a variety of cases that have addressed takings (*i.e.*, per the Fifth Amendment to the U.S. Constitution and Article 1, Section 16 of the Washington Constitution, private property cannot be taken for public use without compensation). Case law provides that there can be a taking when there is an actual physical taking/occupation and also when regulations deprive land of all economic use. Factors that courts look to include the economic impact on the property owner, interference with government-backed expectations, and the character of the government action. There was also discussion of unconstitutional permit conditions and there is a fair amount of case law addressing this circumstance, as well, including the foundational cases of “Nollan and Colan.” Under this case law, there must be a nexus between the impact of the project and the permit condition imposed and a requirement of proportionality between the condition and the project. The group discussed use of variances and reasonable use exceptions, which can be employed when standards don’t work to avoid regulatory takings in specific instances. There was also good local government perspective provided that if you pass legislation or amend an RCW, you might expect a takings challenge and that the burden can fall on local governments where they are involved in implementation.

1. [PDF 4: PowerPoint presentation titled “Riparian Roundtable: Regulatory Takings in WA”](#) by Courtney Kaylor, Partner, McCullough Hill PLLC, and presented at the third Riparian Working Group meeting in Series 2 on November 20, 2023.

Riparian Working Group Series 2, Meeting #4

December 1, 2023; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Presentation Tribal Treaty Rights by Professor Monte Mills, Director of the Native American Law Center at the University of Washington
- III. Working Group Q&A and Discussion

Presenters

Monte Mills, Charles I. Stone Professor and Native American Law Center Director, University of Washington School of Law

Meeting Materials

Tribal Treaty Rights, presentation by Monte Mills

Executive Summary

The fourth Working Group meeting included a presentation from Monte Mills, a professor at the University of Washington School of Law and Director of UW's Native American Law Center, on Tribal Treaty Rights. Professor Mills' presentation addressed the use of Treaties from a historical and national perspective as well as Washington State considerations. He spoke to how the use of treaties was not novel: When European countries started to interact with Tribes, treaties were a tool for international law and used in sovereign-to-sovereign interactions. Professor Mills talked about how treaties were used and incorporated into the U.S. Constitution, including Congress' commerce powers and setting treaties as the supreme law of the land. He presented that treaty terms were not always fairly negotiated, bonds were not always recognized or respected, there are many instances of fraud and deceit, and the terms have not always been upheld. Professor Mills talked about a series of cases but focused on *U.S. v. Winans*, which established rules for treaty interpretation known as the Canons of Construction. That case spoke to the Reserved Rights Doctrine and that the treaty is a granting of rights and reserving of other rights. Also, that treaties should be construed in the Tribe's favor and that has translated over into state law with respect to treaties. Courts have implied rights in treaties. Professor Mills also talked about *U.S. v. Washington*, providing the standard that pursuant to the treaty in that case, those tribes have the right to make a moderate living, and talked about Tribes being impaired to do that in fishing. There was also discussion of rights in Usual & Accustomed (U&A) Fishing Areas and the right to fish. The group discussed the body of case law; examples of Tribes and states coordinating and co-managing resources; and the potential for collaborative approaches to riparian protection and restoration.

1. [PDF 5: PowerPoint presentation titled “Tribal Treaty Rights”](#) by Monte Mills, Charles I. Stone Professor and Native American Law Center Director, University of Washington School of Law, and presented at the fourth Riparian Working Group meeting in Series 2 on December 1, 2023.

Riparian Roundtable Series 2

December 11 and 12, 2023

Sequim, Washington

December 11 Site Visits

December 11, 2023; 12pm – 5pm

- 12:00** **Meet at Dungeness River Nature Center**
1943 W Hendrickson Rd
Sequim, WA 98382
- Welcome and Introductions
- Board Shuttles and Depart for Site Visits
- 12:30** **Bell Creek, MapleView Farm with owners**
- 1:30** **Dungeness River, River's Edge with Clallam CD and JST**
- 2:30** **Matriotti Creek, B&T Cattle Farm with Clallam CD**
- 3:30** **Robinson's Reach, Dungeness River with JST and NOSC**
- 4:30** **Nature Center**
- 5:00** **Adjourn for the Day**

Site Visit Materials, provided by the Jamestown S'Klallam Tribe

Riparian Roundtable Route Map

Bell Creek & Highland Ditch Map 2023

Bell Creek & Highland Ditch Map 2005

River's Edge Map 2023

River's Edge Map 2005

Matriotti Creek Map 2023

Matriotti Creek Map 2005

Railroad Bridge Park 2023

Railroad Bridge Park 2005

Serenity Lane Map 2011

Serenity Lane Map 2023

Clallam Conservation District – Success Using Voluntary Conservation Handout

Clallam Conservation District – Northern Conservation Farm 1990, 2006, 2013, and 2021 comparison maps

Clallam Conservation District – River’s Edge Revegetation Project Handout

River’s Edge Planting Plots Maps

Miscellaneous Photographs of Dungeness River showing permanent loss of salmon habitat

1. [PDF 6: Handout materials prepared by the Jamestown S’Klallam Tribe for the Series 2 Riparian Roundtable site visits on December 11, 2023](#), including a field trip route map, and ten maps using satellite imagery depicting Bell Creek and Highland Ditch in 2023 and 2005, River’s Edge in 2023 and 2005, Mariotti Creek in 2023 and 2005, Railroad Bridge Park in 2023 and 2005, and Serenity Lane in 2023 and 2011.
2. [PDF 7: Handout materials prepared by the Clallam Conservation District for the Series 2 Riparian Roundtable site visits on December 11, 2023](#), including a handout titled “Success Using Voluntary Conservation,” four maps using satellite imagery depicting the Northern Conservation Farm in 1990, 2006, 2013, and 2007, a handout titled “River’s Edge Revegetation Project,” and two maps using satellite imagery depicting River’s Edge planting plots (2022).

December 12 Meeting

December 12, 2023; 8am – 12pm

7 Cedars Hotel, Blyn Bay Room
270756 Highway 101
Sequim, WA 98382

Agenda

- I. Welcome and Introductions
- II. Recap of site visits, follow-up discussions
- III. Summary of Series 2 Working Group meetings
- IV. Continued discussion of overall objectives and ground rules from Roundtable 1 meeting
- V. Discussion of Series 2 Working Group sessions, applicability to ongoing Roundtable discussions
- VI. Discussion of Roundtable Series 3 strategy and objectives, Series 3 Working Group sessions
- VII. Update on legislative coordination
- VIII. Discussion of Conservation Commission proposed grant guidelines
- IX. Miscellaneous items:
 - a. Roundtable Series 3 logistics
 - b. Federal coordination

Meeting Materials

Riparian Working Group Series 2 Presentations

Riparian Roundtable Series 1 Notes

Executive Summary

Welcome and Introductions

Vice Chair Greninger welcomed the group and participants introduced themselves. Peter Dykstra thanked Vice Chair Greninger and the Jamestown S’Klallam Tribe for hosting the Roundtable Series 2 site visits and meeting.

Recap of site visits, follow-up discussions

Billy Plauché noted that the site visits provided examples of agriculture coexisting with riparian areas with different buffer widths, and a small portion of the work of the Jamestown S’Klallam Tribe that could be seen in a half-day. He opened the meeting for participants to share their perspectives from the day. Several participants shared that they were struck by the relationships and trust that the Jamestown S’Klallam Tribe had made with the community, noted the importance of those relationships to finding and implementing solutions and that considerable effort is needed to build, maintain, and pass on those relationships. Participants reflected that the work the Tribe and County had done to assess financial impacts of buffers to farmers, the Tribe’s leadership role in monitoring, the integrated tools created to support easements and 2:1 ratio were important to the riparian work being done in the area and would be valuable to consider in other areas. Some participant comments discussed balance between setting standards and providing flexibility in getting to solutions.

