# IV. Core Elements

## ➢ HABITAT

*Habitat is Key*

## LINKING LAND USE DECISIONS AND SALMON RECOVERY

### I. Current Situation: *Where are we now?*

**Background**

The tremendous population growth experienced in the past 30 years has taken a toll on the state's natural resources. The State Office of Financial Management, Forecasting Division estimates show the state's population has grown by 20% every 10 years since the 1960s. It now stands at 5.6 million, forecasted to reach 5.9 million in the year 2000 and 7.7 million by 2020. This growth must be handled in ways that are friendly to salmon. Otherwise our efforts to repair past mistakes will be swept away by new development.

While growth was experienced in many counties in the state, urban counties along interstate I-5 have grown the most, with some counties such as Clark County experiencing a 33% increase in population between 1990 and 1997. The population increase and associated development have drastically altered many natural habitats critical for salmon survival. Growth management will continue to be a major challenge facing the state for many years to come. (See discussion on urbanization in Chapter II. Background: Setting the Context.)

Urbanization has significantly affected small streams, riparian corridors and associated wetlands. A great percentage of spawning and rearing habitats in estuaries, wetlands, and streams have been eliminated or degraded. The cumulative effects from years of human disturbance will take many years to turn around. The greatest challenge will be developing and implementing strategies in urban and rural areas to protect and restore habitat while accommodating population growth, and addressing economic viability in light of restrictions anticipated for salmon recovery.

**Current Applicable Policies**

Washington has a rich and at times confusing and poorly integrated array of land use and environmental laws. Over the last thirty years, state and federal governments have enacted legislation designed to protect or address specific environmental concerns. In many cases these laws did not adequately address environmental impacts of land use decisions. The Shoreline

Management Act (SMA) adopted in 1971, and the State Environmental Policy Act (SEPA) adopted in 1971, have recognized some of the gaps and the need to focus on avoiding or mitigating impacts at the planning stage rather than making decisions permit by permit to mitigate impacts.

It was not, however, until the passage of the Growth Management Act (GMA) by the Legislature in 1990 that the relationship between land use decisions and environmental impacts was given more significance. While the primary tools for regulating development activities is through SMA, SEPA, and GMA, there are other state, federal, and local laws and regulations that apply to various land use activities.

In addition to the legislation there is a wide range of governmental entities and authority with a role in land use and environmental decisions. Several of these laws establish a shared responsibility between various local governments, between the state and local governments, and with tribal governments. To clearly understand the solutions outlined in this chapter it is important to present a brief overview of key land use regulatory policies and programs and state and local governments that have a role in land use decisions that relate to salmon protection and restoration.

*State Environmental Policy Act*

Together, with the Shoreline Management Act, the State Environmental Policy Act (SEPA, Ch. 43.21C RCW) forms the basis of Washington's modern environmental framework. SEPA requires a state agency or local government to prepare an environmental impact statement before making a decision that will have "a probable significant, adverse environmental impact."

SEPA's primary function is to inform decision-makers about the consequences of their actions and to assess and mitigate the environmental impacts of state and local legislation and specific development proposals. For example:

An agency may deny permits or other approvals under SEPA if the proposal would likely result in significant adverse environmental impacts and if mitigation measures would be insufficient to avoid or reduce those impacts. Although SEPA has not been fully utilized by local and state agencies, it is a very critical tool to use to address the inadequacy of existing regulations to protect and enhance salmon habitat.

*Shoreline Management Act*

The Shoreline Management Act (SMA, Ch. 90.58 RCW), adopted in 1971, was Washington's first comprehensive land use planning statute. The SMA applies statewide to all water bodies, except for smaller streams and lakes. In addition, the SMA defines "shorelines of statewide significance" which include the Pacific coast, portions of Puget Sound, lakes over 1000 acres, and rivers with a specified flow.

The SMA established a cooperative regulatory partnership between state and local government. Local government develops and administers the program and the state provides guidance, technical assistance and oversight. Every local government with shorelines is required to adopt a local Shoreline Master Program (SMP). The Department of Ecology must review and approve the program based on consistency with the SMA and other specific rules that establish minimum requirements for local programs (the SMP Guidelines). Local SMPs or amendments are not effective until approved by the Department of Ecology.

The locally developed Shoreline Master Program provides the specific requirements for implementation of the policy of the Shoreline Management Act and is tailored to address local shoreline conditions and needs. The required elements of the SMP, defined by statute, include economic development, public access, recreation, circulation, land use, conservation, historic and cultural preservation, science and education, and flood prevention and management. The SMP must also include provision for the issuance of a substantial development permit for certain types of shoreline development. Certain other shoreline uses and activities identified in the local master programs require Conditional Use permits or Variances that require state approval.

Legislation passed in 1995 integrated the Shoreline Management Act and the Growth Management Act. In addition, the local shoreline master program is considered to be an element of county or city's GMA comprehensive plans and development regulations. The changes were mostly procedural and did not alter the basic substantive authorities.

Most of the local shoreline master programs in effect today were originally adopted in the mid to late-1970s and were based on guidelines developed by the Department of Ecology. The guidelines have not been comprehensively updated since adoption. As such, they do not reflect current scientific understanding or common shoreline management practices gained over the last twenty-five years.

In summary, the SMA provides a strong policy basis and represents a powerful tool for protecting and restoring salmon and trout habitat as a part of an established local planning and permitting system for shoreline development[1].

*Growth Management Act*

The Growth Management Act (GMA, Ch. 36.70A RCW) was initially enacted in 1990. In 1991 the Legislature adopted additional provisions. The GMA applies to certain counties and cities based on population level and voluntary option to opt in. There are 18 counties that are required to plan because of their population and /or rate of growth. In addition, 11 counties have voluntarily chosen to plan under the Act. These 29 counties contain more than 80% of the state's population.

[1] RCW 90.58.020. "The Legislature declares…..(1)Recognize and protect the state-wide interest over local interest; (2) Preserve the natural character of the shoreline; (3) Result in long term over short term benefit; (4) Protect the resources and ecology of the shoreline; …"

The GMA gives local governments broad discretion to make choices on how they will comply with the requirements of the statute. No state agency has authority to adopt mandatory rules that a local government must follow in its planning process. The state role is limited to providing technical assistance and commenting on proposed plans and development regulations.

The Department Community of Trade and Economic Development, the state agency with growth management responsibilities, does have authority to adopt minimum guidelines for designating natural resource lands and procedural criteria to guide the development of the comprehensive plan.[2] Decisions of the Growth Management Hearings Boards have determined that the guidelines are voluntary.[3] The Boards and the Courts do, however, look to the guidelines as a basis for determining whether local government decisions comply with the GMA.[4]

The GMA establishes thirteen goals that apply to cities and counties jurisdictions and they are required to take these goals into consideration when adopting the required comprehensive plan and development regulations. In 1995, in an effort to bring some coordination between the GMA and the SMA, the goals of the Shoreline Management Act were incorporated by reference into the Growth Management Act.

