

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

SEPA Distribution List
SEPA2022-00068
Date of Issuance: July 25, 2022

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Stephanie Jolivette, stephanie.jolivette@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via email
sepaunit@ecy.wa.gov

WA State Department of Fish and Wildlife
Joel Ingram - Joel.Ingram@dfw.wa.gov

WA State Department of Natural Resources via email
Rochelle Goss, sepacenter@dnr.wa.gov
Brenda Werden, Brenda.werden@dnr.wa.gov

Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
Tamela Smart - tamelas@lummi-nsn.gov

Nooksack Indian Tribe
George Swanaset, JR via email - george.swanasetjr@nooksack-nsn.gov
Trevor Delgado via email - tdelgado@nooksack-nsn.gov

Skagit River System Cooperative
Nora Kammer via email - nkammer@skagitcoop.org

City of Bellingham
Kurt Nabbeffeld via email - knabbefeld@cob.org
Brent Baldwin via email - bbaldwin@cob.org
Clare Fogelsong via email - cfogelsong@cob.org

City of Blaine
Stacie Pratschner, AICP via email - spratschner@cityofblaine.com

City of Ferndale
Michael Cerbone via email - michaelcerbone@cityofferndale.org

Puget Sound Energy
Raelynn Asah via email - raelynn.asah@pse.com

Applicant
Dana Brown-Davis via email - dbrown@co.whatcom.wa.us

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Mark Personius, AICP
Director

SEPA Determination of Nonsignificance (DNS)

File: SEPA2022-00068

Project Description: Proposed ordinance to amend Whatcom County Title 11 intended to prohibit the use of limb-propelled flotation devices on the entire South Fork Nooksack River from June 1 through October 31. The proposal is necessary to better protect imperiled, EPA-listed South Fork Nooksack Early Chinook Salmon.

Proponent: Whatcom County Council c/o Dana Brown-Davis, Clerk of the Council

Address and Parcel #: N/A

Lead Agency: Whatcom County Planning & Development Services

Zoning: Multiple Zoning Districts **Comp Plan:** Multiple Comprehensive Plan Designations

Shoreline Jurisdiction: Multiple Shoreline Designations

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 – Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

X Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on August 8, 2022 and should be sent to: Robby Eckroth via email at REckroth@co.whatcom.wa.us

Responsible Official: Mark Personius, mpersoni@co.whatcom.wa.us

Title: Director

Telephone: 360-778-5937

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: July 25, 2022

Signature: _____

A handwritten signature in black ink, appearing to be "M Personius", written over a horizontal line.

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding August 18, 2022.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.

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Mark Personius, AICP
Director

**SEPA Determination of Nonsignificance (DNS)
Legal Notice**

To be published one time only on: **July 25, 2022**

CHARGE TO: Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, Washington 98226
Acct #AP25580

**WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA
THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN
ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD
CONCLUDING ON AUGUST 8, 2022.**

File: SEPA2022-00068

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Proponent: Whatcom County Council c/o Dana Brown-Davis, Clerk of the Council

Address and Parcel #: N/A

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Shoreline Jurisdiction: Multiple Shoreline Designations

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY'S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.



SEP 2022 - 00068

SEPA Environmental Checklist

Purpose of Checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Non-Project Proposals:

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal", "proponent" and "affected geographic area", respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements that do not contribute meaningfully to the analysis of the proposal.

A Background

- 1 Name of proposed project, if applicable:

- 2 Name of applicant:
Applicant phone number:
Applicant address:
City, State, Zip or Postal Code:
Applicant Email address:

- 3 Contact name:
Contact phone number:
Contact address:
City, State, Zip or Postal Code:
Contact Email address:

- 4 Date checklist prepared:

- 5 Agency requesting checklist:

- 6 Proposed timing or schedule (including phasing, if applicable):

- 7 Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? Yes No
If yes, explain:

- 8 List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

- 9 Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? Yes No
If yes, explain.

- 10 List any government approvals or permits that will be needed for your proposal, if known.
- 11 Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)
- 12 Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

NOTE: Section B has been filled out to aid SEPA review but is not required per WAC 197-11-315(1) and Whatcom County Planning and Development Services Policy # PL1-83-001Z

B Environmental Elements

1 Earth

a. General description of the site:

- Flat
- Rolling
- Hilly
- Steep Slopes
- Mountainous
- Other

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? Yes No

If so, describe.

e. Describe the purpose, type, total area, approximate quantities and total affected area of any filling excavation or grading proposed.

Indicate source of fill.

Indicate where excavation material is going.

