

RESOLUTION NO. \_\_\_\_\_

**ELIMINATING THE BARRIERS TO REMOVING EXCESS GRAVEL  
FROM THE DRY UPLAND MEANDER ZONES OF THE NOOKSACK RIVER**

**WHEREAS**, Whatcom County has recently experienced two significant floods, the most recent of which may be the worst in modern times, this winter wet season has just begun, and we have no reason to expect significant devastating flooding will not become a regular occurrence within our immediate future; and

**WHEREAS**, the Nooksack river carries an unusually high sediment load due to the presence of Mt Baker at its headwaters continuing to feed it with a considerable amount of material every year, much of which has accumulated over time in the dry large upland meander zones adjacent to the current water course of the river; and

**WHEREAS**, the previous practice of dredging the active water course portion of the Nooksack river system is not recommended nor is it being promoted by this resolution as it has been determined to have a negative impact on Salmon habitat and/or simply forces flood waters into communities further downstream; and

**WHEREAS**, the U.S. Army Corps of Engineers has recently successfully employed other practices in other states that involve the removal of material from dry upland areas thereby expanding flood plain capacity and creating inline flood water detention storage; and

**WHEREAS**, while the primary reason the recent floods were so devastating was the unprecedented amount of rainfall in a very short period time, the impact of future floods could be somewhat reduced if the volume of the area between the normal high watermark of the Nooksack river and the dikes could be increased, and the river could be encouraged to discharge more rapidly during period of extreme rainfall; and

**WHEREAS**, legitimate questions have been raised as to whether the lack of sediment removal from the Nooksack river in recent years is contributing to a reduction in storage capacity within the river's desired boundaries, whether "sediment berms" are allowing water to be slowed, and whether unnecessarily shallow waters in the summer are allowing the water temperature to exceed the ability for salmon to survive; and

**WHEREAS**, In response to these concerns the County Council placed proposal (PLN2019-00011) on the docket in 2019 to: *"Amend the Whatcom County Comprehensive Plan and Whatcom County Code to allow the seasonal extraction of sand and gravel from dry upland areas located within the 1,000 year meander zone of the Nooksack River, provided that such extraction has no negative impact on salmon spawning habitat. The intent is to (a) reduce the conversion of land currently used for farming, forestry and wildlife habitat into gravel pits, and (b) safely remove some of the significant sediment load that enters the Nooksack River every year in an effort to reduce flooding and the need to build higher flood prevention berms along the river as the climate continues to change."*; and

**WHEREAS**, the Whatcom County Comprehensive Plan goals (Goal 8Q) and policies (Policy 8Q-1 thru 8Q-9), as well as the existing Shoreline Management Plan (SMP) code, already support and offer permitting pathways to conditionally allow sand and gravel extraction within shoreline jurisdiction; and

**WHEREAS**, the draft 2020 SMP code amendments, which the Planning Commission voted unanimously to approve at the May 13,2021 meeting, and the County Council is

currently reviewing, will if adopted as written, continue to allow these activities, consistent with the Shoreline Conditional Use permit requirements; and

**WHEREAS,** while both the existing and proposed SMP code allows for sand and gravel extraction within shoreline jurisdiction, an extensive permitting/authorization process (and associated costs) at the State and Federal level continues to be the primary impediments to these activities; and

**WHEREAS,** the Surface Mining Advisory Committee (SMAC) at their June 26, 2019 meeting, the SMAC reviewed this matter and stated their understanding that no changes were necessary to the SMP code in order to allow for extraction of sand and gravel from dry upland areas located within shoreline jurisdiction and/or the FEMA 100-year floodplain; and

**WHEREAS,** the SMAC has confirmed that the lack of recent sand and gravel extraction within the Nooksack River shoreline jurisdiction/FEMA floodplain/floodway is primarily a function of the time and costs for studies associated with permitting and review at the state and federal level, compared to the economic return on investment; and

**WHEREAS,** the County Government recognizes the need to reduce the impact of flooding and that time and costs for studies associated with permitting and review are the primary impediment to the removal of sediment gravel in the dry meander zones of the river; and

**NOW, THEREFORE, BE IT ORDAINED,** the Whatcom County Council requests the County Executive amend the County’s biennial budget to include \$250,000 to be allocated to finding a pathway to allow for the removal of gravel in the dry meander zones of sediment from the Nooksack River to recommence; and

**BE IT FURTHER ORDAINED,** the money be used to produce studies, examine legal remedies, to conduct negotiations at the highest levels of the Tribal, State and Federal governments and to seek legislative amendments were necessary; and

**BE IT FURTHER ORDAINED,** that the full participation of the Lummi and Nooksack Nations, our local gravel companies, and the county SMAC as we seek a solution that simultaneously reduces flood potential, increases salmon habitat, and promotes shared prosperity in the proceeds received from gravel that is extracted; and

**BE IT FINALLY ORDAINED,** that the Port of Bellingham be solicited for input and assistance to find the means of bulk transportation of Nooksack gravel to new markets capable of absorbing the amount of sediment the river produces annually, to help generate revenue for the tribes and other landowners with properties adjacent to the river, minimize distortion of the existing local gravel market and eliminate need to consume other land to stockpile the material that is removed.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

( ) Approved ( ) Denied

\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Satpal Sidhu, County Executive

Date: \_\_\_\_\_