

Whatcom County Forestry Advisory Committee  
5280 Northwest Drive  
Bellingham, WA 98226

January 17<sup>th</sup>, 2024

Whatcom County Council  
311 Grand Avenue, Suite 105  
Bellingham, WA 98225

Whatcom County Executive's Office  
311 Grand Avenue, Suite 108  
Bellingham, WA 98225

**RE: 2023 Climate Commitment Act set-asides in Whatcom County**

Dear Chair Buchanan and Councilmembers:

The Whatcom Forestry Advisory Committee (FAC) offers this memorandum in response to Council request for recommendations about the Natural Climate Solutions proviso, the candidate areas identified in the December 18<sup>th</sup>, 2023, letter from Hilary Franz, Commissioner of Public Lands, to Council, and the draft response letter<sup>1</sup> from Council to Hilary Franz. It is our understanding that Council intends to deliberate and vote upon a motion to issue its response letter at the regularly scheduled January 23<sup>rd</sup>, 2024, Council meeting. It is the FAC's understanding, based on text of the draft response letter, that Council is inclined to concur with the transfer of the identified 650 acres, in accordance with the terms detailed in the current Capital Budget, Section 3130 "Carbon Sequestration Forests".

Undoubtedly, public land management strikes a balance between sometimes competing goals. The FAC recommends that the Council reconsider its position and not endorse withdrawing the candidate areas, "Anderson Creek" and "Brokedown Palace", from their status as sustainably managed resource lands. The proposed Natural Climate Solutions program would have significant downsides yet might yield only marginally incremental benefits. Consider:

- **Evidence suggests that the carbon mitigation consequences will be *negative*, since older forests sequester atmospheric carbon at a slower rate than younger forests.** According to the Washington Department of Natural Resources (WDNR) estimates, the age of the stands in the candidate areas ranges from 77 to 127 years. This is at the upper

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<sup>1</sup> Dated January 23, 2023, but provided to FAC in digital format January 10.

end of the range of rotation age suggested by modelers<sup>2</sup> and advocates<sup>3</sup> for maximizing carbon storage in forests over time. Although these areas likely have a large pool of stored carbon, retaining these forests uncut for the next 100 years will result in lower offset emissions than if these areas were harvested, replanted, and harvested again.<sup>4</sup> A preservation strategy for such areas is diametrically opposed to the recommendation of 17 countries at the United Nations COP28 UAE conference just last month:

*Recognizing that wood from sustainably managed forests provides climate solutions within the construction sector, we commit to, by 2030, advancing policies and approaches that support low carbon construction and increase the use of wood from sustainably managed forests in the built environment. Such policies and approaches will result in reduced GHG emissions, and an increase in stored carbon.*<sup>5</sup>

- **Environmental effects of harvesting in these areas have been evaluated and determined to be *de minimis*.** As Council is aware, the “Anderson Creek” candidate area is centered around the proposed timber sale “Bessie”, and the “Brokedown Palace” area around the proposed timber sale of the same name. Both of these proposed harvests were evaluated by a full suite of agencies and other organizations (including WDNR, Washington Department of Fish & Wildlife, Washington Department of Ecology (ECY), U.S. Fish & Wildlife Service, National Marine Fisheries Service, Lummi Nation Natural Resources, and Nooksack Indian Tribe Natural Resources) for potential adverse effects to water quality, endangered species, biodiversity, and other elements of the environment. Following review under the State Environmental Policy Act (SEPA), a determination of non-significance was issued and not a single one of these organizations objected.<sup>6</sup>

The 2016, *Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Loads: Volume 2. Water Quality Improvement Report and Implementation Strategy*<sup>7</sup>, implicates “stormwater runoff related to residential development” as the primary threat to water quality, and concludes that treatments should mimic the water quality from forested basins. Similarly, during the evaluation of the Lake Whatcom Reconveyance Lands in the early 2000s, ECY and Washington Department of Health

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<sup>2</sup> See, for example: August, 2023 OSU study, [Modelling above-ground carbon dynamics under different silvicultural treatments on the McDonald-Dunn Research Forest](#);

<sup>3</sup> See for example: <https://www.sightline.org/forest-long-rotation-harvests/> ; <https://conservationnw.org/what-if-we-can-have-our-cake-and-eat-it-too/> ; <https://www.nnrg.org/longer-rotations-and-carbon/>