- f. Could erosion occur as a result of clearing, construction, or use?
Yes No

If so, generally describe.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation and maintenance when the project is completed (i.e., dust, automobile, odors, or industrial wood smoke)?

If any, generally describe and give approximate quantities if known.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? Yes No

If so, generally describe.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

a. Surface:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? Yes No

If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? Yes No

If yes, please describe and attach available plans.

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected.

Indicate the source of fill material.

- (4) Will the proposal require surface water withdrawals or diversions? Yes No

Give general description, purpose, and approximate quantities if known.

Does the proposal lie within a 100-year floodplain?

Yes No

If so, note location on the site plan.

- (5) Does the proposal involve any discharges of waste materials to surface waters?

Yes No

If so, describe the type of waste and anticipated volume of discharge

b. Ground Water:

- (1) Will ground water be withdrawn from a well for drinking water or other purposes? Yes No

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals.....; agricultural; etc.). Describe the general size of the system, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including stormwater):

- (1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

Where will this water flow?

Will this water flow into other waters? Yes No

If so, describe.

(2) Could waste materials enter ground or surface waters?

Yes No

If so, generally describe.

(3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site: Yes No

If so, describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4 Plants

a. Check types of vegetation found on the site:

- Deciduous tree: alder, maple, aspen, other
- Evergreen tree: fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Orchards, vineyards or other permanent crops
- Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- Water plants: water lily, eelgrass, milfoil, other
- Other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

- c. List threatened or endangered species known to be on or near the site.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

- e. List all noxious weeds and invasive species known to be on or near the site.

5. Animals

- a. Check any birds and animals, which have been observed on or near the site or are known to be on or near the site:

Birds:

- | | |
|---------------------------------|-------------------------------------|
| <input type="checkbox"/> Hawk, | <input type="checkbox"/> Heron, |
| <input type="checkbox"/> Eagle, | <input type="checkbox"/> Songbirds; |
| <input type="checkbox"/> Other: | |

Mammals:

- | | |
|---------------------------------|----------------------------------|
| <input type="checkbox"/> Deer, | <input type="checkbox"/> Bear, |
| <input type="checkbox"/> Elk, | <input type="checkbox"/> Beaver; |
| <input type="checkbox"/> Other: | |

Fish:

- | | |
|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> Bass, | <input type="checkbox"/> Salmon, |
| <input type="checkbox"/> Trout, | <input type="checkbox"/> Herring, |
| <input type="checkbox"/> Shellfish; | <input type="checkbox"/> Other: |

- b. List any threatened or endangered species known to be on or near the site.

- c. Is the site part of a migration route? Yes No

If so, explain.

- d. Proposed measures to preserve or enhance wildlife, if any:

- e. List any invasive species known to be on or near site.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

- b. Would your project affect the potential use of solar energy by adjacent properties? Yes No

If so, generally describe.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? Yes No

If so, describe.

- (1) Describe any known or possible contamination at the site from present or past uses.

N/A
- RE
07/20/2022

- (2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

N/A
- RE
07/20/2022

- (3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the projects development or construction, or at any time during the operating life of the project.

N/A
- RE
07/20/2022

- (4) Describe special emergency services that might be required.

N/A
- RE
07/20/2022

- (5) Proposed measure to reduce or control environmental health hazards, if any:

N/A
- RE
07/20/2022

b. Noise

- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

- (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

- (3) Proposed measures to reduce or control noise impacts, if any:

8 Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Will the proposal affect current land uses on nearby or adjacent properties? Yes No

If so, describe.

b. Has the project site been used as working farmlands or working forest lands? Yes No

If so, describe.

How much agriculture or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any?

If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use?

- (1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling and harvesting? Yes No

If so, how:

c. Describe any structures on the site.

- d. Will any structures be demolished? Yes No
If so, what?
- e. What is the current zoning classification of the site?
- f. What is the current comprehensive plan designation of the site?
- g. If applicable, what is the current shoreline master program designation of the site?
- h. Has any part of the site been classified as a critical area by the city or county? Yes No
If so, specify.
- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project displace?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any?

9 Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

- High
 Middle
 Low-income

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

- High
 Middle
 Low-income

- c. Proposed measures to reduce or control housing impacts, if any:

10 Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

- b. What views in the immediate vicinity would be altered or obstructed?

- c. Proposed measures to reduce or control aesthetic impacts, if any:

11 Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

- c. What existing off-site sources of light or glare may affect your proposal?

