



# WESTERN WASHINGTON AG REPORT

NOVEMBER/DECEMBER 2021



## TFI FUTURE COMPLICATED

*U.S. Army Corps of Engineers decision to re-initiate Section 7 consultation with NOAA makes future infrastructure maintenance unclear & problematic*

After 10 years of Skagit Delta Tidegates and Fish Initiative (TFI) implementation, Skagit drainage district Endangered Species Act (ESA) coverage has been cancelled by the U.S. Army Corps of Engineers (Corps) and the National Oceanic and Atmospheric Administration (NOAA). The Corps recently confirmed with NOAA that they are suspending permitting under the programmatic consultation until new conditions are addressed and the TFI Implementation Agreement (IA) is renegotiated and revised. The Corps is suspending use of the TFI programmatic Biological Opinion (BiOp). This BiOp has been the federal agency's confirmation that the TFI IA will meet the Endangered Species Act (ESA) consultation requirements and standards. Until a new programmatic biological consultation can be completed, the Corps will pursue individual ESA Section 7 consultations for district tidegate maintenance.

This action follows allegations expressed in a 60-day Notice of Intent to Sue (Notice) the two federal agencies by the environmental law firm Earthjustice, on behalf of the Swinomish Indian Tribal Community. As a result, the Skagit Delta agricultural community's vital tidegate infrastructure can no longer be proactively and programatically maintained by districts. This historical and once widely supported method has been vital in preserving and protecting approximately 55,000 acres of the Skagit River Basin's subtidal farmland. WWA values and welcomes inclusive TFI coordination and implementation with the Swinomish, but we also agreed to proactively discuss potential actions that could jeopardize the viability of agricultural drainage or the viability of salmon populations in the 2005 Skagit Tribal/Agricultural Alliance Accord. WWA remains unsure how this litigious action meets this commitment.

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- The 2005 Skagit Tribal Agricultural Accord
- WSU research updates
- How district infrastructure maintenance will change

The primary purpose and intent of the TFI was to create and execute "...a delta-wide landscape approach to address tidegate and floodgate maintenance needs within the Skagit Delta area, in conjunction with estuarine habitat restoration goals for recovery of ESA listed Chinook salmon in the Skagit River System" (TFI IA, 2010). Over the past year and stated within the Notice, the Swinomish expressed concern that the TFI program is not achieving

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## WWAA MISSION

To represent agriculture by providing services to the entire agricultural community

## WWAA COMMITMENTS

Engage in internal and external (economic, environmental, regulatory) pressures on agriculture

Interact with county, state, and federal legislators and regulators

Pest and nutrient management control

Network with and support of the agricultural research community

Seek out and develop opportunities and technologies for agriculture

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Skagit Chinook recovery. At the same time, SITC and federal agencies have privately consulted on the TFI. NOAA's decision reflects the agency's agreement with these assertions and concerns.

Meanwhile, the Washington Department of Fish & Wildlife (WDFW) has expressed support for the TFI and tidegate repairs and replacements approved within the program. Because of the TFI, districts have replaced tidegates in their drainage systems using established, streamlined permitting pathways, often incorporating voluntary upgrades for fish passage in new designs. WDFW is the agency ultimately responsible for salmon management and Chinook recovery in our state, and has conceded that if TFI were no longer in place, the framework for collaboration and mutual benefits would be gone. In turn, the road ahead for Chinook recovery would be uncertain and potentially more contentious.

WWAA understands that the Treaty of Point Elliott (1855) affords Puget Sound tribes the right and opportunity for direct consultation and input on federal agency decisions and actions. WWAA expects that federal agencies provide the non-tribal and regulated community the same due process in these same decisions and actions. As a signatory party to the TFI, WWAA's executive director recently filed a letter for the record to NOAA, requesting this opportunity in the process. NOAA's decision did not include the input and information requested by WWAA.

WWAA has also asked NOAA to engage the TFI Oversight Committee (OC), which is made up of the signatory parties. The TFI OC is entitled to hear what issues warranted both NOAA's request and the Corp's response. NOAA requested BiOp re-initiation and cancelation without engaging in fact finding and coordination with the TFI OC. This breaches both the TFI IA and Memorandum of Understanding.

WWAA entered the TFI to increase collaboration and cooperation between fisheries and agricultural entities, to ensure our entire community's interests are mutually respected and pursued. This remains a primary WWAA goal and commitment as we pursue a remedy to NOAA's assertion that the TFI isn't doing its job. WWAA's unwavering commitment to the TFI is underpinned by WWAA's pursuit for fair and equitable processes to implement these agreements.