A GMA comprehensive plan must have a minimum of five elements: land use, housing, capital facilities, utilities, and transportation. A county is also required to include a rural element in its plan. A 1997 amendment to the GMA requires all GMA cities and counties to review and revise, if needed, their comprehensive plans and development regulations not later than September 1, 2002 and on a five-year cycle, thereafter[5].

Two provisions of the Growth Management Act apply to all counties and cities in the state, whether or not they are planning under GMA: 1) the requirement to designate natural resource lands (agriculture, forest, and mineral resources lands) and 2) the requirement to designate and protect critical areas. This requirement to designate and protect critical areas -- wetlands, fish

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[2] RCW 36.70A.190. "(4) The department shall establish a program of technical assistance [by]: … (b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter."

[3] See, e.g., *Twin Falls, ...*

[4] See, e.g., See, e.g., *Benaroya v. Redmond*, __ Wn. 2nd. ___ (1998) where the Supreme Court referred to the minimum guidelines for designating natural resource lands in establishing the meaning of "agricultural lands" under the GMA.

[5] RCW 36.70A.130(1). "Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Not later than September 1, 2002, and at least every five years thereafter, a county or city shall take action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure that the plan and regulations are complying with the requirements of this chapter [GMA]."

and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and aquifer recharge areas, is key to the state salmon strategy. Designation and protection of all five critical areas has a direct relationship with how well we can protect and restore salmon in urban and urbanizing areas. In 1995, the Legislature directed the counties and cities to use "best available science" and give "special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries"[6] when designating and protecting critical areas. (See discussion on science as a guide in Chapter III. A Road Map to Recovery.)

Consistent with the Growth Management Act's goals for environmental protection, resource lands, critical areas and sprawl reduction, most local governments have undertaken extensive efforts to develop and adopt plans and regulations to protect streams, habitat, and wetlands; conserve resource lands; and direct most new growth to urban areas. The requirement to use best available science and address salmon were added after many local governments had adopted their critical area designations and development regulations. The 1995 requirement applies only to development regulations adopted after the effective date of the legislation or if the regulations are amended. As a result, the majority of city and county critical area ordinances have not been tested against the new requirement.

The Governor has the authority to appeal local GMA action to the Growth Management Hearing boards and to impose sanctions, by withholding certain funds, against a county or city that fails to comply with the act. In addition, the Governor may impose sanctions on a city or county that has failed to meet the timelines for compliance. A city or county not in compliance with the GMA is ineligible for certain state grant programs, including grants to construct, repair, or replace sewer and water facilities.

The state provides local governments with grants to assist them with environmental review and planning, based on the premise that better environmental review of plans would result in a more efficient project review process and better environmental results.

In summary, the basic architecture of the GMA defines a strategy for land use management that will aid in watershed protection and salmon recovery. That strategy is to:

- Protect healthy streams and wetlands and minimize impervious surfaces;
- Conserve rural and resource lands;
- Direct new urban growth to urban areas; and
- Provide for open space corridors within and between urban growth areas.

*Forest Practices Act*

Under a 1997 amendment to the Forest Practices Act (Ch. 76.09 RCW), by December 31, 2001 cities and counties are required to adopt and begin administering regulations for forest practices which convert parcels from forest management to development. The regulations must

[6] RCW 36.70A.172(1).

meet or exceed the standards in the Forest Practices Board regulations existing at the time the city or county takes action. (See Chapter IV.A.2. Forests and Fish.)

*Floodplain Management Planning*
Both state and federal laws provide a variety of programs to encourage floodplain management and planning. Floodplain management is important to salmon survival because it directly impacts fish habitat. The response to flooding in most areas has been to build levees, harden banks, dredge the rivers, and construct flood control dams. These corrections to flooding problems have resulted in major habitat degradation and loss. (Some counties, such as King County, place an emphasis on non-structural solutions and environmentally sensitive approach to maintaining flood control river facilities.)

*Hydraulics Code*
The Hydraulics Code is the Washington Department of Fish and Wildlife's (WDFW) primary authority to meet the goals of protecting habitat. WDFW issues authorizations (Hydraulic Project Approvals) for activities that occur below the ordinary high-water line. This is one of the main regulatory mechanisms the state has to address uses (bulkheads, fills, gravel removal, dredging, placement of structures, etc.) impacting instream habitat. (See Chapter V.C. Permit Streamlining.)

*Clean Water Act*
The Clean Water Act (CWA) is the principal federal statute for protecting water quality. (See discussion in Chapter IV.A.6. Clean Water for Fish: Integrating Key Tools.) In addition, section 404 of the CWA, administered by the U.S. Army Corps of Engineers, regulates certain activities such as dredging, filling, and locating structures. The Corps cannot, however, grant a 404 permit unless the state Department of Ecology certifies under section 401 of the CWA that the project does not violate state water quality standards.

The requirement to establish total maximum daily loads (TMDLs) and to control point and nonpoint loading will increasingly affect land uses and growth.

*Special Purpose Districts*
Washington law authorizes the creation of numerous special purpose districts to address issues ranging from irrigation to agricultural pests to the provision of sewer and water services. A number of these special purpose districts have responsibility over matters that have either a direct or indirect impact on land use and the environment. Very few of them require county approval.

> <u>*Sewer and Water Districts*</u>: Sewer and water districts have the authority to establish water and sewer systems. Many actions taken by a water or sewer district must be approved by the county legislative authority and by any city in whose jurisdiction the district operates. A sewer or water district must have a general comprehensive plan. The plan in unincorporated areas must be approved by the local health department and by the county

legislative authority. The plan cannot provide for the extension or provision of facilities in conflict with Growth Management Act requirements limiting growth to urban growth areas.

*Public Utility Districts*: Public utility districts (PUDs) may operate a wide range of facilities, including electrical generation and distribution systems, water supply systems and sewers. No specific statutory provisions require PUD actions to be consistent with county comprehensive plans.

*Flood Control Districts*: The purpose of a flood control district is "to control floods and lessen their danger and damages.[7]" Some flood control actions are required to be consistent with the district's comprehensive plan. The district is not specifically required to have its plan consistent with the requirements of comprehensive plans.

*Port Districts*: The operations of port districts could have a significant impact on the near shore marine environment.

*Irrigation Districts*: An irrigation district may provide water for irrigation purposes and, with some limitations, for domestic purposes. An irrigation district may also decide to establish a sewer system. Irrigation district actions are not required to conform to a county's comprehensive plan.

*Open Space Taxation Act (RCW 84.34)*

In 1970, the legislature created the Open Space Taxation Act (Chapter RCW 84.34) to implement current use assessment programs that protect 'open-space'. The Act is referred to as Current Use Taxation or CUT. The 'open space,' CUT, offers a reduction in property taxes on private lands when the current open space amenities on these lands, such as wetlands and riparian corridors, are deemed of community benefit and are worth the tax incentive to retain them in their natural undeveloped state. CUT is a unique law in the nation. It provides the option of tailoring implementation of tax relief benefits to local needs. It combines the strong incentive arm of "open space" property tax valuation with the powerful fund-raising option of the "conservation futures" levy. CUT can contribute to smarter growth strategies that enhance livability of a community.