<sup>4</sup> Ganguly, I., Pierobon, F. & Hall, E. (2020). Global Warming Mitigating Role of Wood Products from Washington State’s Private Forests. *Forests*, 11:2. [doi.org/10.3390/f11020194](https://doi.org/10.3390/f11020194) ; Ganguly, I., Droog, L. & Pierobon, F. (2023). Global Warming Mitigating Role of Forests in Washington State, by Land Ownership Type. Washington Agribusiness Status and Outlook, pp. 58-67. [wpcdn.web.wsu.edu/cahnrs/uploads/sites/6/WASO\\_2023\\_v5\\_wo-bleeds.pdf](https://wpcdn.web.wsu.edu/cahnrs/uploads/sites/6/WASO_2023_v5_wo-bleeds.pdf)

<sup>5</sup> <https://www.businesswire.com/news/home/20231206912774/en/COP28-Announcement-Pushes-for-More-Timber-in-Construction-and-More-Sustainable-Forestry>

<sup>6</sup> [https://www.dnr.wa.gov/publications/amp\\_sepa\\_nw\\_ts\\_bessiesorts\\_nfd.pdf](https://www.dnr.wa.gov/publications/amp_sepa_nw_ts_bessiesorts_nfd.pdf);

[https://www.dnr.wa.gov/publications/amp\\_sepa\\_nw\\_2818896\\_2818970brokednpal\\_nfd.pdf](https://www.dnr.wa.gov/publications/amp_sepa_nw_2818896_2818970brokednpal_nfd.pdf)

<sup>7</sup> <https://apps.ecology.wa.gov/publications/documents/1310012.pdf>

each concluded that residential development and legacy industrial uses in South Bay were the primary threats to water quality in Lake Whatcom, *not* continued forest management.

- **Under existing WDNR policies and procedures, ecologically significant older forests are adequately protected at multiple scales.** WDNR previously reviewed these candidate areas, both at the regional level and site scale, for their contribution to regional biodiversity<sup>8</sup> and threatened and endangered species<sup>9</sup> determined that these would be appropriate for harvest. In the planning for Brokedown Palace, for example, of 280 acres considered, only 44 acres of older forest were proposed for harvest and all the remaining acres were set aside for non-commodity benefits and protection of public resources. Across the entire land base it manages in western Washington existing WDNR policies result in identification and protection of 100 % of old-growth stands, 93 % of pre-1900 forests, and 79 % of forest stands greater than 80 years old.<sup>10</sup> Across all ownerships in Whatcom County, approximately 75 % (773,288 acres) are protected and not available for harvest.<sup>11</sup> These figures undercut the contention that current management is inadequate to protect structurally complex forests and ecological and watershed function.
- **Impacts to beneficiary revenue--including Junior taxing districts of Whatcom County--are substantial and are not isolated to some distant point in the future.** The three proposed timber sales which were paused following concerns raised by Whatcom County had a value estimated at \$ 7.1 million. The share of proceeds to beneficiaries has been estimated to include approximately \$ 2.5 million from Bessie Sorts (2022); approximately \$ 1.0 million from Brokedown Palace (2023). These sales were regarded as very desirable in the marketplace because of the high quality and unique forest products they would have generated, and they were offered during a period of high demand and high log prices. In the FACs opinion, these undoubtedly would have sold at auction, been operated in the year offered, and beneficiaries would have already received proceeds.

The Szechuan Beef timber sale (scheduled to be auctioned in 2024) would likely generate revenues in the range of \$ 2.5 million to \$3.0 million at current log prices.<sup>12</sup> For reasons which are unclear to the FAC, the December 18<sup>th</sup> letter to Council and accompanying maps fail to disclose WDNRs short range plans for other timber sales in the Anderson Creek candidate area (including, Nessie, Chicken Katsu, and Mushu Pork) and in the

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<sup>8</sup> WA DNR. (2006). Policy for Sustainable Forests. [dnr.wa.gov/publications/lm\\_psf\\_policy\\_sustainable\\_forests.pdf](https://dnr.wa.gov/publications/lm_psf_policy_sustainable_forests.pdf)