Summary of Series 2 Working Group meetings

Billy Plauché provided that the Series 2 Working Group meetings focused on legal background, state regulations, takings, and Tribal Treaty rights. Amanda Carr provided a walkthrough of each meeting. Meeting #1 included a presentation by Ben Rau with the Department of Ecology on Washington’s Nonpoint Pollution Plan and Voluntary Clean Water Guidance for Agriculture. Meeting #2 focused on local planning tools including Shoreline Management Act, Growth Management Act, and Critical Areas Ordinances, with presentations from the Department of Commerce and the Department of Ecology. Meeting #3 included a presentation by Courtney A. Kaylor, Partner at McCullough Hill PLLC, and group discussion on regulatory takings. Meeting #4 included a presentation from Monty Mills, a professor at the University of Washington School of Law and Director of UW’s Native American Law Center, on Tribal Treaty Rights.

Discussion of Series 2 Working Group sessions, applicability to ongoing Roundtable discussions

The group shared reflections on the Series 2 meetings. Several participants commented on gaps and barriers in state, federal, and local laws and regulations and that the group will need to address those as we consider solutions. Participants also reflected that, once there is clarity on what is needed, the group could be effective at advocating for change and for adequate funding, including for monitoring and enforcement. Some participants shared other existing work and efforts that the group could use as resources such as work by the Ruckelshaus group on federal and state laws, salmon recovery priorities from lead entities, characteristics for success developed by the Puget Sound Partnership for the conservation futures programs, and Conservation District conservation plans. Participants also discussed being intentional about sideboards provided for funding to ensure they allow for flexibility, including for buffer widths and to allow communities to fund what is important for them, but also to ensure projects achieve goals. Also, regarding takings and Tribal Treaty rights, that there is a lot of uncertainty with takings, that there is an important balancing that needs to be done, and that more can be done when working collaboratively and having agreement and a plan on what we want to accomplish.

Discussion of Conservation Commission proposed grant guidelines

Shana Joy presented on the SCC’s proposed guidelines. The agency’s proviso gave deeper direction on developing guidelines for riparian restoration and protection. The SCC pulled together people from across the state, including from agencies, to be sure to build programs that are complementary to each other. In drafting, the SCC aimed to build on lessons learned and to get as many riparian

acres on the ground as possible. To that end, Conservation Districts will be eligible to apply and higher incentives will be provided for larger buffers. Buffer widths vary and the minimum buffer width, based on NRCS standards, is 50 feet for salmon bearing streams. Phase one guidelines are out for review until January 2 and the Commissioners will vote to adopt them on January 18. Phase two of the guidelines will come in the next year and will address permanent riparian protections, including easements. Daryl Williams added that the SCC needed to come under the HEAL Act guidelines for the program and that there is still a need to consult with the Tribes before adoption.

Continued discussion of overall objectives and ground rules from Roundtable 1 meeting

Peter Dykstra provided background from the Roundtable Series 1 discussion on objectives and ground rules. The group agreed at the last meeting to revisit guiding principles including keeping salmon from declining any further and restore their populations; do not harm agriculture; respect Tribal Treaty rights; adapt to and mitigate impacts of climate change; ensure sensitivity to local needs and concerns; build trusting relationships; maintain open, transparent and respectful communication. Participants generally agreed that some level of compromise is needed from all parties in collaborative processes like this one, that the group should strive to address each other's needs, and that there is a need to distinguish between objectives and guiding principles and to not be too prescriptive or consider them as absolutes. Other comments included that the principles should reflect "protecting what we have" as a priority, acknowledge limitations in the law including takings and Treaty rights, and that it may help to include mid- and long- term targets.

Discussion of Roundtable Series 3 strategy and objectives, Series 3 Working Group sessions

Billy Plauché provided that, in Series 3, the group will move from gaining shared understanding of some of the important background information to strategies. To transition to strategies, Working Group meetings will discuss the Endangered Species Act, Timber Fish and Wildlife, and the WDFW mapping tool, and will work in ideas from today's discussion. Discussion of strategies will continue at the Fourth Roundtable and the Fifth Roundtable will discuss a report and recommendations.

Update on legislative coordination

Peter Dykstra shared that Plauché & Carr's is scheduling a meeting, likely in early January, to provide an update on the Roundtable with legislators interested in the Roundtable's work, and that we will relay any thoughts and feedback from legislators to the group. He also shared that, so far, he had heard that the legislature will not take this issue on this session and will wait for the report coming out of this process.

Miscellaneous items:

Peter Dykstra thanked all for joining. The meeting adjourned.

Appendix F | Series 3

Riparian Working Group Series 3, Meeting #1

January 3, 2024; 11am – 1pm

Agenda

- I. Brief Introductions
- II. Presentation on Endangered Species Act / Habitat Conservation Plans
 - a. Bonnie Shorin, Branch Chief, Central Puget Sound Branch, NOAA Fisheries
- III. Forest & Fish Panel Presentation/Discussion
 - a. Chairman Ron Allen, Jamestown S’Klallam Tribe
 - b. Steve Barnowe-Meyer, Forest Practices Board (prev. TFW Policy Committee Representative for Washington Farm Forestry Association, prev. Weyerhaeuser)
 - c. Jim Peters, Northwest Indian Fisheries Commission
 - d. Cassie Phillips, Weyerhaeuser (retired)
- IV. Working Group Q&A and Discussion
- V. Next Steps

Presenters

Bonnie Shorin, Central Puget Sound Branch Chief, NOAA Fisheries Northwest Region

Ron Allen, Tribal Council Chairman, Jamestown S’Klallam Tribe

Steve Barnowe-Meyer, Forest Practices Board (prev. TFW Policy Committee Representative for Washington Farm Forestry Association, prev. Weyerhaeuser)

Jim Peters, Habitat Policy Analyst, Northwest Indian Fisheries Commission

Cassie Phillips, Weyerhaeuser (retired)

Meeting Materials

Endangered Species Act and Habitat Conservation Plans, presentation by Bonnie Shorin

WA Forestry Agreements – Legal Timeline

1987 TFW Agreement Final Report

1999 Forests and Fish Report

Executive Summary

The first meeting included a presentation on the Endangered Species Act (ESA) and Habitat Conservation Plans (HCPs) by Bonnie Shorin, Branch Chief for the Central Puget Sound Branch of NOAA Fisheries, as well as a panel presentation and discussion on Forests & Fish. Panel members were Chairman Ron Allen with the Jamestown S’Klallam Tribe, Steve Barnowe-Meyer (prev. Forest Practices Board as gen. public/small forest landowner representative; TFW Policy Committee Representative for Washington Farm Forestry Association; and Weyerhaeuser); Jim Peters, Habitat Policy Coordinator for the Northwest Indian Fisheries Commission, and Cassie Phillips (retired, Weyerhaeuser). The ESA aims for species recovery and directs federal agencies to use their authorities to this end and to acquire lands for species conservation, including through cooperation with the states. Section 7 of the ESA provides for agency consultation related to funding, permitting, and authorizing activities affecting ESA-protected species, while Section 9 protects from activities that jeopardize those species. Section 10 provides for HCPs, which are plans that identify the impact of “take” of ESA-protected species and provide minimization and mitigation measures, alternatives, and other measures necessary for conservation of species. HCPs require a biological opinion from the Services finding “no jeopardy” and “no adverse modification of designated critical habitat.” HCPs can take years to prepare and finalize but are typically valid for several decades, can cover future ESA-listed species, and ensure activities may proceed while also allowing ESA objectives to be met.

Next, Forests & Fish panel members shared reflections on the process, including the importance of collaboration, commitment, and trust to addressing challenges and that cooperative action has led to powerful results in the Forests & Fish context. Cassie Phillips walked through a timeline, noting key pressure points leading to the Forests & Fish Agreement, including *U.S. v. Washington*, the Clean Water Act and ESA, the Washington Forest Practices Act, the *Boldt* Decision, and spotted owl and salmon species listings. While the process took many years and required major commitments, the Agreement provided certainty and relief from serious regulatory risks to the industry.

