

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

Date: September 7, 2005
Time: 9:00 a.m. – 2:00 p.m.
Place: 5280 Northwest Drive, Whatcom County PDS

AGENDA

1.	9:00	Review Agenda <u>Information:</u> September 7 th Agenda <u>Action Needed:</u> Make any changes or additions and approve as final.
2.	9:05	SMP Policies/Recap of previously distributed SMP policy sections <u>Action Needed:</u> Overview and discussion of proposed amendments.
3.	11:30	SMP Shoreline Jurisdiction and 20 c.f.s. points <u>Action Needed:</u> Discussion and feedback.
4.	12:30	Presentation of remaining SEDs <u>Action Needed:</u> Discussion and feedback. Inventory and Characterization
5.	1:00	Chapters 1 -3 <u>Action Needed:</u> Overview and discussion.
6.	1:55	Next Meeting Agenda

MEETING ATTENDANCE

Stacy Fawell – Lummi Natural Resources
Alan Chapman-Lummi Natural Resources
James Lee-Whatcom County
Peter Downing – DH Shellfish Protection Dist.
Llyn Doremus – Nooksack Natural Resources
Peter Gill-Whatcom PDS
David Roberts-DNR

Barry Wenger - Ecology
David Sherrard – Parametrix
Margaret Clancey – Adolfson & Assoc.
Jeff Chalfant – Whatcom PDS
Amy Pederson – Whatcom PDS
Cathy Craver-Whatcom PDS

DOCUMENTS DISTRIBUTED

1. September 7, 2005 Agenda
2. Draft Inventory and Characterization Report, Chapters 1 to 3
3. Memorandum re: Summary of Staff Recommendations and Committee Comments

MEETING CONTENTS

1. Review agenda: There is a typo on the agenda. Item 5: Chapters 1-3 should be with agenda item 4. It is not a separate agenda item.
 - 1.1. Proposed amendments and comments: If broad-based changes are proposed, then they should be e-mailed out to the group. Please “reply all” to the TAC e-mail list to make sure that everyone has an opportunity to review them. Minor word changes can be emailed to David.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