*Mitigation Banking*

In 1997, the legislature passed the Wetland Mitigation Banking Act, recognizing that mitigation banks are important tools for providing compensatory mitigation for unavoidable impacts to wetlands. The Department of Ecology is in the process of developing and adopting rules for the certification of wetland mitigation banks.

[7] RCW 86.09.010.

In addition, the 1998 Salmon Recovery Planning Act (ESHB 2496) directed the Departments of Ecology, Fish and Wildlife, and Transportation to develop alternative mitigation policy guidance. The guidance is to improve the ecological benefits from compensatory mitigation for wetlands, water quality, flooding, and fish and wildlife habitats impacted by human activities. A proposed policy guidance has been developed. It proposes to adopt the watershed approach to aquatic resource mitigation and provide flexibility needed to address salmon recovery efforts while operating within the existing regulatory framework.

In summary, it is going to take the collective use of federal, state, and local regulatory and non-regulatory authorities to restore and protect healthy watersheds and to resolve the public policy issue of protecting environmental and natural resources in the face of continuing growth and development.

**Current Efforts**

Counties, cities, and tribal government are undertaking approaches, programs and projects to protect and restore salmon and habitat; this includes assessing/analyzing factors limiting salmon, and adopting protection and restoration programs to protect and restore riparian habitat, managing stormwater run-off, removing fish barriers, acquiring key salmon habitat, etc. Much of the efforts put forth by local governments are very helpful and are needed to help respond to salmon recovery, but they are not enough. The Endangered Species Act is challenging both local and state approaches to land use.

The current condition of many salmon populations would suggest that many plans, programs and regulations are not fulfilling their goals to protect and preserve natural resources and the environment. Current knowledge and understanding of salmon protection and recovery requires that state and local plans and regulations be updated and that more restrictive regulations and/or economic incentives be enacted to protect, preserve and restore salmon habitat.

The following is a summary of local governments' current land use actions:

*Shoreline Master Programs*

Since it was adopted in 1971, nearly every city and county in the state with shorelines has adopted a shoreline master program (SMP) as required by the Shoreline Management Act. There are currently over 246 adopted SMPs statewide. However, many cities and counties have not made any significant changes to their SMPs since original adoption. Adoption of new SMP Guidelines by the Department of Ecology will trigger a requirement for updates of local SMPs

*Growth Management Plans and Regulations*

As of September 1998, 29 counties and 216 cities were planning under the Growth Management Act (GMA, RCW 36.70A). To be in compliance with the provisions of the GMA, local governments must have adopted comprehensive plans and development regulations

to implement the goals and policies of their plans. Development regulations include such things as a zoning code, subdivision ordinance, clearing and grading ordinance, critical areas ordinance and other regulations as necessary.

All 39 counties and 278 cities in Washington State were required to designate and protect critical areas. The Department of Community Trade and Economic Development (CTED) has conducted a review of county and city critical areas ordinances in an effort to determine the degree to which they meet the best available science standard and give special consideration to salmon protection and conservation. (The Critical Areas Ordinance Review Project, Final report was issued by CTED, December 1998 summarizing the findings of the review.)

The study examined the degree to which county and city critical areas ordinances conform to the Department of Ecology's Model Wetlands Ordinance, the Department of Fish and Wildlife's Priority Habitat and Species Program and the types of exemptions provided, specifically including exemptions for agricultural activities. In the Puget Sound region, there was a review of the degree to which the ordinances comply with the Puget Sound Stormwater Manual published by the Department of Ecology. The study also examined whether the county or city had implemented an enforcement program, including civil or criminal penalties. The review found wide variation among jurisdictions.

The following is a summary of Washington's 39 counties and 278 cities that have adopted or failed to adopt critical area ordinances as of December 1998:

1). Adoption of Critical Areas Ordinances

- 10 % or 4 out of 39 counties in Washington are without Critical Area Ordinances (CAOs).
- 9 % or 26 of the 278 cities in Washington State do not have CAO ordinances.

2). Critical Areas Designations

- 31 of 39 counties have addressed all 5 critical area types, including wetlands, fish and wildlife conservation areas, frequently flooded areas, critical aquifer recharge areas and geologically hazardous areas.
- 19% of 278 cities have addressed all 5 critical areas in their ordinances.

3). Wetland Classification and Buffer Sizes

- 70 % or 27 counties do not use the state's recommended model guidelines for wetland classification and buffer sizes. There are 5 % or only 2 counties that apply the recommended Ecology Model Guidelines and 10 counties, or 25 % use the low intensity standards of the model guidelines.
- 83% of the 278 cities do not use the state's recommended model guidelines for wetland classification and buffer sizes. Of those cities that use the state's model guidelines, 16

cities have adopted the high and low development intensity buffer sizes and 38 cities or 14 % use the low intensity buffer sizes for all development types.

4). Fish and Wildlife Habitat in WDFW's Priority Habitat and Species (PHS) Program

- 95 % of the counties (33 counties) use the WDFW's Priority Habitat and Species (PHS) program in varying degrees of application with 10 counties, or 25% of those using the PHS program in its entirety through the adoption of the PHS list of priority species, the habitats as a data source and the management recommendations.
- 52% or 145 out of 278 cities use the WDFW's PHS program in varying degrees of application with 12 % or only 32 cities adopting the PHS program in its entirety.

5). Stream Types and Buffer Sizes

- 15% of Washington's counties (6) provide adequate stream typing and buffer sizes of 150 feet or greater for fish bearing streams.
- 7 % of Washington's cities (21) provide adequate stream typing and buffer sizes of 150 feet or greater for fish bearing streams.

6). Enforcement

- 15% of the counties (6 counties) do not apply either civil or criminal penalties to enforce their CAOs. 46 % (18) of Washington's 39 counties apply both civil and criminal provisions, 3 counties have civil provisions only, and 2 have criminal provisions only to enforce their CAOs.
- 87 of 278 cities provide for both civil and criminal provisions, 44 cities have civil provisions only, 1 city has criminal provisions only, and 68 cities have no enforcement provisions to enforce their CAOs. Information is not available on the remaining 78 cities.

7). Stormwater Ordinances

- Information is not available for 19 counties, but of the remaining 20 counties, 10 have adopted stormwater ordinances and 10 do not have adopted stormwater ordinances.
- Information is not available for 128 cities, but of the remaining 139 cities, 72 have adopted stormwater ordinances and 67 cities do not have stormwater ordinances.
- As of July 1999, only 38% of the more than 120 affected Puget Sound region jurisdictions have adopted stormwater provisions fully consistent with the Puget Sound Water Quality Management Plan. There is no current documentation of how well those programs are actually implemented.

**Overview of Chapter**

Land use impacts on natural resources and the environment are a result of decisions made by state, tribal, local and federal governments, and private interests. To effectively respond to the threat to salmon runs, land use issues must be addressed at the same time as other specific factors such as harvest, hatcheries, and hydropower.

