

# **Arrowhead Lagoon Restoration Progress Report**

## **January 1, 2005 – June 10, 2005**

**SRFB Project Number 04-1217R**



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## **Introduction**

Arrowhead Lagoon is located at the southern edge of Skagit Bay and is down current of the mouths of both the South Fork Skagit and the Stillaguamish Rivers where outmigrating juvenile salmon enter the bay. The historic lagoon was approximately 15 acres but is now divided nearly in half by a north-south dike. The lagoon mouth is located at the eastern end of the lagoon and tidal influence extends up channel to the dike. Trail fill and a small culvert within the tidal channel significantly restrict tidal exchange in this area. The western portion of the lagoon no longer receives direct tidal influence from the bay although low levels of saline were detected in the remnant channel immediately west of the dike. The primary goal of the Arrowhead Lagoon Restoration proposal is to restore natural tidal landscape processes and lost habitat area within the eastern portion of Arrowhead Lagoon to improve refuge, rearing, and foraging opportunity for salmon (specifically wild Chinook) and nearshore fish species.

## **Summary**

Skagit River System Cooperative (SRSC) has been in close coordination with the landowners of the lagoon since project inception in January 2004. Upon grant approval, SRSC contacted designated landowner representatives to schedule a meeting in January 2005 and begin the planning and design portion of the project. SRSC then met with a restoration committee that was established by the president of Eagle Tree Estates Property Owners Association to ensure landowner input, communication, and involvement.

Initial work has been focused on responding to landowner questions and concerns, negotiating landowner agreements (LOA), beginning investigative work, and attending landowner restoration committee meetings. We have also begun preliminary work to look at salinities in the lagoon, freshwater influences from the adjacent bluff and marsh behind the dike, and potential for seawater intrusion. Numerous questions were raised at the restoration committee meetings such as ultimate lagoon size, the effect that restoration would have on slope stability of the bluff, the length and look of the new bridge, the dynamic nature of sand spits, the lack of salmon numbers in the lagoon, location of dredge spoil deposits, revegetation of disturbed areas, the process for landowner involvement in the project, phasing the project (design and then construction), and the LOA.

SRSC addressed most of these topics by reviewing historic photos with the restoration committee and pointing out progressive changes since 1941; by discussing known fish usage of the area; by discussing projected effects of suspected water quality degradation in the lagoon on fish; by discussing the relationship of wave, landslide, and coastal processes on the proposed restoration actions; and by committing to the landowners that the bridge design would be mutually agreed to. To further assure the landowners of SRSC's commitment, we prepared a draft Memorandum of Agreement (MOA) between SRSC and the vested landowners to establish a mutually agreeable framework for salmon habitat restoration activity in the lagoon. The agreement addressed the key concerns raised by the landowners by outlining SRSC's commitment to respecting private property rights, assuring landowner involvement in the project design, and constructing a restoration project that is equivalent to

(or safer than) the existing site conditions. Members of the restoration committee proposed to present the MOA and LOA to their attorney for review.

In April 2005 landowner focus shifted to private property rights. Concerns were raised about what long term impact accepting government money for a project on private property may have on private property rights. In addition, concerns grew regarding increased trespass that might result from project publicity and attention. The landowners expressed concern over existing trespass problems and liability. The property owners reported that there are ongoing problems with non-landowner trespass on their private road and on the lagoon trail. There is concern trespass will increase as the result of the project. They also raised concern over eminent domain if they allow extended access rights to any individual or groups. SRSC contacted the WRIA 6 lead entity and the project lead at the Interagency Committee for Outdoor Recreation (IAC) to see if there had been any cases where private property rights were lost as the result of government participation in restoration projects. SRSC also did a several hour web search in an attempt to find such cases. No situations of property takings associated with voluntary restoration projects were discovered. This information was relayed back to the landowners and SRSC offered to arrange a meeting between the IAC project manager and the landowners if desired. SRSC also offered to post signs at the trailhead to warn off trespassers.

As of this writing, SRSC is working with the IAC project manager to find solutions for the remaining private property concerns including property takings, trespass, and project phasing. Tentative agreement has been made to phase the project so that the design can be completed and agreed to before proceeding to construction. Despite the challenges, we remain hopeful that we will be able address the concerns of the remaining landowners, obtain LOAs, and proceed with preliminary planning and design of the restoration project.

The following is a summary of activities conducted on the Arrowhead Lagoon Restoration Project during the first 6 months of the Round 5 funding period.

#### January 2005

- SRSC met with the newly formed Eagle Tree Estates Restoration Committee to discuss the project proposal and to strategize. Discussed how to best outreach and communicate with all vested property owners. Discussed the LOA form and the need for signatures to proceed with the project.
- Initiated contact with vested property owners that are not active in the association to facilitate communication, answer questions, and obtain LOAs. Invited these property owners to the monthly restoration committee meetings.
- At the request of the restoration committee, SRSC attempted to contact Pope & Talbot (previous property owners) to learn about the historic use of the lagoon and to get personal history of the lagoon changes.

#### February 2005

- Ongoing communication with Eagle Tree Estates citizens and the restoration committee.
- Met with Island County geologist to discuss the potential for seawater intrusion as a result of restoration.
- Compiled well information and initiated a tidal elevation and well monitoring strategy.
- Obtained verbal support from one of the five vested parties.
- Continued efforts to obtain landowner agreements.

#### March 2005

- Conducted preliminary investigation of salinity influence within the lagoon. Sampled the length of tidal channel east of the dike and looked for freshwater influences from the adjacent bluff and from the marsh located west of the dike.
- Worked on revising the landowner agreement language requested by the attorney of one party.
- Negotiated and obtained two of the five LOAs.
- Refined the habitat zone map in the lagoon and the proposed restoration plan through closer analysis of historic photos and LIDAR.
- Developed a draft MOA for the landowners that have not yet signed the LOA to address concerns over property rights, project scope and design, and construction.
- Developed a written summary for the restoration committee of what is known about the lagoon, fish use and distribution, water quality, lagoon changes since 1941, wave and tidal processes, and existing bluff failure at the mouth of the lagoon in response to questions raised by the landowners.

#### April – June 2005

- Responded to elevated concerns from the remaining unsigned (LOA) vested parties regarding property takings if government money is spent on restoring the lagoon and constructing a bridge.
- Contacted IAC and WRIA 6 lead entity to apprise them of the newly raised concerns and to see if there are any cases involving property takings as a result of government money being invested in a restoration project. Did a web search to see if there are cases that may be similar to the concerns raised and asked the citizens if they had specific case examples that were precipitating their concerns.
- Ongoing work to address property rights concerns and a citizen request to phase the project with the first phase being investigation & design and the second phase being construction, provided that the design was approved by all vested parties.

### Next Steps

- Delay on further field evaluations and planning activities until all LOAs are obtained from the five vested property owners.
- Meet individually with the most concerned vested party to review the issues that create apprehension with moving forward and discuss ways to address these issues to allow the project to proceed.
- Work with IAC and WRIA 6 lead entity to adjust the project as much as possible to address property owner concerns and reaffirm that there are no long term interests in the private lagoon beyond the successful establishment of a properly functioning and self-sustaining pocket estuary.
- Obtain all LOAs, or if not possible, re-evaluate the remaining options and abandon the project if needed.