SEPA Comments on Wiley Dike Repair: DNS21-053 SEPA Comment period: 11/2/2021 - 11/30/2021

Commenter or Number with Similar Comments	Comments Received	Agency Response
Raina S	Because this dike is already established and just being raised to meet the current demand, is there a previous Environmental Impact Statement that still holds significance to this area? Also, is there any intended maintenance plan for the seeded areas? Additionally on page 5 of your maps and page 12 of your SEPA request, there are power poles and lines being moved. Where will these poles and lines be moved to? While choosing a location for power poles and lines, I implore you to consider a location away from water so that there is room to plant trees along the water.	Thank you for your comments. Regarding your question about whether an EIS was done during original dike construction, Wiley Dike was constructed as a part of the 2009 Wiley Slough Estuary Restoration project which removed a series of dikes within the Skagit Wildlife area to re-establish 156 acres of estuary. A SEPA Determination of Nonsignificance was made for the restoration project in July, 2007 (DNS 07-062). At that time, the project site was upland and since Wiley Dike's construction was part of a larger restoration project, it did not require an EIS. Regarding seeding, the seeded areas on the dikes and landward areas will be subject to regular maintenance to comply with dike and levee maintenance standards. Thank you for your inquiry regarding the relocation of the power pole along the access road. The power pole is currently located within the future dike footprint. It will be relocated nearby in order to maintain the power line's existing route, while also preventing greater land disturbance and impacts. The power pole's new placement will not impede tree growth, as it and the power lines will be located within a tree-free zone over the dike and roadway.
Tanner Larson	Although I understand the reasons for the renovations on the parking lot and the additional height of the dike, I would like to question the determination of nonsignifigance and was hoping to inquire more info on why the parking lot has not been relocated given its proximity to critical habitat and what the future plans are for the dike. With the current parking lot being about 180 feet from the Skagit/Puget sound, would it be beneficial to move the parking lot further from site? If there is no way to move the lot, will there be active water turbidity readings during construction to monitor sediment delivery? The renovation and implementation of parking lot amenities increases risk of high impact sediment delivery and the risk of access contaminants running into the Skagit. The parking lot as shown from aerial photos has no way to filter foreign contaminants from vehicles or people, Will there be supplementary plantings to mitigate this? There also seems to be a slight slope on the parking lot heightening the chance of foreign deposits from vehicles or people to enter the river during high rain events which seems concerning. For the Wiley Dike, I read the report conducted in 2017 regarding the damages done over time due to storm events and was wondering how long term the raising of the dike would be. In the DNS report, the repositioning of the dike would bring back 10,744 Square feet of estuarine habitat, is there plans to actively plant the site or to let natural regeneration happen? is there plans to eventually bring back the entirety of the estuarine habitat? Is the dike a permanent fixture?	Thank you for your comments. Regarding your question about the parking lot, we are unable to relocate this lot to an alternate location within the wildlife area. Given that a majority of the property is covered in wetlands, there is no appropriate alternate location where parking could be placed that would provide a greater distance from the important habitat provided by Wiley Slough Estuary. The parking area also provides access to the boat launch into Freshwater Slough and without the lot, visitors could not continue to utilize this ramp for recreation. We are aware of the potential erosion and sedimentation concerns posed by construction and will implement appropriate erosion control Best Management Practices (BMPs) outlined in our Stormwater Pollution Prevention Plan (SWPPP) and Temporary Erosion and Sediment Control (TESC) plans to ensure that the project does not result in additional stormwater runoff or erosion into the adjacent waters. Both currently and in the future, runoff from the parking lot goes into a vegetated swale and then into Wiley Slough before exiting upland drainages through one of two tidegates. Additionally, all work on the dike will be performed "in the dry" during a seasonal in-water work window of August 1 – September 30 to ensure that construction will not impact salmonids that utilize the estuary. The proposed mitigation for this project consists of the re-establishment of Wiley Slough Estuary at a ratio of 4:1 as well as the purchase of mitigation credits from Skagit Environmental Bank. While this mitigation plan does not involve plantings, the adjacent Skagit WLA Boat Ramp Replacement project will plant 8,385 square feet of native plants immediately adjacent to the parking lot. The 2009 Wiley Slough Estuary Restoration project removed several dikes from the Skagit Wildlife Area and constructed Wiley Dike as a setback dike in order to re-establish 156 acres of estuary while preventing the flooding of adjacent farmland. Wiley Dike was/is intended to be a permanent fixture; construction of this feature was necessary to carry out that estuary restoration. The 10,744 square feet of re-established estuary will not be planted based on the advice of WDFW Habitat Program staff who have found from other nearby projects that native seed recruitment occurs naturally. This estuarine re-establishment will ensure that all necessary safety improvements can be constructed with no net loss to ecological function.
Nora Kammer, SRSC	See attachment 1	Thank you for your comments. While this project does evaluate how seepage affects the structural integrity of Wiley Dike, its main purpose is to raise the dike's elevation to prevent flooding and overtopping events and ensure its structural integrity. Since its construction, Wiley Dike has overtopped four times, the most recent of which was November 14, 2021. These events caused erosion and scour of the dike and surrounding features, as well as allowing saltwater onto neighboring farmland. At its current height, future overtopping events threaten to breach Wiley Dike and therefore present a significant risk to hundreds of acres of farmland, homes and roads. While WDFW acknowledges the concerns caused by seepage, overtopping and potential dike breach pose a much greater and immediate threat to nearby properties. This project is necessary to prevent significant human health and safety, environmental and economic impacts. We acknowledge your concerns about the need for further seepage analysis and that the proposed actions may not result in improved farming conditions. Raising the dike as described does not preclude or exclude any future actions or agreements (such as indemnifications) related to seepage and its effects on agricultural production. Because baseline information is lacking on farmland seepage issues, additional studies will likely not lead to additional understanding of the cause and effect of farm seepage. We are in close communication with Skagit County Diking, Drainage and Irrigation District 22 regarding project design and the intended outcomes. Focusing on dike height first is a decision that was made in coordination with the District. WDFW's top priority is to ensure the safety and structural integrity of the dike. The desired outcome of the project is to improve dike design and provide a greater level of protection to lands behind the dike from riverine and coastal flood events. Regarding the potential impact of flooding on the adjacent Wiley Slough Spur Dike, we appreciate your input on the need for future technical engineering analysis before additional repairs are proposed. The spur dike provides an important separation between Wiley Slough and the riverine influence of Freshwater Slough. During restoration project design, removal of portions of the spur dike were evaluated. A design team, co-led by WDFW and SRSC, recommended that the majority of the spur dike be retained, including the entire portion of the spur dike where current work is proposed. The spur dike prevents high river flows and sediment in Freshwater Slough from influencing tidegate function, water levels and sedimentation in Wiley Slough that could impede drainage. WDFW does not currently have any plans for future repairs of the spur dike beyond those proposed in DNS 21-010. If future repairs are contemplated, we will work with SRSC to ensure the work is satisfactory to both parties.