This chapter focuses on land use development in rural and urban areas - also referred to as urbanization. Forest practices, including timber harvest and its associated activities (e.g. road construction) and agricultural practices, although they are significant land uses, are discussed in separate chapters. Also, the effects of urbanization on stream hydrology and water quality, and the need to control surface run-off and manage stormwater are highlighted in Chapter IV. A. 4. Managing Urban Stormwater to Protect Streams.

The statewide strategy for addressing land use decisions has three key elements. First, it seeks to emphasize collaborative decision-making. No single governmental agency or private party will be able to solve this problem on its own. State, local, and tribal governments and their citizens must work together in a coordinated manner for the common good. Second, it seeks to emphasize citizen participation and voluntary and incentive based efforts. Finally, it recognizes that there must be changes in state, local and tribal governments, and citizen land use practices that have an undue detrimental impact on salmon. In summary:

- The land use strategy relies on existing state and federally laws. There are myriad and ample laws that created mandates or incentives that directly or indirectly provide for protection and restoration of salmon habitat. What is needed is better implementation of the existing laws. A few statutory improvements are needed to better integrate environmental and natural resources protection into decisions (e.g. floodplain management).

- In developing strategies for salmon habitat the highest priority is to protect the best remaining habitat by preserving it from future development through acquisition of land, implementation of conservation regulations, and through incentives and education. Improvement of habitat condition where it has been lost or degraded through protection and restoration is also critical to salmon survival.

- The state will seek to improve the quality and implementation of local land use plans and regulations and shorelines master programs, by adopting guidelines, and implementing a coordinated program of technical and financial assistance.

- Through its authority to allocate and provide funding, the state will emphasize the need to have development regulations and shoreline programs that incorporate the best available science for the designation and protection of salmon habitat. The priority will be placed on those jurisdictions where science indicates there is a need to act.

- The appropriate state agencies will also use state and federal permitting requirements and enforcement tools available to protect habitat through immediate actions, where applicable, and to increase compliance with the state's land use and environmental laws.

- To be eligible for protection from potential liabilities under the Endangered Species Act (ESA) local governments must incorporate best available science in their development regulations by 2002, implement salmon conservation measures to prevent any further harm, conserve and restore salmon habitat. In addition, the state will certify municipalities within a habitat conservation plan or section 4(d) of ESA only if the municipality has come into compliance. (See ESA Compliance Strategy section IV for further details.)

- Without an understanding of the effectiveness of its actions, no recovery program will be truly successful. The state will develop a benchmarking program and will monitor and publish progress on outcomes. This information will be used to inform future decisions and to allow for changes necessary to continue making progress.

- Local salmon recovery responses will be integrated with other state and regional efforts and will be a key part of the foundation of regional salmon recovery responses. (For further discussion, see Chapter III: A Road Map to Recovery.)

## II. Goal and Objectives: *Where do we want to be?*

**Goal:**
Protect and restore fish habitat by avoiding and/or mitigating site specific and cumulative negative impacts of continuing growth and development.

**Objectives:**
- All counties and cities will revise their Growth Management Act (GMA) plans and regulations by September 1, 2002, to include the best available science and give special consideration to the protection of salmon.
- Ensure implementation of land use practices that protect habitat and/or have no detrimental impacts on salmon habitat.
- Focus state and local land use and salmon recovery efforts first in areas with Endangered Species Act (ESA) listings and areas with potential for high quality habitat.
- Promote the use of local incentives and non-regulatory programs to protect and restore wetlands, estuaries and streamside riparian habitat.

## III. Solutions: *What is the route to success?*

The requirements that: 1) all GMA jurisdictions review and revise their comprehensive plans and regulations; 2) all CAOs be developed using the best available science; and 3) local governments with shoreline jurisdiction update their local SMPs for consistency with new Guidelines provide an excellent opportunity for local governments to upgrade the quality of GMA and SMA plans, programs and regulations, provide higher level of protection and

conservation of natural resources and the environment and remove or address any uncertainties local governments and or private landowners face under ESA and CWA.

To meet the 2002 deadline, cities and counties will need to begin the review process now. In order to assist local governments in meeting their statutory obligation, and to achieve the maximum benefit for protection and restoration of salmon, several strategies will be implemented.

**Policy Guidance for Protection and Restoration Efforts**

Development changes the ecosystem through loss of vegetation cover, removing or destroying soil structure, modifying surface drainage patterns, and adding impervious surfaces. The vast majority of existing development has occurred with no or inadequate environmental protection. Often resulting in degradation of streams and wetlands.

While some development activities and the hydrologic disturbances they cause may be reversible, such as replanting trees after a timber harvest, it may not be feasible to reverse the loss of soil structure, or the creation of impervious surfaces, e.g., roads, residences, commercial buildings.

At present, the management tools we have to mitigate the impacts of growth and development are not completely effective. There is strong evidence that high quality stream ecosystems cannot be adequately protected from the impacts of development through "engineered" solutions.

Therefore, it is critical that remaining high quality habitat be preserved, protection measures be implemented, and restoration and enhancement efforts undertaken. For example, higher densities within urban growth areas should be achieved concurrently with minimizing impervious surfaces and vegetation removal. For areas not yet developed, both inside and outside urban growth areas, developments should achieve no net impact by either avoiding impacts, or fully mitigating them.

The following policy guidance is for state and local governments to consider when making land use decisions during review and approval of plans, adoption of regulations and permitting of developments:

*Preserve high quality habitat and salmon populations through land conservation pursued through*:

- Use of SEPA to analyze how the proposal's objective could be accomplished while providing maximum salmon protection and recovery.
- Adoption of conservative land use restrictions (e.g. restrict total impervious surface areas).

- Secure and expand state, federal, local and private funding for acquisition of conservation easements, land purchase, purchase transfer of development rights, land exchanges, etc. Coordination with private land trusts may be necessary to maximize preservation efforts.
- Use incentives such as the Public Benefit Rating System-tax incentives programs to encourage landowners to preserve their lands.
- Support local community groups' restoration and enhancement efforts.

*Protect aquatic ecosystem integrity by using and improving current laws, rules, guidance and incentives for planning, designing, constructing and maintaining new development and redevelopment.*

In consideration of this protection priority the following could be included in local land use programs:
- Adoption of adequate riparian buffers using best available science,
- Retention of the natural vegetation cover,
- Control of stream peak flows and flow duration through stormwater management,
- Improved development standards,
- Adoption of mitigation policies that enhance watershed approach, and
- Use of incentive programs.

*Restore or enhance degraded and impacted habitat (e.g. streams, wetlands, and estuaries).*
- Define the extent of degraded habitats, (For example, use local government-led Watershed Planning under ESHB 2514, watershed assessment and characterization, information collected under the limiting factors analysis under ESHB 2496, and local and regional recovery assessments.)
- Use incentives and non-regulatory mechanisms (lower tax assessment) to restore and enhance riparian habitat,
- Define restoration objectives, priorities, and cost effectiveness, and
- Secure local, state, federal and private funding to adequately meet the challenge of salmon restoration.