2. Policy Discussion:

- 2.1. The sections that have been distributed to date are: aquaculture, forest practices, marinas/launch ramps, piers and docks, stream control works, transportation, and utilities.
- 2.2. Aquaculture: It was noted that the WAC identifies commercial shellfish beds as a preferred use (WAC 173-26-251 3(b)). Concern was expressed regarding requiring CUPs for aquaculture when it is a priority use under the WAC. It was suggested that the aquaculture section be revised to further recognize the requirements of the Act, while keeping major points of the policy in place. It was further noted that a permit from WDFW is needed for things like transferring fish. Having the county track that is redundant. Redundant regulations should be removed. It was suggested that some components of the section be revised to make it practical and workable. Alternate amendments will be developed and e-mailed to the TAC.
- 2.3. Q: Are there other uses that require a CUP? A: Yes.
 - 2.3.1. We want to make sure that some of these things aren't at odds with being a preferred use.
 - 2.3.2. One of the concerns with aquaculture may be that it is an extensive use. There are some provisions in the code like hours of operation that are intended to address compatibility with adjacent residential uses. It's the idea that you could potentially have an oyster farm right in front of a residential development if there are state-owned tidelands.
 - 2.3.2.1. Q: So would you prohibit the oyster farm? A: No, not necessarily.
 - 2.3.2.2. A better approach may be to limit things associated with the use like lights, glare, and noise, not necessarily the use itself.
 - 2.3.2.2.1. A CUP isn't a prohibition; it is just a higher bar.
 - 2.3.2.2.2. Under shorelines, a conditional use is not allowed unless it can be demonstrated that the use can meet the standards and conditions of approval, as opposed to something that is outright allowed but still has to comply with permit conditions. It is a different philosophy.
 - 2.3.2.2.3. A hydroelectric facility is another shoreline dependent use that requires a CUP.
 - 2.3.2.2.4. Aquaculture covers a range of things that can be fairly innocuous all the way up to floating net pens. Perhaps some of these things should be looked at more carefully than others.
- 2.4. Comments on Stream Control Works from Llyn (e-mailed to the TAC): The intent of these comments was to incorporate the priority of habitat protection into how stream control projects are regulated. (Text changes are shown in italics.)
 - 2.4.1. Section .124 should be .24, and .14 should be .46 under coordination.
 - 2.4.2. Under "Optimum use" – language should be added to designate importance of habitat.
 - 2.4.3. Section .24 - asks for levee setbacks and recognition that you increase your actual holding capacity during flooding.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.4.3.1. Q: Is the definition of critical structure being changed? A: No, there aren't any proposed changes to the definition.
- 2.4.4. Section .46 - would place the word "recovery" in the priorities for project planning and design. It is intended to refer to the salmon recovery plan.
- 2.4.5. For channelization at the top of page 7, that might be somewhere else, but we would like to make sure it was replaced in the regulations.
- 2.4.6. For Necessity and Purpose, section .32 – insert language that fisheries resources are included.
- 2.4.7. For Ecological and Recreational Values, section .34 - adds rearing areas with spawning areas under (a) so they are both considered; (d) maturation of streamside trees that add to enhancement; and add the word habitat in (h).
- 2.4.8. On the first page under 170.24 - item (c) says setbacks resulting in an increase in water storage capacity should be noted here. We are requesting that the setbacks be prioritized because they result in an increase in storage capacity during flooding.
- 2.4.8.1. This is another thing that should be in the list of design preferences.
- 2.4.9. On the second page, section 170.35 on revetments - the provisions that allow for revetments, levees or dikes to protect existing commercial farms are proposed to be deleted. What about a broader critical infrastructure that might drop farms out?
- 2.4.9.1. Q: How does that line up with the CAO? Does it allow for soft protection measures for farms? A: The test is pretty high. Soft engineering / bioengineering approaches should be used unless it can be demonstrated that there is no other alternative and that something is at risk. The way to approach this is to be sure it is consistent with the CAO.
- 2.4.9.2. Q: Does that differentiate between protection of pasture versus barns and houses? A: This is the section for stream control, which has to do with flood control. There is a separate section on shoreline protection. The new WAC basically prohibits shoreline protection except where there is a structure that is in danger. The WAC is much more stringent on bank protection. It also prefers bioengineering and soft solutions. The boundary between stream control works and shoreline protection needs to be more clearly delineated. One way may be to remove some of this text and refer to the other section.
- 2.4.9.2.1. Q: Would it allow for protection of existing commercial farm structures? A: Structures yes, but not the fields and pastures.
- 2.4.9.2.2. Q: So bank protection would be the soft approach for individual structures? A: The bank protection section says that if you have a structure that is in danger, you may be able to do hard armoring if you go through all of the other steps and nothing else works.
- 2.4.9.2.3. Q: Are the WDFW stream bank protection manual guidelines what is referred to and defined? A: It is not defined. It is generally described. The manual will probably be updated a few times over the life of this document.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.4.9.3. There is language in the CAO that says stream bank stabilization and shoreline protection may be permitted subject to standards. One of the standards specifies that such activities comply with WDFW HPA requirements. Hard bank armoring is discouraged and may only occur when the property contains an existing permanent structure(s) that is in danger of shoreline erosion caused by wave action or riverine processes and not erosion caused by upland conditions such as the alteration of natural vegetation or drainage.
- 2.4.9.4. Q: Is that something that is mirrored in the shoreline process? A: That is what we are trying to do.
- 2.4.10. Q: Does the critical infrastructure section pertain to public infrastructure? A: It says public works, railroads, and existing commercial farmsteads. It should say "infrastructure including railroads, pipelines, etc."
- 2.4.10.1. It might be better to use a term like "critical infrastructure" and then add a definition. There are probably other places in the code where we would want to refer to that definition.
- 2.5. Comments from the County Flood Division focused primarily on the issue of public access. The new WAC basically says that public access should be considered for all publicly financed flood control. There can be some difficulty with this when trying to obtain easements because farmers are often willing to provide an easement for flood control, but can be reluctant regarding granting public access. That policy has to be in there. It would have to be evaluated on a case-by-case basis for each shoreline permit.
- 2.5.1. Q: Does it have to be on-site or could it be elsewhere? A: The general idea is that when you are building a linear facility, like a levee, that it should integrate public access on that levee since an access road is generally provided. The Corps of Engineers doesn't build anything without access these days. It can be an issue with older facilities on older easements where access is not included.
- 2.5.1.1. Q: When you talk about what the Corps builds, are you talking about a federal levee? In Whatcom County there are a lot of levees on the Nooksack that are active in the Corps program and there is no public access. A: Those are probably existing levees. We are talking about new levees.
- 2.5.1.2. Access consideration is required for new levee construction.
- 2.5.1.3. Q: So, the code is saying that you need to look at public access, but not necessarily require it? A: The new WAC says it is required.
- 2.5.1.4. We've been working on a project on Bertrand Creek for the past 2 years where the levees are going to be set back. Q: What does this mean in terms of the way this is drafted now? Would public access be a serious consideration that needs to be looked at? A: Yes. It may be possible to make a determination that public access is not appropriate and adopt specific findings to support it, but one of the overall goals of the SMP is public access. The new rules specifically say that if tax money is being spent, then you need to look at benefiting the public through public access as well as a multiple use benefit.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.5.1.5. The point was made earlier that the community and landowners along the river are sensitive to that issue. In the case of the Bertrand Creek project, we may need to look at that right now. These levees are going to be subject to a lot of water and they have to be maintained in a very specific way. We can't have quads and motorcycles running over them because that could lead to levee failure.
- 2.5.1.6. Then it becomes an enforcement issue for the landowner. In that situation, would the county have to acquire an easement for the levee? It seems pretty complicated. What does "public access" mean? Is that a site-specific thing for the shoreline administrator to determine?
- 2.5.1.7. The way it is set up now is that there is a set of criteria to go through and evaluate. If public access is required, then you have to determine whether that requirement is in conflict with the use.
- 2.5.1.8. Q: Are the application fees for public access going into a bank account to purchase access to the levee? A: That could be a consideration, but it could not be implemented until a plan is adopted.
- 2.5.1.9. It is a sensitive issue because we are making progress with landowners and we're showing them the benefits of what this project will provide. However, it's not a stretch that they may pull out of the project because of public access issues.
- 2.5.1.10. Q: What will they do? They will have no flood protection. A: The district will be forced to maintain the old structures. Public access issues have also come up in other forums.
- 2.5.1.11. Q: Is this required by the RCW or by the County? A: The purpose of the statute is to increase public access to shorelines.
- 2.5.1.11.1. One approach may be for the County to put together a public access plan that identifies places where public access should be pursued and where it may not be appropriate.
- 2.5.1.12. Walking on a levee isn't always access, it's walking on a levee.
- 2.5.1.13. Part of public access is "visual access".
- 2.5.1.14. Q: What about the liability issue? A: There is a state statute that absolves property owners of liability for recreational use of their land.
- 2.5.1.15. Q: Are easements over the top of private property or are they purchased outright? A: In the case of the Bertrand Creek project, we're talking about areas where the levees are going to be moved back, so we're talking about purchasing conservation easements with specific, restrictive language that runs with the title of the property.
- 2.5.1.16. Q: So, the footprint of that levee would be within the conservation easement? A: Yes.
- 2.5.1.17. Q: So, under that conservation easement you would establish your liability concerns and public access arrangements. Will they have the opportunity to use that portion of the area between the original and new

