RESOLUTION NO. 2005-03

A RESOLUTION OF THE MUKILTEO CITY COUNCIL SUPPORTING WATER RESOURCE INVENTORY AREA (WRIA) 7 & 8 CHINOOK SALMON CONSERVATION PLANS.

WHEREAS, in March of 1999, the National Oceanographic and Atmospheric Administration (NOAA) Fisheries listed the Puget Sound Chinook salmon evolutionarily significant unit as a threatened species under the Endangered Species Act (ESA); and

WHEREAS, in November of 1999, the United States Fish and Wildlife Service (USFWS) listed the Puget Sound bull trout distinct population segment as a threatened species under the ESA; and

WHEREAS, under the ESA, it is illegal to “take” a listed species, and the ESA defines the term “take” to include actions that could harm listed species or their habitat; and

WHEREAS, actions that are directly or indirectly authorized by local governments could potentially expose local governments to civil or criminal penalties under the ESA; and

WHEREAS, under ESA Section 4(f), NOAA Fisheries (for Chinook salmon) and USFWS (for bull trout) are required to develop and implement recovery plans to address the recovery of the species; and

WHEREAS, the most essential ingredient for the development and implementation of an effective recovery program is coordination and cooperation among federal, state, and local agencies, tribes, researchers, non-governmental organizations, businesses, landowners, and private citizens; and

WHEREAS, Shared Strategy for Puget Sound, a regional non-profit organization, has assumed a lead role in the Puget Sound response to developing a recovery plan for submittal to NOAA Fisheries and the USFWS; and

WHEREAS, Shared Strategy intends that its recovery plan will include commitments from participating jurisdictions and stakeholders; and

WHEREAS, local jurisdictions have authority over habitat-based aspects of Chinook survival through land use and other policies and programs; and the state tribes, who are the legal co-managers of the fishery resource, are responsible for addressing harvest and hatchery management in WRIA 8; and

WHEREAS, in WRIA 7 & 8, habitat actions to significantly increase Chinook productivity trends are necessary to avoid extinction in the near term and to restore WRIA 7 & 8 Chinook to viability in the long term; and

WHEREAS, the citizens of the State of Washington have a constitutional right to have their elected officials make land use decisions affecting their lives and property; and
WHEREAS, the City of Mukilteo values ecosystem health, the protection of salmonids, and water quality, open space protection; and maintaining a legacy for future generations, including commercial, tribal and sport fishing, aesthetic quality of life and cultural heritage; and

WHEREAS, the City of Mukilteo supports cooperation at the WRIA level to set common priorities for actions among partners, efficient use of resources and investments, and distribution of responsibility for actions and expenditures; and

WHEREAS, the City of Mukilteo has participated as a member of the WRIA 8 Forum in funding and overseeing development of a Chinook Salmon Conservation Plan for WRIA 8 dated 2/25/05 and reviewed the WRIA 7 Draft Snohomish Basin Salmon (Watershed Habitat) Conservation Plan dated July 2004; and

WHEREAS, while the Plan recognizes that salmon recovery is a long term effort, it focuses on the next 10 years and includes the following key elements: a) the scientific foundation and the conservation strategy (which provide the scientific framework for Plan actions); b) comprehensive action lists to protect and restore salmon habitat (including site specific projects; land programs, incentives and regulations; and public outreach and education recommendations) and a start-list of priority actions for the first ten years; c) an adaptive management approach including monitoring and evaluating the effectiveness of the actions; and d) a funding strategy which suggests possible funding options; and

WHEREAS, the City of Mukilteo has already begun to implement habitat restoration and protection projects, and addressed salmon habitat through its land use and public outreach policies and programs over the past five years as part of the early start projects and 10-year actions that are laid out in the plans as shown in Exhibit A; and

WHEREAS, The City of Mukilteo has only nearshore related projects, thus the city should not be obligated to contribute to stream and river watershed projects that need regional funding contained in the plans to achieve implementation; and

WHEREAS, NOAA Fisheries and the USFWS can provide certain regulatory assurances to jurisdictions that have committed to a recovery plan; and

WHEREAS, it is important to provide local jurisdictions committing to large capital projects, the private sector and the public with certainty and predictability regarding the course of salmon recovery actions that the region will be taking with the WRIA 7 & 8 plans, including the Puget Sound Nearshore; and

WHEREAS, The City of Mukilteo understands that there continues to be a need to coordinate on a regional basis related to project coordination, grant application review and prioritization, project monitoring, improvement to Best Available Science in the nearshore, ensuring the efficient use of resources, and acknowledges these can be done under a new interlocal agreement(s) as needed; and
WHEREAS, if insufficient action is taken at the local and regional level, it is possible that the federal government could list Puget Sound Chinook salmon as an endangered species, thereby decreasing local flexibility in their response to a federally mandated response; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO RESOLVES AS FOLLOWS:

Section A. The City of Mukilteo ratifies the Chinook Salmon Conservation Plans of WRIA 7 & 8 so they can be submitted for Shared Strategy of Puget Sound review and incorporation in the overall plan for Chinook salmon and bull trout in Puget Sound.