**Immediate Actions in ESA Areas**

While local, state, federal and tribal governments are combining their efforts and resources to address the critical needs of salmon, interim measures must be implemented immediately to avoid, minimize and/or mitigate habitat impacts and losses caused by future developments. Endangered Species Act demands that more stringent conditions and standards be used to prevent further harm to the species. The Tri-County (King, Pierce, Snohomish and several cities) ESA Response has identified several "early actions" to be undertaken by the counties and cities to ensure that no further harm is caused to salmon habitat from land use development and to seek ESA protection by receiving exceptions under the chinook 4(d) rule, once it is proposed.

*1. Use the State Environmental Policy Act (SEPA) to specifically address salmon issues*
SEPA is an avenue to better define specific actions and conditions around permits by giving special attention to identifying probable environmental impacts, evaluating alternatives and reasonable means to avoid impacts where possible, and preventing further environmental degradation. The following are immediate actions to be taken by state agencies under SEPA:

- Whenever a state agency is lead for an Environmental Impact Statement that has potential impact on salmon one alternative that will be analyzed will be a "salmon recovery alternative." This will address how the proposal's objective(s) could be accomplished while providing maximum salmon protection and recovery.
- Agencies shall increase their efforts in reviewing SEPA actions for plans, regulations, and projects in areas with ESA listings or proposed listings.
- Agencies should use SEPA's substantive authority to require special actions and conditions to mitigate project development impacts on salmon.

The above actions are also recommended for local governments to use during SEPA review to avoid further harm to salmon species)

*2. Use existing permitting requirements, such as shoreline conditional permits.*
- The various regulatory state agencies will use existing permitting authorities to protect habitat and mitigate project impacts. For example, Washington Department of Fish and Wildlife may use stricter conditions in Hydraulic Project Approvals (HPA) in areas with ESA listings to prevent any further degradation of habitat and harm to the fish. Ecology may deny or condition 401 certification required under the Clean Water Act (CWA) for 404 permits impacting wetlands and riparian habitat. DNR may restrict or condition forest practices permits for conversion to non-forest use. (See Chapter V.2. Permit Streamlining.)

State agencies will work with local governments to identify and help implement interim action items to immediately address the critical needs of salmon, and to prevent or mitigate any potential rush to development and further loss of resources while local plans, regulations and Shoreline Master Programs are being updated.

**State Technical and Financial Actions to Improve Plans and Regulations**

1. Adopt Shoreline Guidelines

Ecology will update the Shoreline Master Program Guidelines adopted under the Shoreline Management Act as directed by the 1995 legislature (ESHB 1724) integrating shoreline and growth management plans and regulation requirements and reflecting improvements in scientific knowledge and best shoreline management practices. Proposed guidelines were developed based on recommendations made by the Shorelines Guidelines Commission established in May of 1998. Public review and comment of the Guidelines has been extensive. Adoption is

planned for the spring of 2000. Upon adoption of these Guidelines, local governments will be required to update their local SMPs for consistency with the new Guidelines and submit them to Ecology for approval before they become effective.

For GMA jurisdictions, shoreline master program updates are proposed to be coordinated and integrated with the requirement for revisions due September 1, 2002. For non-GMA planning jurisdictions within ESA listed or proposed listing areas, the completion for update of SMPs will be between two and five years from Ecology is adoption of the new updated Guidelines.

The SMP Guidelines represent minimum statewide policies and standards for local government. The Shoreline Master Program Guidelines address salmon recovery through:

- Specific policies and standards that address discrete habitat protection issues,
- Performance-based standards that achieve more general but equally important ecological management objectives, and
- Procedures to implement a more comprehensive, ecologically-based and integrated management approach that will ultimately be necessary for species recovery and long-term survival.

Although not yet adopted, the Guidelines incorporate a number of new directions in shoreline management. Some examples of key proposals for salmon included in the draft:

***- Inventory:*** Local governments will be required to use all available inventory information (i.e. Critical Area Ordinance inventories, watershed characterizations, existing GIS databases, estuary management plan studies, and State resource agency information) as a basis for updating SMP provisions.

The inventory will address:

a. *Shoreline and adjacent upland land use and activity patterns.*
b. *Critical areas and opportunities for ecological rehabilitation.*
c. *Areas of special interest, such as priority habitats.*
d. *Conditions and regulations in shoreland and upland areas that affect shorelines, such as surface water management and land use regulations.*
e. *General location of bank full-width limits, channel migration zones, and flood plains.*
f. *Identification of cumulative impacts such as bulkhead construction, intrusive development on priority habitats.*

***- Shoreline Environment Designations:*** In light of inventory information, local governments are required to reevaluate and revise accordingly existing SMP shoreline environment designations to reflect current shoreline conditions and development patterns, to make them consistent with the new guidelines. A check for consistency with the land use designations in the comprehensive plan would also be necessary. Where natural shoreline functions remain intact, provisions for prohibiting or limiting future development that would create adverse impacts may be required. Identification stretches of shoreline with

restoration potential may also be identified so that natural conditions and physical processes that are presently impaired or degraded can be improved as development or redevelopment occurs.

***- SMA/GMA Integration****:* The Guidelines propose to give local governments credit for their good work by allowing a variety of ways to incorporate SMA requirements within their comprehensive plan policies and development regulations. For example, various methods for including SMP policies within the local comprehensive plan and methods to avoid duplication between the SMP and local critical area ordinances would be provided. The intent of these provisions is to ensure better integration of uplands and shorelines land use measures and decisions.

***- Use of Scientific Information***: The proposed Guidelines represent a significant upgrade from the old rules by basing shoreline regulatory practices on scientific information. The proposed Guidelines base provisions on the need to protect and enhance existing shoreline natural "ecological functions and values." This is also consistent with GMA requirements to include BAS in the designation and protection of critical areas, which are found primarily within SMA jurisdiction. Ultimately this calls for closer coordination with state and regional resource management expertise and a more comprehensive approach to ecosystem management.

***- Shoreline stabilization:*** The proposed Guidelines require that there be a demonstrated need for new bulkheads and other "hard" shoreline armoring prior to their approval. They also require that the "softest" feasible method of stabilization be used as the first priority. The intended result is that new shoreline armoring be restricted and that unnecessary existing armoring be removed over time to restore dynamic shoreline processes and nearshore habitat.

- ***Vegetation management:*** The proposed guidelines require the protection of existing natural plant communities critical to shoreline habitat corridors and the restoration of degraded shorelines as a condition for most shoreline development. The proposed guidelines include provisions to protect and enhance vegetation corridors by:

    a. Preventing vegetation removal that would likely result in significant soil erosion or the need for structural shoreline stabilization.
    b. Preventing vegetation removal within the vegetation management corridor for undeveloped properties outside urban growth areas and for shorelines designated for forestry purposes, if the land is subdivided or converted from forest practices.