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- levee? A: Right now we're talking about how that may be an incredible opportunity for some salmon recovery work. The levee design could incorporate some things that would allow portions of it to still be farmed.
- 2.5.1.18. We're looking at linear access along linear facilities. What we're saying is really close to the WAC for access.
- 2.5.1.19. This is essentially an easement on private property.
- 2.5.1.19.1. Access doesn't mean just a destination point on shorelines. There is visual access and access of being within a shoreline.
- 2.5.1.19.2. Bertrand Creek is a shoreline and a levee along Bertrand Creek is access along the shoreline.
- 2.5.1.19.3. If the levee is moved far away from the water so that it is located with private property on both sides, it would be hard to argue that it provides access to public shoreline.
- 2.5.1.19.4. If it is located outside of shoreline jurisdiction, then the public access requirement wouldn't apply.
- 2.5.1.19.5. Private property isn't so much the issue. It is if you're spending public money, then multiple use and public access should be considered.
- 2.5.1.19.6. We will look at this more.
- 2.6. Q: How does the new statute deal with forest practices? A: Essentially nothing has changed.
- 2.7. On page 9, section .34, Ecological Functions and Recreational Values. It sounds like it's saying stream control works are prohibited in salmon and trout spawning areas. That seems too restrictive because most of the Nooksack and its tributaries could be considered spawning areas.
- 2.7.1.1. The intention is not to prohibit it on reaches. It is to prohibit displacement of those habitats. The wording will be clarified.
- 2.7.1.2. Q: Is the burden on the applicant? Could it be replaced? A: Probably not unless they can make a good argument that it's part of restoration.
- 2.7.1.3. The other challenge is whether it is active spawning today, potential, or historic. The section will be revised to capture the intent.
- 2.8. On page 9, line 33, Q: Can you put a dike on a floodplain? A: It depends on what the limits of the floodway are. We're looking at Reach 3 of the Nooksack as part of our floodplain and are trying to reconnect historic overflows. If you could show a significant hydraulic benefit, then it might be okay.
- 2.8.1. This refers to the 100-year floodway, not the shoreline floodway.
- 2.8.2. One potential scenario is in Acme where there is a lot of restoration work going on. The county recently purchased a property near the RV park and there has been discussion about allowing natural processes to happen along the South Fork, but the town of Acme is sensitive to flooding. Part of the overall picture is to potentially create some sort of protective levee that would protect the town. There is no plan for that right now. The flood plan says maintain the existing channel.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.8.3.Q: So, it's okay if there is a greater public good. It's not categorically prohibited? A: Yes.
- 2.8.4. Right now Title 17 does not allow for new structures in the floodway unless you go through a variance process.
- 2.9. We're particularly concerned with the ability to regulate the impacts of forest roads in the shorelines.
- 2.9.1. There may be some places where you would refer back to the DNR. This might be one of those instances.
- 2.9.2. Shoreline exemptions would still have to be consistent with the program.
- 2.9.3. We can't be less restrictive than the state.
- 2.9.4. DNR will review more of the document and provide feedback to the group.
- 2.9.5. Let's wait until we get a better indication from Ecology concerning forest practices before handling that issue.
- 2.10. Piers and Docks 23.100.100: If you look at the new priority use section, 11 (a), it is more restrictive. New subsection (c) requires community docks for subdivisions with more than 2 lots or multi-family with more than 2 units.
- 2.10.1. Whether it comes off of community property or private property affects how the lease is established. It's different for community docks. The number of slips is limited with private properties, but they need to have a lease for a certain amount of space.
- 2.10.2. It sounds like they are getting punished for doing a community dock.
- 2.10.2.1. Anybody who is a waterfront owner can have a free space, but if you have 50 lots above and want 40 more slips, then that becomes a lease. The intent is to get a reduced impact across the shoreline and nearshore.
- 2.11. According to DNR regulations buoys should be included in the title. If buoys are for private residences, you can have 2 for free, but others would need to get a permit.
- 2.12. Steel or concrete should be preferred materials for pilings. Under state law, that's all you can put into freshwater, but for saltwater you can still use creosote.
- 2.12.1. Q: You can't put wood in freshwater? A: Not 'treated' wood.
- 2.12.2. Preferred materials across all aquatic environments should be steel and concrete.
- 2.12.3. Q: Are you requiring people to remove creosote pilings? A: The code requires it when a retrofit is done or when a new dock is constructed.
- 2.12.4. There is a section on page 7, .33(c), where certain treatment materials are prohibited. It includes a prohibition of creosote.
- 2.12.5. It says for streams, lakes, or natural wetlands.
- 2.12.6. Q: How often is creosote used? A: There aren't many piers being built in the salt water in Whatcom County.
- 2.12.7. I haven't seen anything being built with creosote in the last 5 or 6 years.
- 2.12.8. WDFW has some regional rules that restrict the use creosote or treated materials for bulkheads and a few other things.
- 2.12.9. I don't think that is being allowed under the Corp's dock repairing requirements. So, the new construction of a residential pier may need to be looked at further.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.12.10. It may make sense to add that to the prohibition on creosote.
