

BIG BUFFER BILLS 2022

HB 1838 & SB 5665

Local Legislators: Sponsored by Rep. Debra Lekanoff and Sen. Liz Lovelett, 40th District

Mandates large NO TOUCH buffers on private lands with very few exceptions, but exempts tribal lands.

Creates huge buffers as large as 235 feet on each side of a stream or river or all around a pond, lake or wetland taking thousands of acres of farmland, an estimated 20% of Western Washington agricultural lands.

The governor's office of Indian affairs shall convene a state/tribal riparian management oversight committee that will review and support implementation of this act.

Creates new fines up to \$10,000 per day per violation (issued by Ecology).

Will replace the Voluntary Stewardship Program with a hostile regulatory standoff.

Exemptions omit major policy considerations such as federal and state flood damage reduction measures for the protection of life and property, the constitutional rights of landowners, the financial burden of controlling invasive and noxious weeds and other economic losses due to changing use of natural resource land.

Specific items of interest in the bills:

- [Sec. 102] The zone of influence for the health of riparian ecosystems encompasses the active floodplain, including riverine wetlands and terraces, and the adjacent uplands that contribute matter and energy to the active channel or active floodplain. Scientists estimate the width of a properly functioning riparian ecosystem for most streams and rivers in the state to be site potential tree height, and that protecting and restoring the conditions within this area is necessary to protect and maintain the full, healthy function of the riparian ecosystem.
- [Sec. 205] The department shall develop a map that illustrates the riparian management zone for salmon and steelhead bearing rivers and streams for each watershed as defined in chapter 90.82 RCW. The maps must be developed in consultation with federally recognized tribes and in coordination with regional salmon recovery organizations established in chapter 77.85 RCW...The riparian management zone map must include all streams, rivers, and floodplains that support salmon and steelhead recovery, including those in undeveloped urban growth areas designated under chapter 36.70A RCW. The inclusion of tribal lands in a riparian management zone map may only occur upon permission of the tribe to include their lands.
- [Sec. 204] Land adjacent to waters is exempt from requirements under this chapter if it is:
 - (1) Enrolled in the federal conservation reserve enhancement program that establishes a riparian management zone;
 - (2) Legally permitted and used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented structures as provided in the shoreline master program pursuant to chapter 90.58 RCW;
 - (3) Covered by a road, trail, building, or other structure that exists at the time of the effective date of this section;
 - (4) Regulated by a national pollutant discharge elimination system permit and requires a riparian management zone;
 - (5) Regulated by the forest practices act pursuant to chapter 576.09 RCW; or
 - (6) A small parcel in which the riparian management zone would cover more than 50 percent of the parcel. Any reduction in the size of the riparian management zone must maximize riparian functions to the greatest extent practicable and take into consideration opportunities for cost share. Reductions may not be granted for parcels determined to be small as a result of subdivision after the effective date of this section.



If these buffer bills were enacted, fields like this one on Fir Island would be reduced by at least 150 foot buffers along the tributary, removing potentially 20% of this fields' production ability.

Recommended Farmer Talking Points:

This will STOP local food production in Western Washington. A farmer's "inventory" is their land.

The profit margin for farms in Western Washington is 1-5%, which leaves very little room for error and makes every inch of farmland valuable. The land involved in Western Washington farm production is part of a scientific "rotation" that keeps land producing food in the most productive, economical, and environmentally-friendly way possible. Removing any farmable land from a farmer's inventory removes their ability to profit and survive. If a farmer cannot make a living, he or she will sell their land to the highest bidder. In Western Washington, the highest bidders are urban developers. Farm land will then become houses, not wildlife and fish-friendly fields.

Agriculture is a salmon's best friend.

As mentioned previously, if a farmer cannot make a living, he or she will sell their land to the highest bidder in order to recoup lost income for their future. In Western Washington, the highest bidders are urban developers. Farm land will become urban development, which is not a friend to wildlife or salmon. Farmers are the first environmentalists, using best management practices to ensure their land is healthy and productive. Most fields are also home to wildlife. Many farmers understand the practical advantages of good conservation practices, and many have protected and restored stream corridors, wetlands, and other natural features on their farms. A crop field such as potatoes that uses best management practices, that is free of noxious weeds, urban runoff, and road pollution, protects salmon better than any other use on that land.

This is clearly a land grab by the state to take private lands for public purposes.

But only certain private lands. Tribal property is exempt. Forest property is exempt. Urban property is exempt. Western Washington farm lands are clearly the property legislators and the governor are targeting. If salmon recovery was truly the goal, all land bordering salmon bearing waterways within the state's borders would be on the table for inclusion.

History of buffers in Western Washington

Buffers on agricultural land have been discussed for decades. More than 20 years ago, William Ruckleshouse, the head of the Salmon Recovery Board at the time, said in a presentation, "we are not going to get salmon heaven with lawyers."

"In the Skagit Valley, the major impacts on this landscape took place 100 years ago, at which point the river system was diked and the drainage system which allowed farming to go on in this alluvial floodplain had been basically installed. This century-old capital infrastructure investment has allowed farming in this Valley to flourish and become legendary as some of the finest farmland in the world. Even in its culturally altered condition, this river still produces one-third of the wild Chinook salmon in the Puget Sound, has abundant runs of Pink salmon and Chum salmon, (which very well may be abundant because they are not as desirable from a sport or commercial perspective), and provides habitat for enormous populations of waterfowl, raptors, trumpeter swans, snow geese and other wildlife species." (AGRICULTURE FOR SKAGIT CO., 2000)

"The situation we face today regarding salmon is the result of a large-scale regional experiment that has been going on for 150 years on the management of our natural resources...At each stage of this ecosystem level experiment what was then considered to be the Best Available Science (BAS) that could be applied in an acceptable fashion to the resource was used. Fifty (50) years ago, hatcheries were believed to be the most scientific and efficient way to address declining fish populations. Only 20 years ago, we realized that the then common practice of removing large woody debris from streams was contrary to the needs of the anadromous fish populations...The requirement to utilize BAS should be viewed with some measure of humility and skepticism in light of the shifts, turns and even reversal of presumed wisdom that have occurred over the past century in regards to fisheries and natural resources management strategies." (AGRICULTURE FOR SKAGIT CO., 2000)

Years ago, it was determined that the solution to salmon recovery is salmon habitat restoration integrated with successful farming. **Mandated tree height buffers on private lands is not the solution. Changing the use of these riparian lands from farming to fish protection raises the fundamental issue of taking private lands for public purposes.** The Ruckleshouse Process, concluded 10 years ago, found benchmarks for protection of salmon and their habitat on Natural Resource Lands of long-term commercial significance and ultimately led to the implementation of a successful Voluntary Stewardship Program. This balanced use of Best Available Science meets the needs of anadromous fish and their critical habitat, respects the property rights of the affected landowners, and supports farming in the Skagit Valley. (Tribal Ag Accord, 2005)

For more information about talking points, buffer history, or bill specifics, please contact our office:

Western Washington Agricultural Association

(360) 424-7327

info@westag.org