- d. Proposed measures to reduce or control light and glare impacts, if any:

12 Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

- b. Would the proposed project displace any existing recreational uses? If so, describe.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None.
- RE
07/20/2022

13 Historic and Cultural Preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state or local preservation registers located on or near the site? Yes No
If so, specifically describe.

- b. Are there any landmarks, features, or other evidence of Indian, historic use or occupation, this may include human burials or old cemeteries? Yes No
Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Yes No
Please list any professional studies conducted at the site to identify such resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples: Include consultation with tribes and the Department of Archeology and Historic Preservation, archaeological surveys, historic maps, GIS data, etc.

N/A
- RE
07/20/2022

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

N/A
- RE
07/20/2022

14 Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plan, if any.

N/A
- RE
07/20/2022

- b. Is site or geographic area currently served by public transit?

Yes No

If not, what is the approximate distance to the nearest transit stop?

- c. How many parking spaces would the completed project have? How many would the project eliminate?

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? Yes No

If so, generally describe (indicate whether public or private).

e. Will the project use (or occur in the immediate vicinity of)

- Water,
 - Rail, or
 - Air transportation?
- If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

g. Proposed measures to reduce or control transportation impacts, if any:

15 Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)?

Yes No

If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16 Utilities

a. Check utilities currently available at the site:

- | | |
|-----------------------------------------|------------------------------------------|
| <input type="checkbox"/> Electricity, | <input type="checkbox"/> Natural gas, |
| <input type="checkbox"/> Water, | <input type="checkbox"/> Refuse service, |
| <input type="checkbox"/> Telephone, | <input type="checkbox"/> Sanitary sewer, |
| <input type="checkbox"/> Septic system, | <input type="checkbox"/> Other |

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Signature


The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: July 12, 2022

FOR OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff

, Robby Eckroth - PDS Planner
Staff Signature

07/20/2022
Date

C Supplemental Sheet for Non-project Actions

(It is not necessary to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

- 1 How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

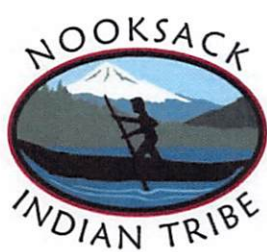
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.



Washington Department of
Fish and Wildlife

June 2, 2022

Whatcom County Council
311 Grand Ave.
Bellingham, WA 98225

<Sent via electronic service>

Dear Whatcom County Council members:

Re: Annual closure of the South Fork Nooksack to recreational uses from June 1 through October 31.

The purpose of this letter is to strongly urge Whatcom County Council to amend the seasonal ban on flotation devices on the South Fork Nooksack River (WCC 11.20.025) to better protect imperiled, ESA-listed South Fork Nooksack Early Chinook Salmon. The current ban applies to persons operating "a paddleboard, innertube, inflatable flotation device, foam flotation device, limb-propelled flotation device, or rubber raft intended for limb use on the section of the South Fork of the Nooksack River between Edfro Creek and the Acme Bridge between the dates of June 1st and October 31st". **We request that the ban be expanded to encompass the entire South Fork Nooksack River within Whatcom County through at least September 30.**

South Nooksack Early Chinook Salmon are in crisis, and it is imperative that we do what we can to protect them. The South Fork Nooksack is identified as an impaired waterbody on Ecology's 303(d) list for temperature, and high stream temperatures are known stressors for salmon. In summer 2021, over 2,500 returning adult Chinook died on the South Fork spawning grounds before they could spawn. The cause of death was a disease outbreak that was exacerbated by low river flows, high temperatures, and a lack of adequate habitat (deep, complex pools) for holding fish. The mortality event prompted Lummi Nation to declare an emergency and both Tribes to petition Governor Inslee to: (1) establish a crisis team to implement solutions to avoid future mortality events; and (2) invest \$25.5M to fund critically important actions in the South Fork.

The South Fork Nooksack River has been a top priority for habitat restoration, and significant resources have already been invested to date, including over \$10M from the Salmon Recovery Funding Board alone for restoration planning and project design and implementation. Both Nooksack Tribe and Lummi Nation have been leading this restoration effort, and the Tribes' habitat programs have completed over 27 river restoration projects – constructing hundreds of log jams - in the South Fork since 2001. While projects have been very effective at restoring the deep, complex, cool pool habitat so important for

salmon, it will take time for restoration to reverse the legacy and ongoing land use impacts that have degraded habitat. In the meantime, the South Fork Chinook Rescue Program, initiated in 2007 and operated out of the Lummi Nation's Skookum Creek Hatchery, has been very successful at protecting the stock from extinction and helping to rebuild it. The 2021 mass mortality event coincided with the largest return of adult Chinook to the South Fork in decades.