- 2.12.11.Q: What does the committee think about requiring removal of existing creosote material for repair or reconstruction? A: You could require removal or biologically isolate it. You can wrap these things up.
- 2.12.11.1. Should there be a threshold? If someone is just replacing a board on their dock, does that mean that the whole thing has to be torn apart?
- 2.12.11.2. Lake Whatcom is different because it is a drinking water supply.
- 2.12.11.3. This is a policy question and an administrative consideration. On the other hand, it is in the public interest to remove those materials.
- 2.12.11.4. Biological isolation prevents these chemicals from leaching into the water column and it's fairly inexpensive.
- 2.12.11.5. This applies to the materials below the OHWM. It wouldn't be the cross-beams or the planking on the top, so if you had language like "replacement of pilings" or "isolate", that would be fine.
- 2.12.11.6. Make it consistent with the Corps permit for dock repair.
- 2.13. Q: Does pier and dock design apply to new docks? A: Yes. Q: What about new recreational docks? A: They are also regulated under section .16 (a).
- 2.13.1. It should also go under the regulations section, on page 7.
- 2.14. Q: On page 3 under pier and dock design, do we have any way to define safety and practicality? A: It's a policy on page 7, under (b).
- 2.15. Q: For a private dock, how do you determine what the minimum required need is for a moorage? A: The maximum width is 4 feet unless they can show they need something else. On page 8. Typically they show us their boat.
- 2.15.1. DNR is trying to get a better definition on the subject of docks, dock spaces, etc.
- 2.16. One thing these regulations do not address is the policy preference for buoys. We've added language that you have to demonstrate that buoys are not feasible. This could be an issue for new subdivisions.
- 2.16.1. On page 8, "moorage buoys shall be placed as close to shore as possible..." - there should be some different language there because that's where the eelgrass is. It should be changed to say "located outside of the nearshore area and in manner the DNR (or other agency) determines it won't impede navigation".
- 2.16.1.1. Q: Do you look at the location of the buoy? A: Yes, we're mapping them now.
- 2.16.1.2. Buoys don't necessarily eliminate the need for a dock.
- 2.17. Private recreational docks, page 6, includes 3 criteria based on what the WAC says. In the application, the applicant must address 1) existing facilities in the vicinity, 2) whether there are alternatives such as mooring buoys, and 3) whether property owners in the vicinity are willing to share a dock.
- 2.17.1. Q: Should the title say "private recreational docks"? A: Yes, because there is a separate section for commercial docks. We will look at the WAC.
- 2.17.2. Q: What about a yacht club? A: That is commercial.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.17.3. Q: Are there any ways to encourage multiple uses, as opposed to using the 3 criteria? How do you encourage as opposed to discouraging people from building a dock? A: The current SMP allows for additional length if you have cooperation from additional owners.
- 2.17.3.1. Joint uses are difficult.
- 2.17.4. Another alternative may be to establish a minimum length and width to be more restrictive. It could allow a specific length for a private dock, but if you want additional length, you will have to share it with your neighbors.
- 2.17.4.1. Length isn't so much a problem as the square footage/footprint.
- 2.17.4.2. One option to provide a meaningful incentive may be to eliminate the provision for variances for private recreational docks.
- 2.17.4.3. Q: Does this protect access? A: There is a way to have it delineated in the codes.
- 2.17.4.4. Maybe we could provide a range of distances from the nearshore to protect ecological condition.
- 2.17.4.4.1. Q: How is a 40-foot dock worse than 150-foot dock? A: The low impact situation isn't the use of a dingy, it's where the boats are.
- 2.17.4.4.2. Be sure to differentiate between commercial and residential docks.
- 2.18. On page 5, "no pier, dock, or watercraft...shall be used for a residence". Q: Has that always been in the rules? A: This doesn't apply to buoys or anchors.
- 2.19. Transportation section: The major addition was to address parking facilities to support an authorized use where there is no alternative location away from the shoreline. It also includes additional description of public transportation. Basic policy is to locate these facilities away from the shoreline if possible. It does not address existing roadways or railroads adjacent to the shoreline. It is not likely that there will be many new roadways or railways proposed, but there may be widening of existing roadways.
- 2.19.1. Q: Would this address new construction or retrofits? A: Maintenance of existing facilities is generally exempt and in a separate category. If you wanted to replace a bridge, then that would require a substantial development permit because it would exceed the threshold.
- 2.19.2. Snohomish County had to improve stream connections to saltwater for fish passage.
- 2.19.2.1. That's state law for roadways. Railways are different.
- 2.19.2.2. That's because they had to add second track.
- 2.19.3. Q: How are the maintenance criteria defined? A: Reconstruction and replacement is allowed. There is language in the exemption. The criteria are defined in the WAC.
- 2.20. Q: On page 7, section .31(d), line 21 - the road on the reservation and the Johannessen-styled beach, is that considered an artificial beach? Can you create a beach that is better, sustainable?
- 2.20.1. The preference is for a naturally sustaining beach?