<sup>9</sup> WA DNR. (1997). Final Habitat Conservation Plan. [dnr.wa.gov/programs-and-services/forest-resources/habitat-conservation-state-trust-lands](https://dnr.wa.gov/programs-and-services/forest-resources/habitat-conservation-state-trust-lands); WA DNR. (2019). Final State Trust Lands Habitat Conservation Plan Amendment: Marbled Murrelet Long-Term Conservation Strategy. [dnr.wa.gov/publications/lm\\_mm\\_hcp\\_amendment\\_formatted.pdf](https://dnr.wa.gov/publications/lm_mm_hcp_amendment_formatted.pdf)

<sup>10</sup> [https://www.dnr.wa.gov/publications/em\\_bc\\_bnr\\_dnrlandscr\\_04042023.pdf](https://www.dnr.wa.gov/publications/em_bc_bnr_dnrlandscr_04042023.pdf)

<sup>11</sup> <https://www.wfpa.org/climate-change-solutions/county-carbon-charts/#/whatcom>

<sup>12</sup> Located within the Anderson Creek candidate area: WDNR proposed timber sale ID 101534, 1.12 MMBF, 102 acres, June, 2024 auction. Szechuan Beef is in the planning and engineering stage, so size and volume are current estimates and subject to change.

Brokedown Palace candidate area<sup>13</sup>. See, for example, documentation by Re/Sources, an interest group closely monitoring this issue.<sup>14</sup> At current prices, these future sales, potentially involving a hundred or more acres, would likely generate additional net revenues of \$20,000 to \$30,000 per acre.

- **The mechanism and timetable for providing offsetting revenue is highly uncertain.** The Capital Budget, Section 3130, details steps by which the allocated funding would ultimately be expended to replace lands withdrawn from management. After a County Legislative body responds affirmatively to WDNR, the agency will determine the value of candidate areas, then identify replacement lands of equivalent value, then expend proviso funds to purchase those lands. Subsequently, WDNR may offer timber sales from the replacement lands, thereby generating revenue and distributions to beneficiaries.

When Duane Emmons, WDNR Deputy Supervisor for State Uplands, presented to Council on January 9<sup>th</sup>, he testified about the likely timelines. The appraisal process, if conducted by WDNR staff, could take one to two years. Although federal trust lands could be replaced by lands recently acquired in Wahkiakum and Pacific County, State Forest Trust lands (aka County Trust lands) would have to be purchased within the same taxing district in order that the current allocation of revenues to Junior taxing districts be maintained. Alternately, the legislature has authorized a State forestland pool be created, an untested mechanism by which replacement lands could be located in a different taxing district. In addition to other procedural steps detailed in RCW 79.22.140, the designated county for the forestland pool lands would have to agree to host the replacement lands (and forego the revenue stream to it and its own junior taxing districts): this may not be an attractive prospect for Counties facing revenue constraints.

Emmons acknowledged that WDNR might not be able to purchase suitable replacement lands for an extended period of time. Emmons also acknowledged that the proviso funding may be inadequate to replace all of the 2,032 acres of candidate areas and, if so, additional allocations by the State legislature or alternative funding sources would be necessary.

Finally, and significantly, the likelihood of WDNR being able to acquire replacement lands with similar age, quality, and volume of timber to Anderson Creek and Brokedown Palace within Whatcom County is virtually zero. Almost without doubt, *if* replacement lands can be acquired, they will contain younger forests. For example, the average age class of the Wahkiakum purchase was about 20 years. The economic maturity, the execution of timber sales on replacement lands, and therefore the time when revenues would be distributed to beneficiaries is mostly likely to be decades in the future.

- **Transferring 650 acres of mature, productive forestland out of a managed status would be highly disruptive to the local timber economy and supporting infrastructure.** Note that the December 18 maps identifying the candidate areas do not

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<sup>13</sup> Brokedown Palace was rescheduled and appears on the FY 2024 harvest schedule as Timber Sale ID 100471.