1. [PDF 1: PowerPoint presentation titled “Endangered Species Act of 1973: Endangered Species Act and Habitat Conservation Plans”](#) by Bonnie Shorin, Central Puget Sound Branch Chief, NOAA Fisheries, and presented at the first Riparian Working Group meeting in Series 3 on January 3.
2. [PDF 2: A legal timeline regarding forestry agreements in Washington State](#) presented by Cassie Phillips, Weyerhaeuser (retired), at the first Riparian Working Group meeting in Series 3 on January 3.
3. [PDF 3: Providing the Timber/Fish/Wildlife Agreement Final Report \(February 1987\)](#) discussed at the first Riparian Working Group meeting in Series 3 on January 3.
4. [PDF 4: Providing the Forests and Fish Report \(April 1999\)](#) discussed at the first Riparian Working Group meeting in Series 3 on January 3.

Riparian Working Group Series 3, Meeting #2

January 9, 2024; 3pm – 5pm

Agenda

- I. Brief Introductions
- II. Forests & Fish Continued: Working Group Discussion
- III. Presentation by WDFW on Riparian Mapping Tools
- IV. Working Group Q&A and Discussion
- V. Next Steps

Presenters

Cassie Phillips, Weyerhaeuser (retired)

Keith Folkerts, Land Use Policy Lead, WDFW

Robin Hale, High Resolution Change Detection Coordinator, WDFW

Meeting Materials

None.

Executive Summary

The second Working Group meeting included continued discussion from the previous meeting's panel on Forests & Fish as well as a presentation by WDFW on the agency's riparian mapping tools.

With respect to Forests & Fish, Cassie Phillips noted that a one-stop-shop and programmatic approach to addressing regulatory requirements was important to the forest products industry and that they looked at a regulatory effort related to land development in California as an example. Jim Peters shared about using the Timber Fish and Wildlife process to meet federal ESA and Clean Water Act needs. Cassie added that the tribes and Treaty Rights involved and pressure from high up to get to a solution after species listings were critical to getting the federal agencies to defer to the state. Jim also emphasized the importance of funding for the adaptive management program and monitoring to confirm where standards are being met. Working Group members noted interests in looking into other tools like HCPs to protect riparian areas and developing shared principles.

Keith Folkerts and Robin Hale then walked through the features of WDFW's Riparian Mapping tool and used example questions to demonstrate how it can be used to support decision making and planning efforts. WDFW noted that they have tried to incorporate datasets that are as broadly

applicable to the state as possible and to include caveats in an easily identifiable way for those interested in more information. Working Group members asked several questions about different datasets and discussed challenges of tracking short-term improvements and riparian enhancements. WDFW emphasized a standard caveat: that site-scale decisions need site-scale information and that the tool is geared to provide stream- and watershed- level information. In response to a separate legislative proviso, WDFW is also developing a statewide prioritization method.

Riparian Working Group Series 3, Meeting #3

January 23, 2024; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Riparian Management Frameworks: Working Group Discussion
 - a. Department of Ecology Clean Water Act Funding / Guidance
 - i. Water Quality Combined Funding Program Guidelines | Section 319, Appendix J: Restoration and Planting
 - ii. Voluntary Clean Water Guidance for Agriculture | Chapter 12: Riparian Areas & Surface Water Protection
 - b. Recreation and Conservation Office Salmon Recovery Grant Manual
 - i. Appendix K: Riparian Planting Projects
 - ii. Appendix M: Riparian Funding Policies and Guidelines
- III. Next Steps

Presenters

Nick Norton, Planning and Policy Specialist, RCO

Melissa Gildersleeve, Section Manager, Water Quality Program, Department of Ecology

Meeting Materials

Department of Ecology [Water Quality Combined Funding Program Guidelines | Section 319, Appendix J: Restoration and Planting](#) at pp. 179-187.

Department of Ecology Water Quality Grants and Loans, presentation by Melissa Gildersleeve

[Voluntary Clean Water Guidance for Agriculture | Chapter 12: Riparian Areas & Surface Water Protection](#)

Department of Ecology Nonpoint Plan and Voluntary Clean Water Guidance for Agriculture presentation, presentation by Ben Rau

RCO Salmon Recovery Grant Manual 18, [Appendix F: SRFB Evaluation Criteria](#)

RCO Salmon Recovery Grant Manual 18, [Appendix K: Riparian Planting Projects](#)

RCO Salmon Recovery Grant Manual 18, [Appendix M: Riparian Funding Policies and Guidelines](#)

Executive Summary

The third Working Group meeting focused on member discussion of the riparian management frameworks provided in the Department of Ecology's Clean Water Act Funding / Guidance and the Recreation and Conservation Office's Salmon Recovery Grant Manual. Billy Plauché highlighted significant aspects of the frameworks, and Nick Norton (RCO) and Melissa Gildersleeve (Ecology) provided additional context. RCO's program has not been pursued by riparian project proponents in the past, partly due to technical review requirements. In addition to riparian projects, the program includes some opportunities for landowner outreach but has no dedicated technical assistance funding. Ecology's approach is founded in its water quality authorities. Where a watershed has pollution issues, Ecology works with local partners to identify where issues are, best management practices (BMPs), and technical assistance and outreach needs in order to develop and implement projects. Working Group members discussed an approach that could include a combination of watershed-based planning, site-specific analysis, and multi-partner planning to reach agreement and implement projects. Several members stressed importance of adequate incentives; watershed-specific outreach and communication strategies with landowners; and funding for outreach, technical assistance, monitoring, and project stewardship. Members also considered existing watershed planning strategies and groups, such as the Snoqualmie plan, Voluntary Stewardship Programs, and Lead Entities. Lead Entities' work to identify watershed needs for salmon recovery could inform watershed planning conversations involving a broader set of interests. Those conversations could pull salmon recovery groups, farmers, and others together to talk about all of their needs.

Riparian Roundtable Series 3

February 16, 2024; 9am – 4pm

Washington State Capitol Campus
Insurance Building, Room 440
302 Sid Snyder Ave SW
Olympia, WA 98501

Agenda

- I. Introductions
- II. Recap of Series 3 Working Group Meetings
- III. Update on Legislative Briefings
- IV. Revisited Principles/Ground Rules discussion
- V. Discussion of Draft Watershed Based Riparian Restoration Recommendation
- VI. Lunch Break/Meet and Greet with Legislators
- VII. Continued Discussion of Draft Watershed Based Riparian Restoration Recommendation
- VIII. Follow-up items
 - a. Action items from discussion
 - b. Brief introduction of Roundtable 4 Working Group topics

Meeting Materials

Framework for Riparian Habitat Protection and Restoration

January Legislative Briefing Presentation

Riparian Roundtable Series 2 Notes

Executive Summary

Introductions

Peter Dykstra and Billy Plauché thanked the Office of Financial Management and the Governor's Office for hosting the Series 3 Roundtable meeting and invited participants to introduce themselves.

Recap of Series 3 Working Group Meetings

Amanda Carr provided that the Series 3 Working Group meetings focused on standards and strategies for restoration and protection of riparian areas. Amanda provided a walkthrough of each meeting. Meeting #1 included a presentation on the Endangered Species Act and Habitat Conservation Plans by Bonnie Shorin, Branch Chief for the Central Puget Sound Branch of NOAA

Fisheries, as well as a panel presentation and discussion on Forests & Fish. Panel members were Chairman Ron Allen with the Jamestown S'Klallam Tribe, Steve Barnowe-Meyer with the Forest Practices Board (prev. TFW Policy Committee Representative for Washington Farm Forestry Association and Weyerhaeuser), Jim Peters with the Northwest Indian Fisheries Commission, and Cassie Phillips (retired, Weyerhaeuser). Meeting #2 included continued discussion from the Forests & Fish panel as well as a presentation by WDFW on the agency's riparian mapping tools. Meeting #3 focused on Working Group member discussion of the riparian management frameworks provided in the Department of Ecology's Clean Water Act Funding / Guidance and the Recreation and Conservation Office's Salmon Recovery Grant Manual. Participants shared that the meetings have been valuable, they are eager to dig into challenges, and expressed strong support for continuing the riparian discussions beyond June to focus on next steps.