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 2.20.2. Is that feasible? Can you do it without riprap? Should that be taken out?
- 2.20.3. It should be revised to include a threshold where you have to look at various options before using a standard riprap solution.
- 2.20.4. You would want to emulate the natural processes as much as possible.
- 2.20.5. You need to demonstrate feasibility.
- 2.20.6. Q: Does the hearing examiner determine what is feasible? A: The shorelines administrator.
- 2.20.7. Whenever the county processes a substantial development permit, they coordinate with the public and other public agencies to get input and feedback on these proposals for technical advice.
- 2.21. Utilities: There is a fair amount of new proposed wording, most of which is looking at alternative corridors.
 - 2.21.1. Q: Is there anything that specifically addresses channel migration zones? A: Language about accommodating the channel migration zone is in the CAO.
 - 2.21.2. This needs to be consistent with the CAO and not create unintended impediments to restoration in the future.
 - 2.21.2.1. The CAO language should be mirrored in the SMP. Cross-referencing would be easier.
 - 2.21.3. Q: Does that address new construction, a rebuild, or expansion? A: Repair and rebuilding are the same thing under shoreline exemptions.
 - 2.21.4. Q: Are you talking about a new pipeline going in on an existing corridor that has less impact? A: On the Nooksack, there are 2 existing pipelines and a 3rd pipeline is being proposed to replace one of the others. We are looking at addressing some of the problems with the existing pipelines as we evaluate the new construction.
 - 2.21.4.1. You can establish thresholds for re-evaluating something. For example, if you have an existing pipeline and it is in a shallow location, you have to provide flood protection for that. It would be helpful to have something in the program that can be pointed to.
 - 2.21.4.2. I'm not sure how you do that in the regulations. You could put something in the policies that says that when an existing facility is being reconstructed, then existing problems should be identified and addressed.
 - 2.21.4.3. A condition of the new pipe would essentially be to fix the old one.
 - 2.21.4.4. In the existing corridor.
 - 2.21.4.5. This is venturing into public facilities.
 - 2.21.4.6. It should be determined whether or not the county has the authority to regulate that.
 - 2.21.4.7. A policy statement will be drafted.
 - 2.21.4.8. Q: What about getting something like that through mitigation sequencing? A: A specific mitigation policy could be added from the WAC about rectifying adverse impacts. It is a state policy and a critical area policy. We could make it more explicit in the shoreline policy.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