Despite the good news of increasing hatchery-origin returns in recent years, abundance of natural-origin spawners remains critically low and far below the recovery goal of at least 9,900 natural-origin spawners. Indeed, an average of just 105 South Fork Nooksack Early Chinook natural-origin spawners returned in the 5 most recent years (2015-2019) for which we have estimates. Low natural-origin spawner abundance of Nooksack Early Chinook constrains both species recovery and fisheries across the region. The negative impacts from tubing further threaten both South Fork Nooksack Early Chinook and our shared investment in their recovery. Although the 2005 ban protected almost 7 miles of the South Fork, tubing continues in the lower 8.5 miles, negatively impacting both Chinook holding and spawning in that section of the South Fork and Chinook migrating to the Skookum Hatchery and to upstream spawning grounds. The number of people tubing down the South Fork downstream of Acme can range from hundreds to thousands during the warmest days of summer, and the effects of tubers can compound already existing temperature stress for salmon, further increasing the risk of prespawn mortality. Tubers can stress adult salmon by startling them and can also lead to delayed migration as they hide to avoid interaction. Wading by tubers can also cause redd trampling that directly kills salmon eggs.

We urge you to act quickly to expand the tubing ban to more fully protect the migration, holding and spawning habitat of this valuable and vulnerable local resource. While we recognize that controlling access to the river may be unpopular, the profound importance of this request cannot be overstated, especially considering how much outside human influence remains beyond our local control. We thank you in advance for your leadership on this.

Sincerely,



Rosemary LaClair, Chairwoman
Nooksack Tribal Council



Merle Jefferson, Director
Lummi Natural Resources Department



Brendan Brokes, Regional Director (North Puget Sound Region)
Washington Department of Fish and Wildlife

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE SECTION 11.20.025 (FLOTATION DEVICES ON THE SOUTH FORK OF THE NOOKSACK RIVER) TO BETTER PROTECT ESA-LISTED CHINOOK SALMON

WHEREAS, in 1999, Puget Sound Chinook were listed as “threatened” under the federal Endangered Species Act; and

WHEREAS, the spring Chinook salmon in the South Fork of the Nooksack River are particularly “threatened” and could become “endangered” if no action is taken to increase protection; and

WHEREAS, the South Fork Nooksack is identified as an impaired waterbody on Ecology’s 303(d) list for high stream temperature, which is a known stressor for salmon; and

WHEREAS, in summer 2021, over 2,500 returning adult Chinook died on the South Fork spawning grounds before they could spawn due to a disease outbreak exacerbated by low river flows, high temperatures, and a lack of adequate habitat; and

WHEREAS, this mortality event prompted Lummi Nation to declare an emergency and both Lummi Nation and the Nooksack Indian Tribe to petition Governor Inslee to establish a crisis team to implement solutions to avoid future mortality events and to invest \$25.5 million to fund critically important actions in the South Fork; and

WHEREAS, the South Fork Nooksack River has been a top priority for habitat restoration, with over \$10 million invested from the Salmon Recovery Funding Board alone and over 27 river restoration projects completed by Lummi Nation and the Nooksack Indian Tribe; and

WHEREAS, natural-origin spawns remain critically low and far below the recovery goal of at least 9,900; and

WHEREAS, the impacts of hundreds to thousands of people recreating in the South Fork further threaten the South Fork Nooksack Early Chinook and the millions of dollars invested in habitat restoration; and

WHEREAS, the 1855 Treaty of Point Elliot and 1974 Boldt Decision guarantee tribal fishing rights to Lummi Nation and Nooksack Indian Tribe; and

WHEREAS, Whatcom County shall honor and uphold tribal treaty rights by taking every possible measure to protect salmon;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that WCC 11.20.025 is hereby amended as presented in Exhibit A effective immediately.

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ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