Update on Legislative Briefings

Peter Dykstra shared that two legislative briefings were held in January and included an overview of the 2022 Roundtable work and an update on what is happening under the current budget proviso. Of the twelve invited, Senator Warnick, Senator Muzzall, Senator Van de Wege, Representative Tharinger, Representative Chapman, Representative Lekanoff, Representative Dent, and Representative Kretz attended. Another briefing will be held after the Series 4 Roundtable.

Revisited Principles/Ground Rules Discussion

Peter Dykstra provided an overview of Roundtable discussions of ground rules so far. The facilitation team recognized that developing ground rules and principles is a long process not envisioned by the proviso and recommended the group focus on the recommendations, noting that those could include a suite of ground rules that make other groups successful as guidance for future watershed groups. Several participants emphasized the importance of developing ground rules to build trust, ensure meaningful engagement, and asked the facilitation team to propose ground rules for consideration at the next Roundtable meeting. Others shared concerns that there may not be enough time to develop ground rules and that requiring endorsement could drive away those at the table representing broader groups. Peter Dykstra invited the group to share any feedback with the facilitation team and that the team will propose guidelines to consider at the next meeting.

Discussion of Draft Watershed Based Riparian Restoration Recommendation

Billy Plauché provided an overview of the draft recommendations. The three recommendations address: (1) protecting existing habitat, (2) restoring degraded corridors, and (3) recognizing that time is needed to build watershed-based strategies, continuing to build progress now. The first recommendation stems from the 2022 Riparian Roundtable recommendations to protect existing functioning riparian corridors through the GMA and SMA and addresses challenges for local governments regarding enforcement and appeals. The group generally shared support for the first recommendation. Participants shared concerns to be sure the appeals provision provides sufficient safe harbor for local governments, added that technical assistance is also important to address, and discussed methods to monitor and otherwise ensure implementation in local permitting and enforcement. Participants also recommended outreach with the Department of Commerce and city representatives and that the recommendations address prosecution and enforcement actions. Others expressed that the recommendation should address long-term land protection strategies and that funding should be inclusive and flexible to foster projects with multiple benefits. The group also discussed distinctions between WDFW Riparian Guidance Volume 1 as Best Available Science and Volume 2 as management recommendations.

- Lunch Break/Meet and Greet with Legislators -

Continued Discussion of Draft Watershed Based Riparian Restoration Recommendation

Margen Carlson shared with the group her conversation with Jay Gordon over the lunch break regarding concerns on “active floodplain” language in WDFW Riparian Guidance, Vol. 2. She clarified that, while consideration of the floodplain is important, the Channel Migration Zone and Ordinary High Water Mark are used in Riparian Management Zone delineation.

Billy Plauché opened the meeting for discussion on the second recommendation. The recommendation was drafted in response to feedback and creates a watershed-based process that incorporates broader interests to develop or build off existing efforts to restore riparian areas through incentives and to address where SPTH cannot feasibly be attained. The watershed plans will also set goals and address a regulatory/compensation backstop where those are not met. Several participants shared concerns that the recommendation could be duplicative of existing watershed plans. Billy acknowledged existing plans and processes and clarified that the recommendation would not require that work to be re-done; the proposed approach would build off of those efforts and focus on riparian areas. He further noted that some places are further behind in those planning processes and others may need additional funding. Participants emphasized the importance of linking to existing plans and processes, addressing multi-benefits including agricultural viability, ensuring broad interests are included in the watershed plans, and providing adequate funding for monitoring in the recommendation. Regarding the regulatory/compensation backstop language, the group noted that is not addressed in detail in the recommendation, discussed takings law and Treaty rights, challenges for local government in implementation, the role of the state, and compensation strategies such as working with land trusts.

Follow-up Items

Billy Plauché noted that the recommendations discussion would continue at the next meeting. The group’s comments will be incorporated into an updated draft and will be circulated ahead of the meeting. Amanda Carr provided that the Series 4 Working Group meetings will discuss tools and metrics for riparian restoration, attracting private investment, and riparian and farmland conservation. The meeting adjourned.

Appendix G | Series 4

Riparian Working Group Series 4, Meeting #1

March 7, 2024; 2pm – 4pm

Agenda

- I. Brief Introductions
- II. Presentations: Measuring Riparian Restoration and Protection
 - a. Kat Moore, Recreation and Conservation Office
 - b. Larry Epstein, Puget Sound Partnership
 - c. David Primozich, The Freshwater Trust
- III. Working Group Discussion
- IV. Next Steps

Presenters

Kat Moore, Assistant Section Manager, Salmon Section, RCO

Larry Epstein, Deputy Director, Puget Sound Partnership

David Primozich, Vice President – Water, The Freshwater Trust

Meeting Materials

PSP Progress Indicators and Targets, presentation by Larry Epstein

TFT Riparian Working Group, presentation by David Primozich

Executive Summary

The first meeting included presentations on metrics used to identify, monitor, and assess riparian restoration and protection projects as well as tools to consider project prioritization and selection. The presenters were Kat Moore with the Recreation and Conservation Office (RCO), Larry Epstein with the Puget Sound Partnership (PSP), and David Primozich with The Freshwater Trust (TFT).

Kat walked through RCO's [PRISM](#) database using example projects to illustrate metrics for riparian restoration activities. Metrics are reported initially and throughout the life of a project. The Salmon Recovery Portal links to PRISM, uses many of the same metrics, and aggregates PRISM data in the State of the Salmon Report. In response to questions, Kat noted that RCO does not collect detailed

information on certain metrics such as plant survival and that RCO funding does not cover implementation monitoring. Also, RCO does not collect water quality samples prior to installation but asks project proponents whether the project area is 303(d) listed for temperature. RCO does not require projects to be maintained long-term but does require applicants to submit 10-year maintenance plans.

Next, Larry presented on the PSP Action Agenda. The Action Agenda includes vital signs to evaluate the status and trends of ecosystem conditions as well as progress indicators, all of which relate to salmon recovery. Larry walked through metrics for habitat restoration and acquisition projects and how they are tracked. He also noted PSP's work with the American Farmland Trust, including metrics and indicators for farmland conversion and preservation, and agricultural land viability. PSP is working to assess cumulative effects of its restoration activities, starting with a pilot project in the Whidbey Basin.

David then presented tools TFT has developed to measure and prioritize restoration for water quality. David highlighted TFT's work on riparian restoration towards TMDL compliance in the Rogue River and Snake River. He walked through how TFT uses its tools to identify, assess, and prioritize restoration opportunities towards achieving water quality objectives throughout the West, as well as tools to monitor and measure project success. The group discussed Washington efforts on nonpoint pollution credits and trading, including a [draft framework](#) and [2023 report to the legislature](#) by the Department of Ecology. In response to questions, David added that the Trust's work has supported both compliance and voluntary efforts and that its tools use agency TMDL models and do not use proprietary data.

1. [PDF 1: PowerPoint presentation titled “Progress Indicators and Targets: Riparian Working Group”](#) by Larry Epstein, Deputy Director, Puget Sound Partnership, and presented at the first Riparian Working Group meeting in Series 4 on March 7.
2. [PDF 2: PowerPoint presentation titled “Riparian Restoration: Prioritize Investment – Quantify Benefit – Track Performance”](#) by David Primozich, Vice President – Water, The Freshwater Trust, and presented at the first Riparian Working Group meeting in Series 4 on March 7.

Riparian Working Group Series 4, Meeting #2

March 12, 2024; 10am – 12pm

Agenda

- I. Brief Introductions
- II. Presentations: Attracting Private Investment in Riparian Restoration
 - a. Susan O’Neil, Environmental Science Associates
 - b. Grace Edinger and Phoebe Higgins, Environmental Policy Innovation Center
- III. Working Group Discussion
- IV. Next Steps

Presenters

Susan O’Neil, Strategic Planner and Ecosystem Recovery Specialist, ESA

Grace Edinger, Procurement Strategy Lead, EPIC

Phobe Higgins, Director of Markets, EPIC

Meeting Materials

ESA Follow the Money: Attracting Private Investment in Riparian Restoration, presentation by Susan O’Neil

EPIC Pay for Success in Washington, presentation by Grace Edinger and Phobe Higgins

Executive Summary

The second Working Group meeting included presentations on attracting private investment in riparian restoration by Susan O’Neil with Environmental Science Associates (ESA) and by Grace Edinger and Phoebe Higgins with the Environmental Policy Innovation Center (EPIC).