3. SMP Shoreline Jurisdiction and 20 c.f.s. points : David Kresch with USGS has been contacted and he agreed that the 20 c.f.s. calculations need to be looked at closer. Barry will follow up with him.

4. Presentation of remaining SEDs: The marine shoreline environment designations are not ready yet. An overview of the proposed designations for the Lummi River was provided.
 - 4.1. (Showing on the map) A majority of the Lummi River is within tribal jurisdiction. The upper reaches are currently designated Rural, and are proposed to stay Rural. Some Natural is proposed to be maintained at the end of the delta. Consistent with the methodology that has been used on the other reaches, where the primary land use is agriculture, forestry, or mining and the ecological conditions don't reach a threshold where it would warrant Natural or Conservancy designation, then a Resource designation has been proposed. That wraps up all the freshwater and lake designations. The marine designations may be ready by the next TAC meeting.
 - 4.1.1.Q: The Nooksack Tribe has submitted more information for consideration of the Natural designations in the Upper Fork, so where are we with that? A: In the South Fork, the reaches upstream of the Saxon Bridge are proposed as Natural, but the Middle and North Fork are proposed to be kept in Conservancy at this point.
 - 4.1.2.Q: What were the impacts on the Middle Fork above the diversion dam that made it lower than a Natural designation? A: It has been assessed that those upper reaches are fairly disturbed, and because they are above the diversion dam, it seemed that it would not be appropriate to bring all of that area into a Natural designation from Conservancy. A proposed split designation of Natural and Conservancy may have merit, but we may want to see how the forest practices piece is resolved.
 - 4.1.3. The city is actively pursuing removal of the dam. It was suggested that the management approach reflect the intended objective.
 - 4.1.3.1. It should assume that there is passage.
 - 4.1.3.2. It's one of the priority actions in the salmon recovery plan.
 - 4.1.3.3. From a policy consistency standpoint, the county should consider a statement that addresses the concept of Natural designations for priority salmon recovery reaches rather than a symbolic statement through a SED. The implications of that on other reaches should also be considered. Does that mean we end up with Natural designations that don't fit our criteria for assigning designations?
 - 4.1.3.3.1. Part of the challenge is that there are current designations and there are desired future conditions. It will be a while before you get to the desired condition.
 - 4.1.3.3.2. Leave it until we resolve the forest practices issue.
 - 4.1.3.3.3. We will keep this item on the agenda until we hear from USGS.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