The TFI OC plans to meet soon on this topic, and WWAA will continue its work to preserve the TFI and programmatic tidegate maintenance. We strongly encourage all farmers and landowners to contact our WWAA office for more information.

## WHAT DOES THIS MEAN FOR THE DRAINAGE DISTRICTS?

Unfortunately, with the Corps decision to re-initiate Section 7 consultation with NOAA, districts can no longer utilize the TFI as a programmatic ESA permitting pathway for tidegate repairs and replacement. At this time, individual permitting and consultation is required for all tidegate repair and replacements. In addition, districts that have performed tidegate actions that did not require TFI habitat credits will now need to retroactively obtain ESA coverage for their work. This does not require new applications for work performed, but does mean that new biological assessments, covering the ESA impacts and/or benefits for these tidegate replacements, are needed for submission to the Corps. Mitigation will then be calculated based on their consideration of materials/information provided by the district(s).



## YOUR DISTRICT COMMISSIONERS

### DIKE DISTRICT 1

Charles Michael Elde (2016-2022)  
Robert Jungquist (2020-2026)  
Jason Vander Kooy (2018-2024)

### DIKE DISTRICT 3

\*Brad Smith (2016-2022)  
David Olson (2020-2026)  
Darrin Morrison (2018-2024)

### DIKE DISTRICT 4

Eric Thompson (2016-2022)  
Terry Gangler (2020-2026)  
Lyle Wesen (2018-2024)

### DIKE, DRAINAGE & IMPROVEMENT DISTRICT 5

\*Norm Hoffman (2016-2022)  
Richard Sullivan (2020-2026)  
Jim Sullivan (2018-2024)

### DIKE DISTRICT 9

Arnold Fohn (2016-2022)  
David Hedlin (2020-2026)  
Vacant (2018-2024)

### DIKE, DRAINAGE & IMPROVEMENT DISTRICT 12

John Burt (2016-2022)  
Ed Tjeersma (2020-2026)  
Lorna Ellestad (2018-2024)

### DRAINAGE & IRRIGATION DISTRICT 14

\*Steve Sakuma (2016-2022)  
Roger Knutzen (2020-2026)  
Oscar Lagerlund (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 15

Jen Hart (2016-2022)  
Riley Jungquist (2020-2026)  
Steve Elde (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 16

David Lohman (2016-2022)  
Vacant (2020-2026)  
Ron Wesen (2018-2024)

### DIKE DISTRICT 17

Dale Ragan (2016-2022)  
Ryan Knight (2020-2026)  
Jeff Kaptein (2018-2024)

### DRAINAGE & IRRIGATION DISTRICT 17

David Christianson (2016-2022)  
Brian Waltner (2020-2026)  
Jeff Boon (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 18

Eric Thompson (2016-2022)  
Lyle Wesen (2020-2026)  
Jeff Durkin (2018-2024)

### DIKE DISTRICT 19

Tony Breckenridge (2016-2022)  
Corey Johnson (2020-2026)  
Charles Atkinson (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 19

\*William Roozen (2016-2022)  
Steve Larson (2020-2026)  
Earl Peth Jr. (2018-2024)

### DIKE DISTRICT 20

Vacant (2016-2022)  
Fred DeVries (2020-2026)  
Alice DeVries (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 20

Fred DeVries (2016-2022)  
Alice DeVries (2014-2020)  
Vacant (2018-2024)

### DRAINAGE DISTRICT 21

Peter Janiki (2016-2022)  
Charles Tewalt (2020-2026)  
Fred Tewalt (2018-2024)

### CONSOLIDATED DIKING IMPROVEMENT DISTRICT 22

Matthew Nelson (2016-2022)  
David Hughes (2020-2026)  
Bob Hughes (2020-2026)  
\*John Wolden (2020-2026)  
Greg Lee (2018-2024)

### DRAINAGE & IRRIGATION IMPROVEMENT DISTRICT 22

John Thulen (2016-2022)  
Alan Mesman (2020-2026)  
Lewis Hill (2018-2024)

### DIKE, DRAIN & IRRIGATION IMPROVEMENT DISTRICT 25

Bud Vos (2016-2022)  
Rick Loop (2020-2026)  
Gerald Nelson (2018-2024)