Susan shared her work on attracting private investment for the Puget Sound Partnership over 2021 and 2022, focusing on riparian restoration and other salmon recovery project types. She provided an overview of types of private investment and where private resources come into play for projects, as well as revenue streams and financing mechanisms. Susan emphasized that several tools must be acted on to attract private investment and shared key tools that could be used for riparian projects in Washington. Other notable considerations include project sponsor capacity and whether sufficient nurseries and trained labor exist to support projects. In response to questions, Susan added that pay-for-success contracting relies on larger, “reach” scale projects. On credits and trading, some

frameworks allow for creation of credits for an ecological uplift above regulatory requirements, some for offsets, and other variations exist.

Next, Grace and Phoebe presented on Pay For Success, a procurement strategy that defines desired outcomes and invites the private sector to deliver those in advance of payment to ensure outcomes are achieved. Nutrient reduction in Chesapeake Bay was provided as an example of a successful program. Washington has high opportunity to set up a Pay For Success program and RainCity is an example of a Seattle-based effort. To set this up in Washington, EPIC recommends pursuing confirmation of state agency authority to enter into contracts for success and a pilot project to work out issues and pave the way for future projects. In response to questions, Grace and Phoebe added that investors are not afraid of a return on investment that is longer than 10 years and that contracts can be structured to address longer timescales and provided the Klamath Dam Removal project as an example. They also noted that third-party verifiers and government agencies commonly conduct monitoring for projects. Additionally, most Pay For Success programs are set up based on a regulatory requirement but there are voluntary programs such as USDA's RCPP program and Global GAP. Participants discussed that the state legislature can set aside funding for longer than two years, but legislators are hesitant to dedicate funds where there may not be outcomes for more than 10 years.

Meeting links:

[NOAA Definitions: Funding and Financing](#)

[EPIC Blog on Washington's Pay for Success Opportunities](#)

[Klamath Dam Removal Project](#)

[Pay for Success in MD](#)

[RCPP Alternative Funding Arrangements](#)

[Global GAP](#)

1. [PDF 3: PowerPoint presentation titled “Follow the Money: Attracting Private Investment in Riparian Restoration”](#) by Susan O’Neil, Senior Conservation Planner, Environmental Science Associates, and presented at the second Riparian Working Group meeting in Series 4 on March 12.
2. [PDF 4: Handout titled “Pay for Success in Washington”](#) by Grace Edinger, Procurement Strategy Lead, Environmental Policy Innovation Center, and discussed at the second Riparian Working Group meeting in Series 4 on March 12.
3. [PDF 5: PowerPoint presentation titled “Pay for Success in Washington”](#) by Grace Edinger, Procurement Strategy Lead, and Phoebe Higgins, Director of Markets, Environmental Policy Innovation Center, and presented at the second Riparian Working Group meeting in Series 4 on March 12.

Riparian Working Group Series 4, Meeting #3

March 25, 2024; 12pm – 2pm

Agenda

- I. Brief Introductions
- II. Introduction to Topic: The Role of Land Trusts in Riparian and Farmland Preservation
 - a. Vanessa Kritzer, Washington Association of Land Trusts
 - b. Dani Madrone, American Farmland Trust
- III. Presentations on Multi-Benefit Land Protection Projects
 - a. Tom Sanford, North Olympic Land Trust and Hansi Hals, Jamestown S’Klallam Tribe
 - b. Alex Jeffers and Jennifer Mackey, Whatcom Land Trust
 - c. Fraser Moore, Blue Mountain Land Trust
- IV. Panel Discussion
 - a. Nate Ulrich, Columbia Land Trust
 - b. Sarah Spaeth, Jefferson Land Trust
 - c. Kari Odden, Skagit Land Trust
 - d. Hilary Aten, Washington Farmland Trust
- V. Working Group Q&A
- VI. Next Steps

Presenters

Vanessa Kritzer, Executive Director, Washington Association of Land Trusts

Dani Madrone, Pacific Northwest Policy Manager, American Farmland Trust

Tom Sanford, Executive Director, Olympic Land Trust

Hansi Hals, Natural Resources Director, Jamestown S’Klallam Tribe

Alex Jeffers, Conservation Director, Whatcom Land Trust

Fraser Moore, Conservation Manager, Blue Mountain Land Trust

Nate Ulrich, Conservation Lead, Columbia Land Trust

Sarah Spaeth, Director, Conservation and Strategic Partnerships, Jefferson Land Trust

Kari Odden, Conservation Project Manager, Skagit Land Trust

Hilary Aten, Associate Director, Washington Farmland Trust

Meeting Materials

WALT/AFT The Role of Land Trusts in Riparian and Farmland Preservation, presentation by Vanessa Kritzer and Dani Madrone

Executive Summary

The third Working Group meeting included an introduction to the role of land trusts in riparian and farmland preservation by Vanessa Kritzer with the Washington Association of Land Trusts (WALT) and Dani Madrone with the American Farmland Trust followed by presentations on Multi-Benefit Land Protection projects by Tom Sanford with Olympic Land Trust, Hansi Hals with the Jamestown S’Klallam Tribe, Alex Jeffers with the Whatcom Land Trust, and Fraser Moore with the Blue Mountain Land Trust. Finally, there was a panel discussion with representatives from the Columbia Land Trust (Nate Ulrich), Jefferson Land Trust (Sarah Spaeth), Skagit Land Trust (Kari Oden), and Washington Farmland Trust (Hilary Aten).

Land trusts can be helpful partners in meeting state conservation goals and are deeply engaged in riparian, salmon recovery, and farmland preservation.

Tom and Hansi presented a set-back project on the Dungeness River that the Roundtable visited in December. The Jamestown S’Klallam Tribe developed a strategy 25 years ago, taking a whole river approach, to preserve and restore habitat over hundreds of parcels and worked with the Olympic Land Trust and others to protect lands subject to flooding and saltwater intrusion along the River and to reconnect the floodplain, leveraging multiple sources of funding.

Alex presented on the Osprey Hill Farm which includes prime agricultural soils, a fish-bearing tributary, and an associated development with no homes. The goals of the project were to conserve and restore the tributary and preserve and restore the agricultural lands and address farm viability. To accomplish these, the Whatcom Land Trust facilitated real estate transactions conservation easements for agricultural and ecological values, brought partners together, and provides ongoing monitoring.

Next, Fraser shared examples of full-property encumbrances, including several easement projects for habitat protection, as well as partially encumbered properties including a levee setback and floodplain restoration project on the Touchet River. He noted the multi-benefits of conservation easement, which encompassed a change in land use, river restoration, water rights, and areas with permanent protection.

During the panel discussion, panelists shared that land trusts can work creatively with partners to accomplish projects with multi-benefits of preserving fish, forests, and farmland. They also shared challenges with finding funding to fit multi-benefit projects, the need for flexible buffer widths for small parcels, and that challenges such as low appraisal values can make conservation easements less attractive and programs like CREP more desirable. In response to questions, panelists emphasized that flexibility, watershed-specific and site-level planning are key to gaining landowner trust and

willingness. Also, allowing farmland and salmon program funding to be used together and funding and conducting valuation earlier in the process would help.

1. [PDF 6: PowerPoint presentation titled “The Role of Land Trusts in Riparian and Farmland Preservation”](#) by Vanessa Kritzer, Executive Director, Washington Association of Land Trusts, and Dani Madrone, Pacific Northwest Policy and Planning Manager, American Farmland Trust, and presented at the third Riparian Working Group meeting in Series 4 on March 25.