5. Discussion of chapters 1-3 of the Draft Inventory and Characterization Report. (Overview of chapters.)
 - 5.1. Chapter 1 is introductory material that essentially states that the purpose is to comply with the shoreline guidelines.
 - 5.2. Section 1.2: Overviews what constitutes shoreline jurisdiction under the RCW.
 - 5.3. We have to ensure consistency between the SMP and CAO.
 - 5.4. Organization of report: We envision a map folio, a restoration plan as a separate volume, as well as a science record.
 - 5.4.1.Q: Can we get an outline of the restoration plan? A: Yes.
 - 5.4.2.Q: On page 5, line 22 - Shouldn't the regulations themselves go above and beyond no net loss? A: The restoration plan recognizes that there are some activities that are exempt that are not being mitigated for. The restoration plan will help compensate for those. So, it's both.
 - 5.5. Chapter 2: Reviews methods on how we are determining the limits of shoreline jurisdiction (e.g. geomorphic floodplain, 20 c.f.s. points, verifying 20 acre or larger lakes, and the marine shoreline).
 - 5.6. Brief discussion of marine shoreline methods for the landscape characterization.
 - 5.7. Outlines how the reaches were delineated for the reach inventory.
 - 5.8. Summary of the built environment and ecological conditions, what the guidelines require to be inventoried.
 - 5.9. Section 2.3: Describes the modified Steven Stanley approach in detail - consistent with the presentations made to this group. Identified the aquatic resources and their contributing areas, the key landscape processes for each type of aquatic ecosystem, mapped process intensive areas (same as important areas, principal process areas, etc.). Described the 5 processes that were analyzed.
 - 5.10. Described the freshwater reach inventory.
 - 5.11. Appendices (B & C) for chapter 2 were included in the email.
 - 5.12. The Steven Stanley methodology used for the landscape analysis is being peer reviewed right now.
 - 5.13. Q: Is that being referenced in the appendices? A: Yes, there is reference to the method at the beginning of section 2.3 *Ecology 2005*.
 - 5.14. Section 3: Overview of landscape processes and alterations at the county scale - marine environment, marine processes, regional scale processes and controls, landscape-scale processes, and more small-scale processes.
 - 5.15. This is a coarse scale overview. We will be going over the watershed management units in more detail.
 - 5.16. Q: What about the influence of the Fraser River? A: That is included.
 - 5.17. Q: Are we in Puget Sound? A: The Strait of Georgia.
 - 5.17.1. The Fraser River is a huge influence on Cherry Point, Point Roberts, and Boundary Bay.
 - 5.17.2. Q: Should the reference be to the Strait of Georgia or the Haro Strait? A: The Strait of Georgia.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 5.18. There are a number of places that have been highlighted that are placeholders for text that we haven't included yet or we're waiting for additional information.
- 5.19. On page 3-10, the map showing the net shore drift cells (figure 3-4) is on a link.
- 5.20. On page 3-13, we talked about the marine nearshore habitat types and process alterations.
- 5.21. Q: Did you look at the Blueprint process that Skagit County used? A: Yes and we will be looking at that a little more closely.
- 5.22. Q: What was the template you are relating this too? A: The Skagit Bay Blueprint put together by People for Puget Sound.
- 5.23. On page 3-19, in the last sentence of the last paragraph, there is a typo on shellfish protection areas.
- 5.24. Section 3.5: Overview of process controls. A key issue with chapter 3 is that it requires a certain familiarity with the methodology to understand the language. There are a lot of assumptions in the methodology that you might have to revisit.
- 5.25. Some references appear to be missing, so they will double-checked.
6. Policies continued: Back to Boating Facilities, this section does not include commercial docks. We will have to go back and distinguish between the two.
- 6.1. Size limitation will have to be different for commercial and residential docks.
- 6.2. This section serves for 5 or more single-family residences.
- 6.2.1.Q: What if you have a multi-family development, would DNR consider that a commercial lease? A: That is what we're trying to work out. Right now the WAC says its for up to 4 vessels and is a non-leased arrangement. This will have to be looked at closer.
- 6.3. The public access part, on page 10, was rewritten to provide assurance that the recreational use prevents net loss of ecological functions and to expand the range of public use for a variety of things. The standard under (d) says that in general 20% of the developed area of public aquatic land should be provided for public access.
- 6.3.1.The 20% should include portions that are actually constructed, which is not the same as the DNR lease.
- 6.4. When you get into section .35, marine shorelines, the code previously referred to "possible", "poor", and "preferred" locations. Now it says it is prohibited unless you can prove that there is no interference with littoral drift. Wording such as "poor" are hard to define.
- 6.5. We need to take out "natural wetlands" in that section, and what does "critical saltwater habitats" apply to in the county regulations? A: The WAC defines it.
- 6.6. Q: For (e) with backshore marinas, if it's on a closed accretional point, would that imply that you're going to breach the accretional landform? (Like Sandy Point) What is high energy versus low energy? The way it's written it "shall" be permitted. A: It should be "may" instead of "shall". The key issue is if it's closed, you can still disrupt the accretional cycle through the construction of a marina.
- 6.6.1.Unless it's on the backshore.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 6.6.2. This is the same thing for (d) and (e).
- 6.6.3. Could you put in an intention statement?
- 6.6.4. It was proposed to take them out.
- 6.7. Stream and River shoreline: Q: Are there any places that would be practical to put a marina on a river? A: It may be pretty unlikely.
- 6.8. For Lakes: Q: Do we need to change “areas of active channel migration” to “designated channel migration zones” to be consistent with other regulations?
- 6.9. On page 14, Preferred Designs: Q: How can you locate an overwater facility in the backshore? A: They have them in Point Roberts and Birch Bay.
- 6.10. We do have a regulation that says if you interfere with littoral drift, you’re responsible for replenishing it.
- 6.11. Q: Where would you build another marina in Whatcom County? A: There has been discussion of putting another one in.
- 6.11.1. What about moving (e) closer to the top to encourage dry storage?
- 6.12. Does any of this relate to freshwater? A: Something for lakes may be appropriate. I’ll look into other codes.
- 6.13. Q: What if you had design criteria that addressed foreshore marinas and (e) could say if you are going to punch a hole in the beach that it has to be in a place that’s not going to cause these kinds of littoral drift issues. It might make more sense to split those out.
- 6.14. A distinction needs to be made between nearshore and backshore.
- 6.15. Covered moorage: Should it be allowed if there is no public benefit?
- 6.15.1. Q: Are there any commercial or industrial facilities that might need weather protection? A: Boat repair, but that is a different use.
- 6.16. Under waste disposal: Is there anything here that deals with residential use.
- 6.16.1. The county does not regulate residential uses in marinas. Should there be a limit? Should there be requirements for facilities (water, sewage, showers, etc.)?
- 6.16.2. There should be requirements for waste handling and removal. We should not attempt to regulate what the health department does. The objective is to regulate potential impacts to shorelines. Discharge of water could be addressed.
- 6.16.3. It’s possible to say that if people will be living on their vessels, that showers and things like that have to be provided. It may not be reasonable to say that every boat has to have a sewer hook-up.
- 6.17. Marinas have things that are not vessels that people live on and that’s a big issue as to whether they are hooked up to sewer or not. By default, anything that is in the county would fall under the basic rules for all marinas, so we may have coverage for a lot of it.
- 6.17.1. More research needs to be done on this.
- 6.17.2. Q: Would you want to limit the number of slips? A: If it’s on state property, it’s 20% for facilities.
- 6.17.3. Q: If the facilities are there to accommodate the use, then why put a limit on it? A: For boating facilities, we’re trying to provide for people’s recreational use and by providing these facilities we might be able to reduce the impacts of multiple docks.