\* denotes a member of the Skagit Drainage and Irrigation Districts Consortium

## THE 2005 SKAGIT TRIBAL/AG ACCORD

WWAA is a signatory to the 2005 Skagit Tribal/Agricultural Alliance Accord, where the Swinomish and Sauk-Suiattle Tribes and agricultural communities agreed to work together to resolve political, operational, and scientific issues in a manner that increases the certainty for on-going farm operations and for achieving sustainable salmon runs that can be harvested by all. One key foundation of this accord is communication before action, and parties agreed to make every effort to discuss potential actions and fully understand the implication of those actions, before taking action or pursuing policy changes that could jeopardize the viability of the agricultural drainage system or the viability of the salmon runs. While this accord is not a legal binding document, it has been the foundation that WWAA has operated under since its inception.

## PRIVATE DONATIONS IMPACT NWREC

Northwestern Washington Research and Extension Center (NWREC) administrators have been busy expanding facilities. Earlier this year, the Ruth Wylie Head House was opened. This is the first phase of the new Plant Growth Facility. According to Dr. Carol Miles, Interim Director at NWREC, "We have received another Skagit County Economic Development/Public Facilities Project grant and a private donation

for the Plant Growth Facility Phase II greenhouse. While more funding will be needed to complete Phase II, we will begin the project in steps that will enable us to move forward as funds become available."

These private funds serve as the match to the county grant, and will be used to jump-start additional funding.

## NWREC GETS NOD FOR NEW ENTOMOLOGIST

Also this fall, the NWREC received approval to hire a new entomologist. "We recognize that insect pests present a primary threat to production sustainability and resiliency of agricultural industries in our region," wrote Dr. Carol Miles in her recent Director's Message. "Thus, this was our top priority position to refill following the retirements of Dr. Lynell Tanigoshi in 2017 and Dr. Bev Gerdeman in 2020. This faculty position will have responsibilities for teaching and applied research for all aspects of insect management in regional crops of significance, including but not limited to blueberry, raspberry, potato, vegetable seed, flower bulbs, tree fruit, and greenhouse production. Other program areas for this position include biological control, management of native pollinators, and testing products through the IR-4 program. We look forward to recruiting and interviewing candidates for this position, and welcome all of you to participate in the candidate seminars when the time comes."



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## NWREC BUILDS LONG-TERM SOIL STUDY

In partnership with the Washington Department of Agriculture, WSU's Mt. Vernon Northwestern Washington Research and Extension Center (NWREC) is conducting a long-term soil study. This is part of the state's overall Soil Health Initiative (SHI), which aims to maintain and improve soil health throughout the state. During the 2019 Legislative Session, the Washington State Legislature generously appropriated \$250k as a proviso in both FY20 and FY21 to WSU to initiate the SHI, with specific language requiring WSU to establish the proposed long-term agroecological research and extension (LTARE) site at NWREC.

According to WSU, this "renewed focus on soil health creates a win-win-win opportunity for farmers, the environment, and the general public, and puts the state of Washington in a leadership role nationally. An increased understanding of the linkages between soil health, production, and the environment achieved through the Washington SHI will contribute to several important outcomes:

- A baseline assessment of soil health and the tools to monitor and manage it across the diverse agricultural systems in Washington;
- Better understanding of the opportunities to improve soil health through changes in management practices; and
- Increased adoption of these practices to increase food production and farm profitability and providing important economic and environmental benefits to the state of Washington."

At a research field day this summer, WWAA learned about

the progress being made in launching the project at NWREC. Soil scientists Deirdre Griffin LaHue, PhD, and Gabriel LaHue, PhD, showcased the project for farmers and explained the long-term benefits of the research. They explained the ultimate driving questions they hope to answer are how soil management strategies that reduce soil disturbance and increase organic matter inputs in a potato-based cropping rotation in northwestern Washington influence:

- Soil physical properties - compaction and drainage;
- Carbon and nutrient cycling and retention;
- Soil biodiversity and activity;
- Soilborne pathogen pressure; and
- Weed population dynamic.

NWREC is establishing a long-term rotational trial that includes a four-year potato-based rotation and four treatments with varying degrees of soil disturbance and organic matter inputs. For more information, visit [mtvernon.wsu.edu/](http://mtvernon.wsu.edu/)



*Deirdre Griffin LaHue, PhD, and Gabriel LaHue, PhD, explain the progress being made on the Soil Health Initiative plots at NWREC this summer.*