Riparian Roundtable Series 4

April 18 and 19, 2024

Wenatchee, Washington

April 18 Site Visits

April 18, 2024; 12pm – 5pm

- | | |
|--------------|---|
| 12:00 | Meet at Confluence Technology Center
285 Technology Center Way
Wenatchee, WA 98801 |
| | Welcome and Introductions |
| | Board Transportation and Depart for Site Visits |
| 12:30 | Chamberlin Distributing or Cashmere City Hall
Overview of Tour Sites and Riparian Issues and Management |
| 1:15 | Mission Creek Upper Miller Orchards |
| 2:00 | Mission Creek Riparian Restoration |
| 3:00 | Wenatchee River Restoration |
| 4:00 | Return to Confluence Technology Center |
| 5:00 | Adjourn for the Day |

Site Visit Materials

Chelan Voluntary Stewardship Plan Riparian Analysis, presentation by Mike Kaputa and Britt Dudek

1. [PDF 7: PowerPoint presentation titled “Chelan VSP Riparian Analysis”](#) presented by Britt Dudek, Chairman, Chelan County Voluntary Stewardship Program, and Mike Kaputa, Director of Natural Resources, Chelan County, at the Series 4 Riparian Roundtable site visits on April 18.

April 19 Meeting

April 19, 2024; 8am – 12pm

Confluence Technology Center
Methow River Room
285 Technology Center Way
Wenatchee, WA 98801

Agenda

- I. Introductions
- II. Update on Legislative Budget Provisos
- III. Continued Principles/Ground Rules Discussion
- IV. Summary of Series 4 Working Group Meetings
- V. Recap of Chelan Site Visits
- VI. Discussion of Updated Draft Watershed Based Riparian Restoration Recommendation
- VII. Discussion of Series 5 Working Group Meeting Topics and Roundtable Meeting 5
- VIII. Action Items

Meeting Materials

Principles of Participation

Revised Riparian Funding and Policy Recommendations

Executive Summary

Introductions

Peter Dykstra welcomed the group and invited participants to introduce themselves.

Update on Legislative Budget Provisos

Peter Dykstra noted that some participants worked to pass a budget proviso in the 2024 Supplemental Budget for the Riparian Taskforce to work on implementation of recommendations, and read the proviso language to the group.

Continued Principles/Ground Rules Discussion

Peter Dykstra introduced the draft principles of participation. The principles include two categories: (1) principles under which the Riparian Taskforce has operated to-date; and (2) suggested principles of participation that the local watershed level groups described in Recommendation 2 could consider using to establish their own principles of participation. The latter are informed by other

efforts and collaborative groups. Participants agreed to share feedback on the draft principles by email and focus meeting time on the recommendations.

Summary of Series 4 Working Group Meetings

Amanda Carr provided that the Series 4 Working Group meetings were designed to and did inform the recommendations, particularly Recommendation 2. Series 4 Working Group Meeting #1 informed metrics for establishing targeted outcomes for riparian protection and restoration and monitoring implementation, strategies for ensuring agricultural viability, and approach to watershed-scale prioritization of restoration projects. Series 4 Working Group Meeting #2 informed language on alternative mitigation strategies and creative contracting approaches. Series 4 Working Group Meeting #3 resulted in adding conservation organizations to the list of watershed group participants and calling out the need for flexibility, including to facilitate multi-benefit projects, in funding language. Participants reflected that the need for flexibility in funding to implement large-scale, impactful projects arose in both the context of private investment strategies and for multi-benefit projects.

Recap of Wenatchee Area Site Visits

Peter Dykstra expressed gratitude for the work of Jon DeVaney as well as Mike Kaputa with Chelan County and Ryan Williams with the Cascadia Conservation District to set up site visits. Participants shared that the tour highlighted the importance of both watershed-level and site-specific planning, the challenges in finding funding sources that fit with projects and the level of effort needed to pursue funding, and the value of existing local planning efforts, strategies, and tools.

Discussion of Updated Draft Watershed Based Riparian Restoration Recommendation

Billy Plauché introduced discussion on Plauché & Carr LLP's Preliminary Recommendation 1, providing a regulatory approach to protect existing riparian habitat. Updates to the recommendation were based on input to, among other things, ensure use of the appropriate references to the WDFW Riparian Guidance Vols. 1 and 2, and provide sufficient resources, including funding and technical assistance, for local governments and state agencies for incorporating and implementing the WDFW Riparian Guidance in land use planning. The group dug into the nuances between Vols. 1 and 2 and emphasized the need to provide guidance, technical assistance, and sufficient funding for implementation, monitoring, and enforcement to local governments. Participants also discussed when new development and redevelopment trigger permitting requirements, including riparian protections. Some shared concerns regarding variances, exemptions, and the "no net loss" standard and others shared concerns regarding potential repercussions of removing them from local land use laws, especially Constitutional takings issues. The facilitation team also clarified that the recommendations do not propose legislation or rulemaking, and that implementation of the recommendations is the aim of the next phase of the Roundtable's work starting in July.

Billy Plauché introduced discussion on Plauché & Carr LLP's Preliminary Recommendation 2, addressing restoration of degraded habitat, and highlighted updates to the recommendation to incorporate feedback to lean on and support existing efforts in implementing watershed-level strategies for riparian restoration as well as to address agricultural viability. Participants discussed several subjects regarding watershed strategies, as follows: (1) appropriate monitoring and benchmarks; the role of state agencies in watershed plans; leveraging federal funding and ensuring sufficient state funding; (2) ensuring the process in Plauché & Carr LLP's Preliminary Recommendation 2 works for both places with established watershed groups and strategies as well as places that are further behind or that do not have a watershed group; (3) sufficient funding and

support for Conservation Districts and other entities providing technical assistance and landowner outreach; and (4) providing certainty for landowners implementing riparian projects.

Billy Plauché moved to discussion of a regulatory backstop if restoration targets are not met. He reflected that some participants have shared the opinion that there needs to be a regulatory backstop and others have shared concerns that a regulatory backstop would chill participation, and invited the group to share their perspectives on what is needed and the challenges in providing a regulatory backstop. Some participants expressed that incentives offer a better approach than a mandatory one and that new incentive programs need sufficient resources and time to work, while others provided that a regulatory backstop is needed to get people to take advantage of voluntary programs. Participants also discussed several ideas on what a regulatory backstop could be, such as addressing buffers when properties change ownership or at another trigger point such as a septic review or change of use, taking a policy accountability approach using a review process when restoration strategies aren't working, and employing a targeted acquisition approach using eminent domain and paying fair market value for property when goals aren't met. Participants also discussed the importance of providing a safe harbor for landowners working to restore riparian habitat when funding is not available. Throughout this discussion, participants repeatedly raised concerns regarding Constitutional takings issues and challenges associated with regulatory approaches to address when restoration goals are not met and regarding the need to meet the legal obligations and ensure respect for Tribal Treaty Rights. Billy Plauché reflected that the group struggled to identify the "and then what" if riparian restoration goals are not met and provided that the facilitation team would consider shifting to a targeted acquisition program approach to avoid takings issues and meet restoration goals to ensure salmon and steelhead recovery.

Discussion of Series 5 Working Group Meeting Topics and Roundtable Meeting 5

Peter Dykstra provided that proposed topics for the Series 5 Working Group meetings would be provided once meeting dates are finalized. Topics identified in the meeting included exemptions, variances, and enforcement in land use laws and protections, and regulatory and acquisition strategies when restoration goals aren't met.

Action Items

Peter Dykstra invited participants to reach out with site visit Recommendations for the Series 5 Roundtable meeting. Participants agreed to provide any redline edits by April 27 for the draft recommendations and by May 8 for the draft principles of participation. The meeting adjourned.

Appendix H | Series 5

Riparian Working Group Series 5, Meeting #1

May 22, 2024; 10am – 1pm

Agenda

- I. Brief Introductions
- II. Recommendation 1
 - a. General Discussion
 - b. Enforcement/Compliance Strategies
 - c. Impact of Exemptions
- III. Recommendation 3
 - a. Targeted Compensation/Acquisition Program
- IV. Next Steps

Presenters

None.

