

## **Background on the Local Response to ESA Listing of Chinook Salmon**

Puget Sound Chinook salmon were listed as “threatened” under the Federal Endangered Species Act (ESA) in 1999. As a listed species, any actions that could be viewed as having an adverse effect on Chinook survival could be considered a legal “take” and be prohibited unless steps are taken to reduce or eliminate impacts. “Take” can include actions ranging from private and public development activity, release of stormwater that carries pollutants into lakes and rivers, or operation and maintenance of the public street system. Lawsuits regarding “take” can be initiated by third parties including citizens, non-governmental organizations, and Indian Tribes.

Puget Sound Indian Tribes have federal treaty rights guaranteeing them the ability to harvest salmon and the habitat necessary to support the salmon. These tribes have expressed their concern at the lack of progress towards meeting habitat recovery goals. They are requesting local, state, and federal governments to do more to adopt and enforce protective regulations. Tribes have threatened lawsuits over the continued decline of habitat and fisheries, such as their successful lawsuit against WSDOT and other state agencies for road culverts that block salmon passage.

The four basic categories of items impacting salmon populations include: habitat, hatcheries, hydropower, and harvest. Of these, habitat is the factor most within the control of local governments as jurisdictions guide land use and operate and maintain public infrastructure that can affect local streams. Hatcheries and harvest issues are co-managed by the Washington Department of Fish and Wildlife and Puget Sound treaty tribes. Hydropower impacts are managed by the Federal Energy Regulatory Commission (FERC) licensing process. NOAA Fisheries evaluates each of the four areas independently for compliance with the Endangered Species Act.

In response to the listing, local governments and stakeholders in the Lake Washington/Cedar/Sammamish Watershed (also known as Water Resource Inventory Area 8 or WRIA 8) jointly developed a plan to address habitat protection and restoration for two populations, Cedar River Chinook and Sammamish Chinook. The WRIA 8 committees started in 2000 to compile information, analyze data, and develop the plan under the guidance of the Puget Sound Chinook Technical Recovery Team, an independent science panel. The plan was completed and ratified by local governments, including Bellevue, and incorporated into the Puget Sound Chinook Recovery Plan in 2005. The Puget Sound Chinook Recovery Plan was reviewed by federal agencies for compliance with the Endangered Species Act and accepted in 2007.

While the ESA prohibits “take,” the Puget Sound Salmon Recovery Plans have the goal of sustainable, harvestable levels of Chinook and eventually, de-listing of Chinook salmon as a threatened species under the Endangered Species Act. In addition to preserving and sustaining a species important to Puget Sound, endorsing the WRIA 8 Plan may reduce the risk of third party lawsuits regarding impacts from development and City maintenance activities.

## **Roads Maintenance 4(d) Protection**

The City of Bellevue also participates in a regional program that assures roads maintenance activities do not harm salmon. Road sanding, drain cleaning, debris management, and other activities have the

potential to impact salmon. Bellevue crews have adopted regional practices to minimize potential impacts and report back to the region on operations. In addition, updated information and training is made available to crew leaders and supervisors. As long as Bellevue conducts maintenance in accordance with the regional Roads Maintenance guidelines, these activities are largely protected from third party lawsuits.