1 **EXHIBIT A**

2 **WCC 11.20.025 WATER SKIING, SWIMMING AND SKIN DIVING REGULATIONS**

3
4 **11.20.025 Flotation devices on the South Fork of the Nooksack River.**

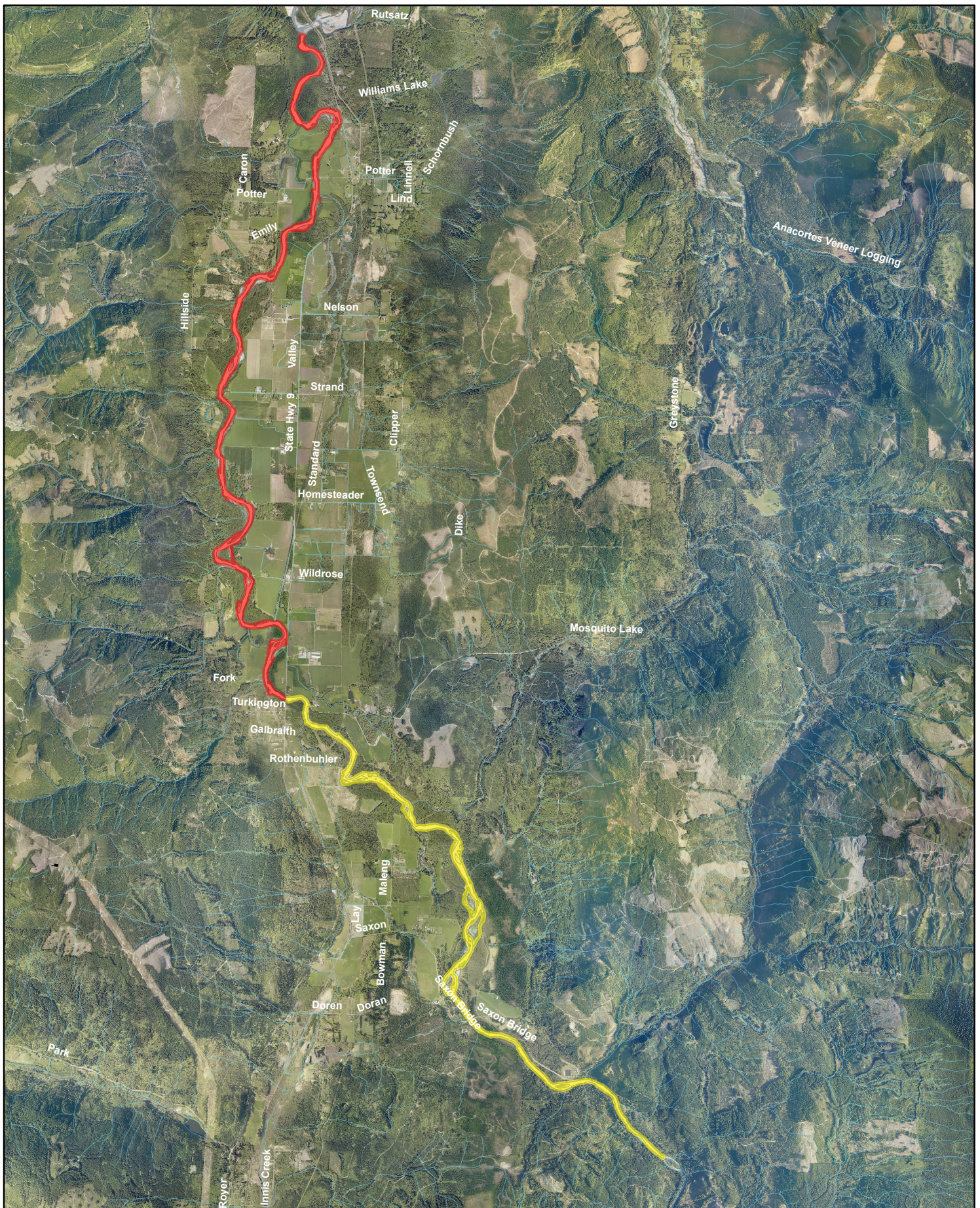
5 No person shall operate a paddleboard, innertube, inflatable flotation device, foam flotation
6 device, limb-propelled flotation device, or rubber raft intended for limb use on the ~~section of~~
7 ~~the~~ South Fork of the Nooksack River ~~between Edfro Creek and the Acme Bridge~~ between
8 the dates of June 1st and October 31st. The provisions of this section shall not apply to:

9
10 A. Devices engaged principally in commercial operations constituting an act of interstate or
11 foreign commerce or bona fide scientific research;

12
13 B. Use for emergency purposes when there is reasonable belief that such use is necessary
14 to protect or preserve persons, animals or property;

15
16 C. Use by law enforcement agencies to enforce the above provisions;

17
18 D. Department of Natural Resources-designated and Whatcom County-designated
19 swimming/boating areas on the South Fork of the Nooksack River. (Ord. 2020-002 (Exh. A);
20 Ord. 2019-046 (Exh. A); Ord. 2005-089 Exh. A).



South Fork Nooksack

- South Fork Nooksack - Acme Bridge to Confluence
- South Fork Nooksack - Edfro Creek to Acme Bridge

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