Meeting Materials

[Riparian Taskforce Preliminary Recommendations \(May 2024\)](#)

Executive Summary

Working Group discussion was focused on revised versions of Preliminary Recommendation 1 and included (1) when local land use laws and regulations trigger permitting requirements in the context of a change of an existing use, differences between Volumes 1 and 2 of the WDFW Riparian Guidance and requirements regarding incorporation and consideration of best available science in local land use planning, (2) shortcomings of the existing regulatory framework under the GMA and SMA in protecting habitat, (3) challenges for local governments in implementing land use laws and regulations, (4) the purpose of and process to provide guidance for local incorporation of the WDFW Riparian Guidance, and (5) conveying the urgency of action and magnitude of funding needed for salmon recovery. Variances and exemptions under local land use laws and regulations were also discussed, and some participants expressed that these allow for continued degradation of riparian areas and should be removed or their use limited. Regarding revised versions of Recommendation 3, participant discussion focused on (1) concerns and challenges regarding a target

acquisition program and (2) interest in having a regulatory approach to ensuring riparian habitat goals are met.

Riparian Working Group Series 5, Meeting #2

May 28, 2024; 11am – 2pm

Agenda

- I. Brief Introductions
- II. Recommendation 2
 - a. General Discussion
 - b. State Role
 - c. Funding
 - d. Monitoring/Metrics
- III. Next Steps

Presenters

None.

Meeting Materials

[Riparian Taskforce Preliminary Recommendations \(May 2024\)](#)

Executive Summary

Working Group discussion was focused on revised versions of Preliminary Recommendation 2 and addressed a broad range and number of topics, including (1) differences between the Eastern and Western regions of the state, (2) prioritization for funding projects and factors influencing prioritization, monitoring and tracking metrics for success of watershed-level strategies, (3) the role of the leadership council in review and management of watershed-level strategies, adaptive management in implementing strategies, (4) building off of existing plans and groups to avoid duplication and streamline implementation of watershed strategies and projects, the role of lead entities in watershed-level strategies, (5) meaningful inclusion of agricultural representatives in watershed groups including lead entities, (6) the need to fully fund salmon recovery plans, (7) the power of diverse groups in requesting funding and (8) opportunities to leverage federal funding, and bonding for salmon recovery plans.

Riparian Roundtable Series 5

June 3 and 4, 2024

Stillaguamish / Skagit, Washington

June 3 Site Visits

June 3, 2024; 12pm – 4:30pm

- 12:00** **Meet at Angel of the Winds Resort & Casino's Rivers Run Events Center**
3438 Stoluckquamish Ln
Arlington, WA 98223
- Welcome, introductions, and presentation.
- 12:30** **Board transportation and depart for site visits**
- 1:15-1:45** **Fir Island Farm Reserve**
- 2:15-2:45** **Tyler Breum's (local farmer) property**
- 3:15-3:45** **Tribal Riparian Restoration Property**
- 4:30** **Return to Rivers Run Events Center**

Site Visit Materials, provided by the Stillaguamish Tribe

Riparian Roundtable Field Trip Schedule, Locations, and Route Map

Fir Island Farms 2015

Fir Island Farms 2023

Breum Farm 2017

Pilchuck Floodplain 2006

Pilchuck Floodplain 2023

Skagit Delta Handout, Skagit Drainage and Irrigation Districts Consortium LLC

1. [PDF 1: Handout materials prepared by the Stillaguamish Tribe for the Series 5 Riparian Roundtable site visits on June 3](#), including a field trip schedule, site visit locations, and map, and five maps using satellite imagery depicting the Fir Island farms in 2015 and 2023, the Breum farms in 2017, and the Pilchuck floodplain in 2006 and 2023.
2. [PDF 2: Handout regarding Skagit Delta agriculture and related drainage systems prepared by the Skagit Drainage and Irrigation Districts Consortium LLC for the Series 5 Riparian Roundtable site visits on June 3](#).

June 4 Meeting

June 4, 2024; 8am – 12pm

Angel of the Winds Resort and Casino, Rivers Run Event Center
3438 Stoluckquamish Ln.
Arlington, WA 98223

Agenda

- I. Introductions
- II. Recap of Site Visits
- III. Brief Summary of Series 5 Working Group Meetings
- IV. Discussion of Recommendations
 - a. Recommendation 1
 - b. Recommendation 2
 - c. Recommendation 3
 - d. Recommendation 4
- V. Discussion of next steps, including final report
- VI. Discussion of post June 30 engagement
- VII. Action Items

Meeting Materials

Revised Riparian Funding and Policy Recommendations

Executive Summary

Introductions

Council Member Bizyayeva welcomed the group and started the meeting with a prayer. Peter Dykstra thanked Council Member Bizyayeva and the Stillaguamish Tribe for hosting the Roundtable Series 5 site visits and meeting and invited participants to introduce themselves.

Recap of Site Visits

Peter Dykstra asked attendees to share reflections on the site visits. Participants shared that engagement with farmers on the tour was valuable and helped to underscore the challenges of imposing one-size-fits-all solutions, the importance of providing flexibility for local groups to address riparian habitat, the need for significant funding to support long-term monitoring and stewardship, and to ensure clear communication in the recommendations.

Brief Summary of Series 5 Working Group Meetings

Amanda Carr gave an overview of the Series 5 Working Group meetings. The first Series 5 Working Group meeting focused on Plauché & Carr LLP's Preliminary Recommendations 1 and 3 and the second Series 5 Working Group focused on Plauché & Carr LLP's Preliminary Recommendation 2. Amanda noted the meetings helped identify items to flag for Roundtable discussion and that the facilitation team would highlight changes made based on Working Group conversation as the group walks through each recommendation. Changes to the Plauché & Carr LLP's Preliminary Recommendations were also based on individual participant feedback and conversations with the Plauché & Carr LLP over the last month.

Discussion of Recommendations

Peter Dykstra shared the goal for the Roundtable meetings to get the recommendations into final form and asked that comments during the meeting focus on areas of major disagreement. In response to participant questions, it was clarified that the goal of the meeting is to get to agreement and that, specifically, the question for Roundtable participants is whether each recommendation is ready to go to the implementation phase. If participants agree to the recommendations, the ask is for them to relay that to their groups and organization. If participants do not agree or know their groups or organizations would not agree, the ask is that they share that disagreement during the Roundtable meeting. Also, the intent is to address any needed changes in the meeting.

Recommendation 1

Billy Plauché highlighted changes to Plauché & Carr LLP's Preliminary Recommendation 1 to provide clarity regarding the WDFW Riparian Guidance Vols. 1 and 2, in relation to the guidance document process provided in Recommendation 2, and technical assistance. The participants discussed potential additional revisions regarding variances and exemptions, the distinction among Federally recognized Tribes and Treaty Tribes, and local land use appeals processes, and agreed to revisions to include the Puget Sound Partnership and the Governor's Salmon Recovery Office in provision 1.2. Participants expressed differing opinions regarding local land use appeals processes and agreed that an additional virtual Roundtable meeting was needed to address this part of the Recommendation 1.

Recommendation 2

Amanda Carr highlighted changes to address acquisition and compensation, existing and expanded watershed groups, project prioritization, streamlining of already-adopted local plans, to add to the list of plans to be included in watershed-based strategies, to build on existing efforts regarding agricultural viability, to remove the number of returning salmon as a metric in determining watershed plan success, and adding the SCC to the conceptual leadership council reviewing watershed plans. Participants proposed and discussed additional revisions to address complementing and leveraging federal funding and to provide flexibility in funding to implement already-planned projects, multi-benefit projects, and agricultural viability projects. Participants also proposed to expressly include salmon recovery organizations and lead entities in the recommendation and to lean on the Salmon Recovery Funding Board structure for watershed plan review.