Section B. The City of Mukilteo hereby indicates its support for:

1. The following goals for the Plan:
   A) The WRIA 8 Plan mission state to conserve and recover Chinook salmon and other anadromous fish, focusing on preserving, protecting, and restoring habitat with the intent to recover listed species, including sustainable, genetically diverse, harvestable populations of naturally spawning Chinook salmon. The WRIA 7 Plan goal is to protect, restore and enhance the productivity of all wild salmon stocks in the Snohomish Basin and the Puget Sound Nearshore to a level that will sustain fisheries and non-consumptive salmon-related cultural values.
   B) The multiple benefits to people and fish of implementing WRIA 7 & 8 Plans includes water quality improvement; stream scouring and flood reduction; open space protection; and maintaining a legacy for future generations, including commercial, tribal and sport fishing, quality of life, and cultural heritage. The milestones and start-list of actions, cited respectively in the WRIA 7 & 8 Plans, provides a clear path for significant progress towards salmon recovery.

2. Continuing to work collaboratively with other jurisdictions and stakeholders to implement both the WRIA 7 & 8 Plans.

3. Using the scientific foundation and the conservation strategy as the basis for management actions in the plan and as one source of best available science for future capital improvement projects, revisions to plans and ordinances to meet Growth Management Act and Shoreline Management Act requirements, transportation planning, stormwater management, and other appropriate local government activities.

4. Adopting an adaptive management approach to Plan implementation to address uncertainties and ensure cost-effectiveness by tracking actions, assessing action effectiveness, learning from results of actions, making corrections where needed, and communicating progress.

5. Using the start-list actions to guide priorities for regional funding in the first ten years of Plan implementation with revisions based on what is learned from adaptive management.
6. Using the comprehensive list of actions and projects for a source of potential site specific projects as well as implementing land use code changes and providing public outreach with information that will benefit salmon.

7. Working collaboratively to develop a cost-effective regional monitoring program as part of the adaptive management approach.

8. Using an adaptive approach to funding the Plans through both local sources and by working together within and across WRIAs to seek federal, state, grant and other opportunities. The long-term funding goal is funding projects through a variety of sources that exceed the present commitment that any one local jurisdiction can individually, recognizing that this resolution cannot obligate future City Councils to financial commitments.

9. Forwarding the Plan to appropriate federal and state agencies through Shared Strategy for Puget Sound, to be included in the Puget Sound Chinook salmon recovery plan, while recognizing that final negotiation of commitments and assurances or conditions will be an iterative process.

Section C. The support of the City of Mukilteo is conditioned upon final negotiations with federal and state agencies. The following conditions would foster each Plan's implementation:

1. The City of Mukilteo agrees to work collaboratively with NOAA fisheries; the USFW; the Snohomish County Marine Resources Committee and the NW Straits Commission; and Shared Strategy for Puget Sound, or a future Puget Sound regional recovery organization to implement the Plans.

2. If the City of Mukilteo commits to implementation of it's portions of both plans as opportunities and funding become available, as already documented in Exhibit A, then NOAA Fisheries will agree to adopt the Plan, as an operative element of its ESA Section 4(f) recovery plan for Puget Sound Chinook salmon.

3. If the City of Mukilteo commits to implementing the plan and is making progress as documented above, then NOAA Fisheries and the USFWS:
   a) Shall take no direct enforcement actions against the City of Mukilteo under ESA; and
   b) Shall endorse the Plan and its actions, and shall defend them against legal challenges by third parties; and
   c) Shall reduce the regulatory burden for the City of Mukilteo activities that require an ESA Section 7 consultation.

4. If the City of Mukilteo commits to implement the Plan, as documented above, then the federal and state governments will:
   a) Direct funding and other monetary incentives to support the Plan actions and monitoring activities.
b) Reflect salmon habitat needs and incorporate actions and guidance from the Plan in future federal and state transportation and infrastructure planning and improvement projects.

c) Apply mitigation efforts to help achieve Plan priorities.

To the extent that the commitments described in Section B require future appropriations beyond current budgets and appropriation authority, then the commitments are conditioned upon future appropriations by the City of Mukilteo.

RESOLVED by the City Council and APPROVED by the Mayor this 16th day of May 2005.

APPROVED:

DONALD L. DORAN, JR.
MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK, CHRISTINA J. BOUGHMAN

FILED WITH CITY CLERK: 05-09-05
PASSED BY CITY COUNCIL: 05-16-05
RESOLUTION NO. 2005-003
Exhibit A

Specific Actions Taken or Underway by the City of Mukilteo
To Implement the Chinook Salmon Conservation Plans of WRIA 7 & 8

Actions Taken by the City of Mukilteo or in Partnership:
1. Adopted three updated Critical Area Codes in February 2005.
2. Applied for an NPDES II permit through the Department of Ecology to improve stormwater management and to provide public education.
3. Mukilteo Lighthouse Park Master Plan Phase I will be constructed, including backshore riparian vegetation in the winter of 2006-2007.
4. Feasibility study and environmental analysis work for the Big Gulch Project with stream restoration and pocket estuary.

Actions Underway by the City of Mukilteo or in Partnership:
7. Participating in the preliminary engineering studies for multi-jurisdictional Big Gulch Project with sanitary sewer line replacement and stormwater high flow bypass line including stream restoration and introduction of a pocket estuary.
8. Port of Everett Rail-Barge will undertake beach enhancement & creosote pile removal at the “Edgewater Park” site.
9. Washington State Ferry Mukilteo Terminal Relocation project is considering beach enhancement & creosote pile removal.
10. The City of Mukilteo will update the 2006 Capital Facilities Plan to include appropriate projects, as noted above.

Actions Being Considered by the City of Mukilteo:
12. Updating Development Standards including BMPs.