<sup>14</sup> <https://www.re-sources.org/2023/12/650-acres-of-mature-forest-conserved-in-whatcom-county-thanks-to-climate-commitment-act-funds/>

disclose the actual property boundaries (legal descriptions of the subject parcels) which would be transferred but instead display modelled, noncontiguous areas deemed available for harvest. Deputy Emmons indicated that WDNR delineations have not been field verified at this point in time. He acknowledged that the areas in between the set-aside acres may be available for harvest under current policy, however, logistical and operational constraints make it unlikely that these areas will be actively managed. Including these areas, the FAC estimates that the total area removed from management in the Anderson Creek and Brokedown Palace areas would exceed 1,500 acres. Other, credible analysts have derived figures exceeding 2,000 acres.

The subject properties likely contain 80 million board feet (MMBF) of currently merchantable timber available for immediate harvest. For comparison, this exceeds the current estimate for the entire Fiscal Year 2023-2024 harvest in WDNR Northwest Region encompassing five counties. The 80 MMBF represents about a five-year supply of raw material for the only remaining sawmill in Whatcom County, Great Western Lumber. Great Western Lumber representatives have testified to Council that, notwithstanding these proposed set-asides, they have had to curtail production and employment due to supply constraints. Rather than manufacturing from locally grown raw materials, they have had to source logs from British Columbia and Thurston County (with added costs and carbon emission that entails) to remain viable.

The 80 MMBF will significantly reduce the Sustainable Harvest Calculation for the remaining WDNR lands for years to decades, which will necessarily have a negative ripple effect on the local businesses involved in the growth, cultivation, harvest, transport, and manufacture of forest products, secondary services, and the estimated 4,781 forest industry jobs<sup>15</sup> in Whatcom County.

The FAC recognizes the apparent policy preference of Council and the likelihood that Council will affirm to WDNR that Whatcom County wants to participate in the Natural Climate Solutions program. To that end, FAC offers the following recommendations for changes and clarifications to Council's draft response letter:

1. Deputy Emmons testified that the proposed Brokedown Palace delineation erroneously includes approximately 34 acres of 45-year-old plantation forest which does not meet the screening criteria for "structurally diverse, carbon-dense". The response letter should clarify that the County does not concur with including non-qualifying areas in the program.

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<sup>15</sup> <https://www.wfpa.org/forest-products-and-jobs/>

2. Request the legal descriptions of the candidate parcels together with accurate estimates of the total acres and total volume of timber contained therein based on WDNR inventory information, as well as the ten-year harvest plan for the candidate areas.
  
3. FAC suggests time is of the essence to determine the magnitude and timing of revenue effects to beneficiaries and, in Council’s words “offset any negative impacts the removal of these lands creates for local trust beneficiaries.” Given the estimates of one to two years for WDNR to conduct appraisals of the candidate areas using staff resources, we suggest recommending that WDNR consider contracting with a qualified, MAI-certified appraisal firm to provide the requisite analyses. In the experience of FAC members, such consulting firms routinely can provide clients (including WDNR) with full appraisal reports for projects of this magnitude in 60 to 90 days. Retaining a third-party appraiser would have the added benefit to the public, the legislature, and the beneficiaries of impartiality, transparency, and selection of appropriate methodologies to answer the appraisal questions accurately.
  
4. FAC suggests that the Council respond only with respect to the State Forest Transfer and State Forest Purchase trust lands (approximately 296 acres, less any adjustments in recommendation 1, above). These are the only areas for which the County (and its junior taxing districts) are the primary beneficiaries. Under common law interpretation of trust relationships, the County is not the beneficiary or controller of the assets in: Scientific School Trust (83 acres, Washington State University as beneficiary); Common School and Indemnity Trusts (266 acres, K-12 public schools construction, as administered by Washington Office of Superintendent of Public Instruction, as beneficiary); Agricultural School Trust (4 acres, Washington State University as beneficiary), and; Capitol Grant Trust (1 acre, State Capitol Campus infrastructure, as administered by the State Legislature, as beneficiary). Despite the language in the Capital Budget, Section 3130, Section 1 (b) requesting response from “the legislative authority of the county in which the forestland is located”, an action of the Council in the absence of any meaningful consultation with the actual beneficiar(ies) raises obvious concerns with divided loyalty, conflict of interest, fiduciary breach, and intergenerational equity.

Respectfully,



John Gold, Chair

acting on resolution of the Whatcom County Forestry Advisory Committee, January 16, 2023: 7 yea, 1 oppose, 2 abstentions