**CAO and SMP Update
Technical Advisory Committee
Meeting Summary**

- 6.17.4. If all of the moorage slips are allowed to fill with live aboards, then that leaves fewer slips for recreation and more slips are needed.
 - 6.17.5. Q: What about fisherman and live aboards? A: That is a transitional use.
 - 6.17.6. We can defer to the DNR 20% rule and not address it here.
 - 6.17.7. We will read the DNR rule and come back to it.
 - 6.17.8. The rule was written for local governments to decide what they wanted within their marina facilities.
 - 6.17.9. Just by saying there is a 10% limit (or whatever %), there will be a certain amount of the public that has limited means and limited ability and they will do it anyway.
 - 6.17.10. This is not an issue for Whatcom County. We don't have live aboards in Whatcom County. (Other than in Bellingham and Blaine.)
 - 6.18. For launch ramps, page 17, parking in general should be kept out of the shoreline jurisdiction due to parking lot runoff issues and impacts to ecological functions.
 - 6.18.1. Launch ramps are water dependent uses, so it may be appropriate to say that launch ramps and their access roads can occur within designated buffer areas, but parking should be outside the buffer areas.
 - 6.18.2. That is also consistent with the CAO.
 - 6.19. Q: Is this for ramps at single-family residences? A: It was taken out of residential, but there is nothing that says it doesn't apply to single-family residences. Perhaps it should say that they are only allowed when they serve a substantial amount of the public.
 - 6.19.1. Q: If we are going to permit this, is there going to be a requirement that it be available to the general public?
 - 6.19.2. One way would be to make it available to the public, but not the parking. There can be boat launch access, but then take the parking impacts out of the shoreline.
 - 6.19.3. We should be careful because there are places where there is public access, but no parking. All of the trailers were lined up along the county road.
 - 6.19.4. If you have a development with a shared moorage facility and moorage buoys, it doesn't necessarily make sense to have people drive to the nearest public beach. We do need to add the no net loss criteria and make it clear that we're not talking about individual single-family residences, but boat launches that have to serve multiple uses and public benefit.
 - 6.19.5. Q: Will there be a map that shows points of public shoreline access? A: That will be in the marine shoreline characterization.
 - 6.20. Signs: the current code limits signs to maximum of 3 and one can be free-standing. A new sliding scale of vertical side area has been recommended (page 20).
 - 6.21. Projecting signs cannot extend more than 4 feet from the wall. Signs shall be integrated into the building.
7. The next meeting will be on the 21st and additional chapters of the draft inventory and characterization report will be distributed.
8. The meeting adjourned.