  The Guidelines establish a "vegetation management corridor" along all shorelines of the state equal to or greater than "one site potential tree height" as measured landward from the top

of the bank closest to the shoreline. Development standards for managing vegetation within the corridor will vary depending on local conditions. The vegetation management corridor as defined in the Guidelines is not necessarily a setback, buffer or no-touch zone. It is, however, a designated management area that will receive greater scrutiny with regard to protecting and enhancing shoreline vegetation. In the vegetation management corridor, local governments will be required to demonstrate how their updated shoreline programs both protect existing ecological functions provided by vegetation and enhance those functions on a system-wide basis over time.

2. Update Minimum Guidelines for Designation and Protection of Critical Areas

Local governments, as stated above, are required to use best available science when adopting policies and regulations to designate and protect the functions and values of critical areas. In addition, they must demonstrate that they have given special consideration to protection measures necessary to preserve or enhance anadromous fisheries.

There have been eleven Growth Management Hearings Board cases since 1996 that address both substantive and procedural issues about local government's inclusion of best available science and special consideration for the conservation and protection necessary to preserve or enhance anadromous fisheries.

The Western Board found the following factors should be analyzed to determine compliance with the Act:

1. The scientific evidence contained in the record,

2. Whether the analysis by the local decision-maker of the scientific evidence and other factors involved a reasoned process, and

3. Whether the decision made by the local government was within the parameters of the Act.

The Western Board also ruled that:

> "With regard to anadromous fisheries, local governments must include conservation or protection measures "necessary to preserve or enhance" such fisheries. This part of the statute directs measures for both preservation and enhancement. It therefore limits the discretion available to local governments when dealing with anadromous fish. In balancing the scientific evidence against issues of practicality and economics, the result must be more heavily weighted towards science when dealing with anadromous fish. The "special consideration" language directs that local governments must go beyond what might otherwise be done in designating and protecting other kinds of critical areas."

The Department of Community, Trade and Economic Development (CTED) is developing rule guidelines to assist counties and cities in meeting the requirements of the law and reduce appeals to the growth hearings Boards and courts. Defining and including best available science is also a requirement of the Endangered Species Act. CTED has been working with a technical team, including scientists from state agencies and local governments, to develop draft recommendations for broad review.

The intent is for CTED to adopt the guidelines on what best available science is and how it will be included in the designation and protection of critical areas, and what is required to give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The Guidelines will encourage enhanced environmental review of proposed development at the earliest feasible stage.

The Departments of Community Trade and Economic Development, Ecology, Fish and Wildlife, and Natural Resources will provide guidance documents and management recommendations for local governments to assist them with identifying sources and reference materials on best available science for fish and wildlife conservation areas, wetland designation and protection, and other critical areas. These documents will be updated periodically with new sources of best available science, as information becomes available.

3. Use WDFW's Priority Habitats and Species Program

The Priority Habitats and Species (PHS) program fulfills one of the most fundamental responsibilities of Washington Department of Fish and Wildlife to provide comprehensive information on fish, wildlife and habitat resources in Washington to landowners, land use planners, elected officials and other decision-makers. The program serves as the backbone of WDFW's approach to fish and wildlife conservation. It is used to screen forest practices applications, hydraulic project applications, development of habitat conservation plans, and watershed level planning.

In 1997, WDFW published its riparian management recommendations for multiple species entitled "Management Recommendations for Washington's Priority Habitats." See Reference. The publication represents the best available science habitat needs for (multiple species) fish and wildlife's riparian corridor. More than 1,500 scientific sources were used in the development of the recommendations. The guidelines are designed to protect and enhance healthy and declining populations of fish, including anadromous salmon and steelhead, through protecting and enhancing riparian habitat. WDFW provides assistance in management decisions. Also, nearly 2,000 state-of-the-art Geographic Information System (GIS) maps are available, which display locations and extent of priority species and habitats on 29 millions acres in Washington.

The Department of Fish and Wildlife will help as local governments amend their plans and regulations identify land use activities that are likely to affect critical habitat for anadromous

fisheries. They will also make recommendations on measures necessary to preserve or enhance anadromous fisheries.

4. Provide Model Ordinances and Guidelines

- CTED will provide model Land Disturbance and Re-vegetation Regulations for site development and to guide clearing, grading and vegetation management for local governments' consideration.

- CTED in cooperation with other agencies will review and amend as necessary various state land use guidance documents to reflect best available science.

- Departments of Ecology, Natural Resources, and Fish and Wildlife will update existing model ordinances and technical guidance documents, and will develop additional guidance documents and land use management recommendations consistent with best available science. These documents are intended to help local governments in the designation and protection of critical areas and in the conservation and protection necessary to preserve or enhance salmon fisheries.

- Other model ordinances or technical manuals on salmon recovery solutions/effectiveness options will be updated or developed to assist local governments address best development practices, conserving rural lands, urban infill that takes into account fish habitat and enhancement, stormwater management and reducing natural hazards.

- Regulations that will outline a statewide process for wetland mitigation banking are currently being developed and will be adopted in the very near future. In addition several technical documents on wetland buffers, mitigation ratios, identification and delineation are in existence or in development, agencies will make them available to local governments, when needed.

- WDFW, in cooperation with other state, local and federal agencies, will develop Integrated Stream Corridor Management guidelines, a series of technical guidance documents that detail restoration and protection standards. WDFW will also publish and disseminate the Integrated Streambank Protection Guidelines, a document that describes a process for bank erosion assessment and bank stabilization design. (See Chapter V. Permit Streamlining)

- Policy guidance that will outline the selection of mitigation alternatives based on watershed approach is currently being finalized by the Departments of Fish and Wildlife, Ecology, Transportation, and Community Trade and Economic Development. The development of the policy guidance was mandated by the legislature in 1998 with the passage of the Salmon Recovery Planning Act (ESHB 2496).

- The Department of Ecology, following adoption of new SMP guidelines, will update its technical assistance materials available to local governments, such as the *Shoreline Management Guidebook*. The guidebook includes model language for local SMP policies and regulations.

5. Design and promote incentives programs

The State will provide technical guidance on use and application of non-regulatory programs. A technical document on Open Space Taxation, "Applying the Public Benefit Rating System as a Watershed Problem-Solving Tool," is available to local governments. It contains incentive program options for private landowners to preserve important natural resources, such as direct property tax relief for retaining natural features in their undeveloped condition.

Guidance on how to establish wetland mitigation banks will be available in the fall of 1999. Funding for land acquisition and other conservation protection mechanisms will be made available to local governments and private organizations.

6. Adopt Stormwater Management

See Chapter IV. A. 4. on Managing Stormwater to Protect Streams.

7. Revise Floodplain Management Planning

Restoration of natural floodplain functions has multiple benefits: reduction of flood damage to life and property by relocating people to areas out of the 100 year floodplain where possible; long-term savings of public monies as flood hazards are reduced by re-acquiring previously developed floodplain land and preserving existing flood storage areas; water quality improvement as re-established vegetation buffers reduce erosion rates and help to lower stream temperature; habitat restoration for aquatic and riparian species as these floodplains resume their natural character; and aesthetic and recreational value, as these areas function as open space when they are not inundated by periodic floods.

