washington state department of
community, trade and economic development

ESA Listings and Critical Areas

Growth Management Services

How critical areas regulations can help ensure protection of salmon habitat

Description of the Habitat Dilemma

Solutions to salmon recovery involve the "Four Hs": hatcheries, hydroelectric generation, harvest levels, and habitat restoration. Of those four factors, local governments are most directly responsible for habitat protection and restoration.

Under the Growth Management Act (GMA), some local governments have put into place effective regulatory programs for critical areas, including wetlands, geologically hazardous areas, fish and wildlife habitat conservation areas, critical aquifer recharge areas, and frequently flooded areas. Pioneering plans for flood hazard reduction, nonpoint pollution control, and stormwater management have been developed. Shoreline master programs and the Puget Sound Water Quality Plan are being carried out.

Other local governments have found critical areas work challenging. Early in GMA planning, ordinances were quickly developed to meet tight growth management deadlines. When GMA development regulations were adopted, communities may or may not have had the time and funds to go back and look at critical areas ordinances to see if they are adequately protecting special, sensitive lands.

Some local governments may have used former ordinances adopted years before the passage of the GMA to meet the new requirements. Still other communities have not yet reached consensus on what to do about wetland buffers, areas that flood frequently, critical aquifer recharge areas, and fish and wildlife habitat.

In spite of the considerable amount of work local governments have undertaken, they are faced with listings under the Endangered Species Act (ESA). Salmon, steelhead, and bulltrout fisheries are hurting. Some local governments may need to do more to meet ESA requirements.

Background on Critical Areas Requirements

The GMA provides a comprehensive framework for local governments with a full set of planning requirements to follow in developing a comprehensive salmon habitat protection program.

While it does not use the word “watershed” and does not require an environment chapter as part of comprehensive plans, the act is not silent on watersheds or the environment. For example, local governments are instructed to develop comprehensive plans that “provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state.”

The basic architecture of the GMA defines a strategy for watershed protection and salmon recovery that is consistent with the best available science. The strategy is to:

- Protect all streams and wetlands that are now healthy. First, keep intact what we have.
- Conserve rural and resource lands. Minimize new impervious surfaces.
- Direct most new urban growth to urban areas.
- Provide for open space corridors within and between urban growth areas.

The requirement to protect critical areas, particularly wetlands and fish and wildlife habitat, means that those ecosystems must be maintained. While local governments may adopt development regulations that could result in localized impacts on some critical areas, such flexibility must be used carefully. In no case should regulations result in a net loss of the functions of ecosystems within a watershed.

To meet critical areas requirements, all counties and cities in the state have been working since 1990 to establish protection for designated fish and wildlife habitat areas. Most cities and counties rely on the Washington Department of Fish and Wildlife’s Priority Habitat and Species Program. Many jurisdictions are taking a broader look at protecting biodiversity through the management of multiple species of plants and animals.

Critical areas protection was to be completed before comprehensive plans to ensure these specially sensitive areas would: (a) be designated so more intense development could occur elsewhere, and (b) be protected from incompatible development while comprehensive plans and development regulations were being adopted.

Guidelines for salmon habitat protection

When designating critical areas, local governments are to consider the state’s “minimum guidelines” (WAC 365-190) developed by the Washington State Department of Community, Trade, and Economic Development (CTED). These guidelines define fish and wildlife habitat conservation as “land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated sub-populations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region.”

The minimum guidelines acknowledge it is less costly to protect sensitive areas than it is to repair them once damaged.

The minimum guidelines lead counties and cities to recognize the differences among sensitive critical areas and develop appropriate regulatory and non-regulatory programs. Regulatory programs should complement non-regulatory landowner incentive programs so that together they make up a comprehensive critical areas protection program. This approach is identical to the strategy defined in the Puget Sound Water Quality Plan.

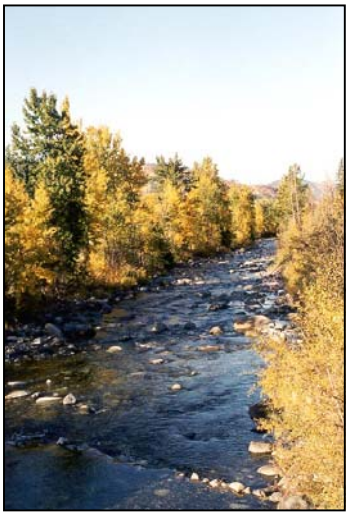
Recommended non-regulatory strategies include purchase or transfer of development rights, use of the "public benefit rating system," purchase of priority lands, purchase with leaseback, current use taxation, buffering, land trades, and recognizing conservation easements.

The minimum guidelines recognize local governments in a region or watershed need coordinated, consistent designations, definitions, and standards. Some counties have excelled in coordinating efforts by including the environment and watershed management among topics addressed in county-wide planning policies.

The minimum guidelines considered endangered species when they were developed in 1990. The minimum guidelines for classification of fish habitat define that habitat as including: "Areas with which endangered, threatened, and sensitive species have a primary association; and kelp and eelgrass beds; herring and smelt spawning areas."

Counties and cities are advised to classify habitat areas with which endangered, threatened, and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

Special consideration is to be given to:



- Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open space.
- Protecting riparian ecosystems.
- Evaluating land uses surrounding fish habitat areas that may negatively impact these areas.
- Establishing buffer zones around these areas to separate incompatible uses from habitat areas.
- Restoring lost salmonid habitat.

Best available science is required

In 1995 the GMA was amended to require counties and cities to "include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries" (RCW 36.70A.172).

CTED has developed a rule to guide local governments in including the best available science updates of their critical areas ordinances. CTED, in cooperation with other state agencies, has developed a list of sources of information on the best available science for local governments to use. To get a copy of *Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas*, call (360) 725-3000. You can also see *www.cted.wa.gov/growth*. In addition, other organizations are developing information on the best available science for fisheries habitat needs.

What's Next

Here are some suggestions for local communities:

- Identify and use the most current scientific information for the designation and protection of critical areas.
- Review current critical area ordinances to determine their effectiveness in protecting salmon habitat and amend them, if necessary.
- Identify how current regulations can be better carried out and enforced.
- Make sure the permit process affecting erosion and sediment control, critical areas, and stormwater management is consistent with habitat management objectives.
- Consider using environmental measures in monitoring or benchmarking programs to reflect critical indexes for salmon habitat. Then implement an adaptive management program.
- Continue to combine non-regulatory programs with strong regulatory protections. Investments in acquisition of habitat, volunteer restoration projects, and salmon education programs deserve the protection that comes from strong regulatory standards.

All counties and cities in the state are required to review, evaluate, and, if necessary, revise their critical areas ordinances according to a schedule established by the state Legislature and approved by the Governor in 2002. This GMA Update provides an opportunity for counties and cities to: (1) review their critical areas ordinances and update them, (2) include the best available science in their critical areas ordinances, and (3) develop new salmon recovery measures.

Local governments can use information from a model ordinance for critical areas being developed by CTED. The publication is available in draft form and will be finalized in the Fall of 2003.

Photos: Washington Department of Fish and Wildlife; CTED/Rita R. Robison

For More Information

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www.cted.wa.gov/growth