

1 **Draft Elements of Administrative Official Interpretation (AOI)**

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3 Skagit County Planning and Development Services is considering development of an
4 administrative official interpretation (AOI) pursuant to **SCC 14.06.040** responding to
5 direction from the Federal Emergency Management Agency (FEMA), Region 10 which
6 requires alignment of the National Flood Insurance Program with the Endangered Species
7 Act. The AOI would be utilized to guide qualified professionals in the preparation of fish
8 and wildlife site assessments, inform the public and assist reviewers under the authority
9 of the County’s Critical Areas Ordinance (CAO). The AOI would rely upon existing
10 language contained in the CAO, and its proposed non-substantive amendments which
11 provide cross reference to the Flood Damage Prevention Ordinance. All code provisions
12 cited in this document are included for review under Attachment A. The AOI would be
13 developed in order to ensure that Skagit County complies with the intent of Reasonable
14 and Prudent Alternative Element 3 - Floodplain Management Criteria. The criteria are
15 contained in the National Marine Fisheries Service Biological Opinion (BiOp) dated
16 September 22, 2008. The Riparian Buffer Zone (RBZ) dimensions can be found in
17 Appendix 4 of the BiOp and the May 14, 2009 errata letter. Appendix 4 and the errata
18 letter are included for review as Attachment B.

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20 The AOI is intended to clarify the meaning, application and intent of existing provisions
21 of the CAO relating to departmental review of Critical Area Maps (**SCC 14.24.050**) and
22 the preparation of Fish and Wildlife Site Assessments (**SCC 14.24.520**) by qualified
23 professionals. The review process has been developed to comply with the Riparian Buffer
24 Zone (RBZ) dimensions reflected in Appendix 4 and the errata letter.

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26 Department review of critical area maps for projects located within the RBZ

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28 • The existing Special Flood Hazard Area (100-year floodplain) would be overlain
29 on existing DNR Stream Type Maps for review by Planning and Development
30 Services.
31 • A 250-foot Riparian Habitat Zone review area would be registered to all streams
32 within the Special Flood Hazard Area as a threshold for further critical area
33 review.
34 • Proposals falling within the 250-foot Riparian Habitat Zone review area would
35 require further review and possible preparations of a site assessment by a
36 qualified professional.

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38 Critical Area Site Assessment Requirements for Qualified Professionals

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40 Fish and wildlife site assessment requirements for projects proposed within the Riparian
41 Habitat Zone review area would include:

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43 1. A regulatory analysis consistent with **SCC 14.24.080 (4) (c) (viii)**. The regulatory
44 analysis would specifically require discussion of the findings and

- 1 recommendations of the BiOp, relating to RBZ dimensions included in Appendix
2 4. and the May 14, 2009 errata letter).
3
- 4 2. A description of use of the site by listed species consistent with **SCC 14.24.500**
5 **(1) (a)**, which designates “areas with which endangered, threatened, and sensitive
6 species have a primary association” as fish and wildlife habitat conservation
7 areas.
8
- 9 3. An assessment of the applicability of RBZ dimensions of Appendix 4. as
10 corrected by the May 14, 2009 errata letter as discussed more completely in the
11 document: Management Recommendations for Washington’s Priority Habitats:
12 RIPARIAN (WDFW, December 1997) along with the buffer requirements of
13 **SCC 14.24.530 (1), (2)** and a review and analysis of the Final Best Available
14 Science Report prepared for Skagit County (Watershed Company, January 2007).
15
- 16 4. Buffer plans shall demonstrate that proposed buffer widths are sufficient to
17 protect riparian functions and that project activities are “not likely to adversely
18 effect” listed species. Analysis of the Management Recommendations for
19 Washington’s Priority Habitats: RIPARIAN (WDFW, December 1997) and Final
20 Best Available Science Report prepared for Skagit County (Watershed Company,
21 January 2007) shall be utilized as the basis for establishing sufficient buffers. If
22 the appropriate buffer width exceeds the standard requirements of the CAO, then
23 the provisions of **SCC 14.24.540 (1) Buffer Width Increasing** shall be utilized to
24 provide additional protection of riparian functions.