Primary responsibilities for floodplain management rests with Ecology, WDFW, counties, and cities. Others sharing an interest are CTED, WSDOT, Emergency Management Division, DNR, and federal agencies (Federal Emergency Management Agency, Natural Resources Conservation Service, Federal Highway Administration, and U.S. Army Corps of Engineers).

To further this multi-objective of flood plain management, a unified approach to address flood risk and salmon recovery is proposed by state and local and federal governments. It includes changes to:

- Fund pilot floodplain restoration projects and monitor existing and pilot projects.

- Integrate engineering concepts of flood hazard management and biological concepts of salmon recovery into a unified management strategy.

- Identify flood management strategies that reduce losses to salmon habitat from future floods in specific basins:
  - update flood assistance planning standards with relevant parameters--floodplain development management, sediment management, risk identification (channel types, channel pattern thresholds, meander belts, channel confinements, etc),
  - identify and modify existing flood hazard management practices that limit salmon restoration,
  - Identify and modify flood management projects that could result in a taking under the ESA, and
  - Update and reinforce local comprehensive flood hazard management plans.

- Provide better information through improved floodplain maps (Federal Emergency Management Agency maps, Flood Insurance Rate maps, and local community's adopted maps) and a watershed based GIS model that integrates floodplain management with fish management.

- Develop interagency guidance to promote more environmentally appropriate streambank stabilization projects, including monitoring programs to measure social and environmental impacts.

- Coordinate flood management requirements with GMA critical areas requirements for frequently flooded areas.

- Coordinate and where possible integrate floodplain management with other planning and regulatory programs, especially shoreline, stormwater, and watershed management programs.

- Promote changes to U.S. Army Corps of Engineers standards for levee vegetation to allow more vegetation to provide additional habitat.

Legislative changes are needed to modify floodplain management laws. We need to emphasize limitations on floodplain development to minimize future damage, promote and provide funding for fee or less-than-fee acquisition of frequently flooded areas, and provide incentives to local governments to adopt floodplain management plans consistent with standards.

8. Link Transportation Planning and Decision Making with Land Use and Salmon Recovery
The Washington State Department of Transportation (WSDOT), in cooperation with the Federal Highway Administration (FHWA), the Environmental Protection Agency (EPA), the Washington State Department of Ecology (Ecology), the U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers (COE), the Puget Sound Regional Council

(PSRC) and tribal governments, has been working to incorporate early planning and transportation decision making.

WSDOT and FHWA have recognized that there must be changes in the way transportation decisions are made; there must be a land use and planning link in the solution of transportation deficiencies in Washington State (RCW 47.06).

The early transportation decision making model combines existing state and federal environmental laws and is based on the National Environmental Policy Act (NEPA), and the State Environmental Policy Act (SEPA). Through the use of interdisciplinary teams a collaborative decision making process is used. While the transportation decision making focuses on all aspects of transportation and how it relates to social, economic and environmental themes, salmon and watershed management issues are an integral part of the process. Citizen participation is a major component of the proposed transportation decision making process.

The "new" transportation decision making process is an integral part of a successful salmon recovery effort. Decisions concerning communities, the environment and transportation will now be made early on in the process where agency, tribal, and community input can effectively change the direction of transportation decisions.

Environmental issues are also considered in a watershed context when transportation planning decisions are evaluated. New methods for providing an environmental assessment of the 20-year state highway plan are being developed. Geographic Information System - GIS program - support is essential for the continued integration of transportation planning data, land use data and environmental and natural resources data to support process improvements to transportation decision making and early evaluation of environmental impacts to long-range transportation plans.

The Washington State Department of Transportation, Environmental Affairs Office has the lead on the Reinventing NEPA Pilot Projects, Washington Transportation Plan and Watershed Management, and on other transportation decision making and land use and salmon recovery linkages.

9. Support additional funding of local and state activities

The 1999 legislature approved, for the 1999-2001 biennium, $119 million in federal and state funds for salmon recovery. The Salmon Recovery Funding Board funds will be responsible for the allocation of the funds for protection and restoration activities and projects. Local government updates of critical areas ordinances (CAO) and other development regulations, updates of stormwater management programs (SMP), updates of floodplain management programs, updates of SMPs, and implementation of incentive based programs may be appropriate activities to consider for funding. The Board will be issuing criteria for selection

based on statutory requirements. Funding for related activities such as updates of CAO and SMP should be consolidated both at the state and local levels.

10. Provide other technical and financial assistance

- CTED and other state agencies, especially WDFW and the Conservation Commission will provide information to assist local governments with inventory and compilation of existing information, assessment of habitat conditions, identification of alternative methods for protecting and restoring habitat, methods for prioritizing habitat restoration, and identification of data gaps.

- State agencies will provide direct technical assistance and financial incentives, as resources allow, and otherwise engage cites and counties in a constructive dialogue on the benefits of beginning the process for updating their comprehensive plans and development regulations sooner than the mandatory September 1, 2002 date.

- The Governor's Salmon Recovery Office in conjunction with state and tribal and local agencies will conduct a review and evaluation of available incentives and tools that can be used by state agencies, local and tribal governments to improve habitat protection.

11. Coordinate with related locally implemented programs

Chapter III. A Road Map to Recovery outlines the importance of locally implemented programs at the watershed and regional levels. In order to achieve recovery there is a critical need to coordinate and integrate, local, state, federal, tribal, and private salmon recovery activities.

It is important to link water and land use planning and implementation. The linkage can and should be done as part of other planning efforts addressing water and land uses. The 1998 Watershed Management Act provides the opportunity to link water and land use. It requires local planning units to consider all existing plans and related planning activities. It also stipulates that planning units must complete assessment of water supply and use in the area prior to initiation of actions. For example the lack of stream-side vegetation, or land uses that impact aquifer recharge areas (e.g. impervious surfaces) are greater contributors to low flow conditions and lowering of instream flows levels set by rules than direct withdrawals of water in certain tributaries (e.g. Soos Creek). As state and locals involved in watershed planning develop actions to protect and restore instream flows, they must consider and address the impacts of land use developments. (See Chapter IV. A. 5. Ensuring Adequate Water in Streams for Fish.)

- Functional plans for sewer, water, stormwater, flood prevention should be integrated into GMA planning framework. The state will support regulatory and statutory changes necessary to ensure that functional plans prepared by state and local government agencies are consistent with each other and with land use comprehensive plans.

- It is also necessary to ensure that plans developed and implemented by special purpose districts are consistent with GMA plans. The State will support statutory changes if necessary

to ensure that special purpose district actions affecting fish and fish habitat are done in a manner that is consistent with GMA comprehensive plans and development regulations, including critical areas ordinances. The State will use incentives (e.g. funding preferences and penalties) to encourage PUDs, flood control districts, port authorities, and irrigation districts operating outside the GMA to coordinate salmon protection and conservation actions, especially acquisition of conservation easements.