Recommendation 3

Billy Plauché shared that, at the first Series 5 Working Group meeting, many participants provided strong feedback that a targeted acquisition program relying on eminent domain authority creates significant concerns and several participants wanted a regulatory backstory approach should. To address this feedback, the Plauché & Carr LLP's Preliminary Recommendation was modified to provide for continued discussion in the next phase of the Roundtable of a list of potential regulatory

options. Several participants shared concerns about the regulatory options listed in the proposed revised recommendation, including Constitutional takings issues and eligibility implications for federal funding programs, and expressed support for a targeted acquisition / compensation approach. Participants generally supported revising the proposed revised recommendation to be more general and to continue discussion on regulatory and compensation strategies in the implementation phase of the Riparian Taskforce starting in July.

Throughout discussions on the recommendations, participants asked that the final report provide additional context for several items, as follows: (1) the strategy under Recommendation 1 is to do the maximum that can be done under existing legal frameworks; the limitations of and challenges to date of no net loss and GMA/SMA frameworks, including variances and exemptions, the Constitutional need for reasonable use exemptions, and discussion of the Washington Academies of Sciences work on “no net loss”; (2) the intent to continue to use mitigation sequencing the; intent to protect landowners and that they not be held responsible for things outside of their control; (3) the need for significant funding, recognition of historic underfunding, acknowledgment that the recommendations cannot be implemented without funding, and that landowners should be protect landowners from consequences in event of funding shortfall; the importance of agricultural viability and the “culture” of agriculture; (4) the need for urban areas to take on some of the burden regarding riparian protection and restoration and to highlight areas within the recommendations that support, allow for, or require this; (5) the need to ensure meaningful integration of new members such as agricultural representatives in existing watershed-based groups; challenges with a regulatory backstop and regulatory takings, including potential impacts related to federal funding if regulatory controls require buffers, as well as additional discussion of eminent domain in this context; and (6) discussion of the holistic nature of the recommendations – that the recommendations are designed to be considered in their entirety and that they cannot be picked apart of have certain recommendations chosen and others not.

Discussion of next steps, including final report

Peter Dykstra noted that Plauché & Carr is preparing the final report to be transmitted to the Legislature and the Governor’s Office on June 30.

Discussion of post June 30 engagement

Peter Dykstra provided that Plauché & Carr LLP is completing a scope of work and contract for the next phase of the Riparian. A meeting will be held in July to discuss the next phase.

Action Items

Peter Dykstra provided that a virtual meeting will be convened to address final items for Recommendations 1.5, 2.4, and 3. The meeting adjourned.

Riparian Roundtable Series 5 Follow-Up Discussion

June 21, 2024; 2pm – 4pm

Virtual

Agenda

- I. Introductions
- II. Continued Discussion of Recommendations
 - a. Recommendation 1.5
 - b. Recommendation 2.4
 - c. Recommendation 3

Meeting Materials

Revised Riparian Funding and Policy Recommendations: 1.5, 2.4, and 3

Executive Summary

Introductions

Peter Dykstra welcomed the group and asked participants to introduce themselves.

Continued Discussion of Recommendations

Recommendation 1.5

Billy Plauché noted that edits to the text aim to address local government concerns while preserving due process rights. Local government participants reflected that the protections sought are to limit appeals of local actions implementing the guidance called for in Recommendation 2 into local land use planning and noted there are different ways to provide such protections that can be discussed in the implementation phase. The group noted that some participants continue to have questions about limitations on appeal but that they are willing to continue discussion.

Recommendation 2.4

Billy Plauché shared that edits tried to capture participant comments regarding relying on existing entities such as GSRO and the SRF Board, where possible, while recognizing those may not be the right entity to review well-established groups' watershed-based strategies. The edits leave this item open to continued discussion in the implementation phase. Participant comments largely emphasized the importance of relying on existing groups and processes for review to avoid delays associated with starting a new reviewing entity and felt there would be benefits to continued discussion of whether a separate review entity was required, and, if so, what entity might serve that function. Additional textual edits were made to clarify this intent. Participants also generally agreed

that the reviewing entity may provide a support function to assist programs in obtaining funding and that funding need is critical to these efforts.

Recommendation 3

Billy noted that many participants disagree with some or all of the options listed for continued discussion in the recommendation and provided that edits were made to explicitly note a group desire for continued discussion of strategies under this recommendation in the next phase. The group supported additional edits to clarify that the continued discussion may include options not explicitly listed and shared appreciation for the opportunity to have detailed discussions on regulatory and compensation strategies in the next phase and for including legislators in those discussions. Participants also engaged in robust discussion regarding an acquisition strategy, including the use and meaning of “fair market value” as well as voluntary versus mandatory acquisition strategies. Participants generally supported edits to ensure clear context and articulation of the budget proviso’s requirement that the facilitators address regulatory and compensation strategies in the recommendations and that acquisition strategies are tools of last resort.

At the end of the meeting, a representative of the Washington Farm Bureau asked that it be noted for the record that the Washington Farm Bureau does not agree with the recommendations as written.

Appendix I | Principles of Participation

Principles of Participation at Riparian Roundtables

We acknowledge that we are all participating in the process at the invitation of the independent facilitator to guide the development of recommendations.

We must work to sustain trust of each other in these discussions.

We are clear, honest, and frank with each other.

We are respectful of one another.

We strive to understand the challenges each other faces and tell the story of our own challenges with authenticity.

We need to create the space for all voices to be heard and listened to.

We try to be specific and avoid generalizations.

We are committed to providing recommendations that will:

- Improve salmon runs and keep them,
- Support and sustain agriculture,
- Respect and honor Tribal Treaty rights,
- Be sensitive to local needs and concerns.

Examples of Principles of Participation for Groups Working to Implement Riparian Protection and Restoration Strategies

Each group should spend time developing and agreeing to principles of participation/ground rules that they will adhere to in their work together.

All participants agree to work in an environment of transparency and consistent, respectful communication.

All participants agree that everyone is committed to solving each other's problems along with their own.

All participants agree that everyone must fully participate – no one can choose to be only partially part of the effort.

Consider whether the group should operate on consensus – everyone must agree to move forward, however anyone can choose disagree while being willing to let things move forward. If someone disagrees, we will convene a good faith effort to resolve that concern.

All participants agree that the group we will only succeed if it is inclusive in its work together.

All participants will be clear, honest, and frank with each other.

All participants will be sensitive with the information they share with each other but recognize that there is no expectation of confidentiality.

All participants will discuss and attempt to coordinate public messaging and information dissemination from the group. No one speaks for the group unless the group agrees.

All participants will use each other's time and resources efficiently and effectively.

All participants bring with them the legitimate purposes and goals of their organizations.

All participants will recognize the legitimacy of the goals of others and assume that their own goals will also be respected, as doing so will try to maximize all the goals of all the parties as far as possible.

All participants commit priority attention, staffing and time to the effort.

All participants should agree to give the same priority to solving the problems of others as they do their own.

All participants should commit to search for creative opportunities, for without creativity there will be no plan or agreement.

Every participant should agree to listen carefully and ask questions to understand.

All issues identified by any party should be addressed by the whole group.

All participants should state needs, problems and opportunities, not positions.

All participants should commit to agree to reach consensus on a plan.

All participants should commit to be an advocate for the agreed-upon plan.

All participants should seek to protect each other and the process politically with constituencies and general public.

Anyone can leave the process and the agreed to ground rules, but only after telling the entire group why and seeing if the problem(s) can be addressed by the group.

Each participant should agree to be mindful of the impacts their public and private statements will have on the climate of this effort.

Participants should be free to, and in fact are encouraged to, seek the best advice from their friends and associates that are following progress of the work of the group.

All participants should accept responsibility to keep their friends and associates informed of the progress of the work of the group.

Appendix J | Legislative Briefing

1. [PDF 1: PowerPoint presentation titled “Riparian Roundtable Update”](#) by Plauché & Carr LLP provided to key legislators by email and presented by Peter Dykstra, Partner, Plauché & Carr LLP, at briefings held on January 5 and 12.