**Incentives and State Regulatory Actions to Improve Performance/Implementation**

In addition to improving the quality of comprehensive plans, development regulations, shoreline master programs, floodplain management programs and other related programs (e.g. stormwater management), the Strategy also seeks to improve the implementation of those plans, programs and regulations by local governments. The state agencies will encourage:

1. *Local governments to focus priority updates/revisions on areas affected by ESA and high population growth.*

2. *The Salmon Recovery Funding Board to link state funds to local regulations that protect and restore habitat by*:
   - Giving a preference to cities and counties that have taken actions that benefit salmon recovery efforts consistent with the statewide salmon recovery strategy.
   - Providing funds for local and state enforcement programs with clear expectations of results and consequences if local government does not meet the expectations.
   - Withholding funds from jurisdictions that have not adopted critical areas ordinances that include best available science.
   - Increasing funding for salmon related priority programs and linking where appropriate state grants/loans to compliance and performance measures.
   - Directing additional funds toward local governments that have adopted protective plans, programs and regulations/ordinances and used best available science in their actions.

**State Actions to Increase Compliance**

The strategy also seeks to increase the compliance of local governments with the requirements of the GMA and other environmental and land use laws. Local land use laws need to be better enforced at the local level.

1. Ensure compliance and enforcement

- State will provide technical assistance in developing plan provisions and development regulations and in establishing enforcement programs to assure that local development regulations are followed.

- The State will seek funds for local and state enforcement programs which provide clear expectations of results.

- Enforcement and compliance programs and efforts at the local, state, federal, and tribal levels will be coordinated in ESA areas.

- The state will use its existing authority (e.g. under SMA, various permits) to take enforcement action if local government does not meet standards for enforcement program.

2. Respond to critical areas ordinances not in compliance

- Under the Strategy, CTED in cooperation with other agencies will strive to bring all counties and cities into compliance with the requirements of GMA and SMA. Special emphasis will be placed on bringing cities with significant salmon habitat and all counties into compliance.

- Cities and counties that have not updated their comprehensive plans, programs and development regulations, particularly their CAOs and SMPs to include best available science, will not be authorized to rely on any "safe harbor" protection or incidental take permit within salmon recovery plans. The state will certify a municipality within a habitat conservation plan or an ESA section 4(d) program only if the municipality has come into compliance.

- The Governor through CTED and other agencies (e.g. Ecology, WDFW) will appeal to the Growth Management Hearing Boards if local governments fail to comply with the requirement that best available science be used, and will withhold appropriate grants and loans if necessary.

- CTED will notify local governments that have not taken <u>any</u> action in adopting CAO that they have to come into compliance by a specific date. The state agencies with interests in CAOs, such as Ecology, CTED, WDFW, and DNR, will offer technical assistance and guidance on best available science to comply with the GMA. If the local government is not in compliance by the specified date, the state will take one or more actions:

    - Agencies will use any existing discretion to withhold state and federal related grants and loans;

    - CTED in cooperation with other state agencies will aggressively pursue appeals of non-compliance with GMA to the Growth Management Hearings Boards;

    - The Governor will impose sanctions as provided in the GMA;

    - The local government will be excluded from any safe harbor protection within the salmon recovery plans; and

    - The State will implement immediate and default actions identified in this strategy.

**Other Actions to Improve Performance and Implementation**

1. Governance- Organizational Improvements

- Local and state governments should use GMA framework, the Countywide Planning Policies (CWPP) or any multi-county planning process, to strengthen treatment of ESA issues.

- State, local and tribal governments will explore governance models to develop regional salmon recovery responses.

*2.* Coordination of Salmon Recovery and Economic Vitality Initiatives

Just as the Governor is committed to recovery of healthy, harvestable salmon stocks, so is he committed to enhancing economic vitality in rural areas. To encourage that rural economic development is consistent with the recovery of salmon, the Governor has proposed an Economic Vitality Initiative and the legislature has acting on his proposal by adopting the Economic Vitality Act. The Initiative directs state resources to retain, build and recruit businesses in the less prosperous communities of the state, all within the capacities of the state's natural resources. Washington's rural communities have largely been built on forestry and farming. The Initiative acknowledges the historic and future economic role played by natural resource based industries.

The key element of the Economic Vitality Initiative is:

Coordinating resources across agencies to provide strategic investments in infrastructure, work force training and technical assistance that promote economic development opportunities including:

- Expanding the scope and funding of the Community Economic Revitalization Board to allow investments in new types of infrastructure such as telecommunications as well as traditional road, water and sewer projects.

- Providing grants to communities to carry out development planning, including examining impacts on natural resource, permitting assistance and general economic development planning.

- Enhancing work force training opportunities to insure that employers can access a well-trained work force throughout the state.

These will enable existing communities to better leverage existing public facilities and services, provide affordable housing near newly created jobs, invest in new infrastructure where it can be efficiently permitted and built, and avoid the conversion of undeveloped rural or resource lands into low-density developments. Rural economic development does not require sprawl development or further loss of "greenfields."

## IV. Monitoring and Adaptive Management: *Are we making progress?*

**Implement State Monitoring and Evaluation Program**

- The state will incorporate monitoring/reporting programs into contracts for salmon related federal and state grants.

- The state will continue to support and will enhance GIS programs, with the goal of coordinating data acquisition, statewide fish and wildlife habitat inventory information available to local government planners and decision makers.

- The state will establish a program to monitor and evaluate the effectiveness of current policies and programs and will publish its findings on a regular basis. This report will be included, as part of the Governor's State of the Salmon Report required by the legislature every biennium. The first report is due in December 2000.

**Default Actions**

In addition to the consequences to local governments for not complying with GMA and SMA requirements, a range of default options is available to state agencies. They are to be used if local governments fail to act to meet the requirements to review and update plans and regulations by September 1, 2002; use best available science; give special consideration to salmon protection and conservation; and/or if no progress is made toward protection, and restoration objectives. The default actions could include:

- Ecology adopting SMPs for local governments after the 2002 deadline.

- Use the various state planning, permitting, and regulatory requirements to address what local governments fail to do.

- Use of the forest Practices Board regulations to restrict conversion of forest lands to non-forest purposes.

- Withhold funds for infrastructure and economic developments that could potentially harm salmon or impact/delay recovery efforts (there is a nexus between state action and harm to species).

**ESA Compliance Strategy**

It is the state's intent, in cooperation with local governments, to pursue a programmatic approach response under either section 7, 4(d), or 10 (HCP) for several land use elements - i.e. shoreline management, stormwater and transportation - to address ESA/CWA concern. The purpose is to develop standards, guidelines, model programs and/or regulations for key

elements of land use, and implementation requirements which when approved by NMFS and USFWS could serve as a "programmatic approach" to be included in ESU 4(d) rules. Local and state programs conducted in accordance with the "approved guidelines" could be exempted from take liability.