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November 30, 2021

Washington Department of Fish and Wildlife
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Via email: X6707@publicinput.com and Lisa.Wood@dfw.wa.gov

RE: SEPA DNS 21-053: WILEY DIKE REPAIR

Dear Lisa,

Skagit River System Cooperative (SRSC) makes the following comments on behalf of the Swinomish Indian Tribal Community and the Sauk-Suiattle Indian Tribe. The Swinomish Tribe and Sauk-Suiattle Tribe are federally recognized tribes and signatories to the Treaty of Point Elliott of 1855. Repair and replacement of infrastructure at the Skagit Wildlife Area and Wiley Slough may have negative impacts on tribal treaty rights and fisheries resources vital to both Tribes.

We understand the Wiley Dike Repair project entails raising the dike by up to three feet for a length of 5600 linear feet, the parking lot will be upgraded to comply with ADA and to address the increased footprint of the dike. Access roads, ramps, and turnarounds will be modified as a part of this process and the tidegate will be retrofitted to allow for future maintenance of the structure.

Estuarine habitat at Wetland A (10,744 square feet) will be restored at the western and eastern ends of the dike as described in the Mitigation Plans for the Wiley Dike Repair and Wiley Spur Dike Repair Mitigation Plans to mitigate impacts due to the Wiley Spur Dike, Wiley Boat Launch, and Wiley Dike Repair/Raise. Additional mitigation will be accomplished through reestablishment and maintenance of native vegetation adjacent to the boat launch area, and purchase of off-site mitigation credits at an accredited mitigation bank (Skagit Environmental Bank located on Nookachamps Creek).

Seepage Concerns

We have concerns about the design of the Wiley Dike Repair project and would like to reiterate those concerns here. In the years since the Wiley Restoration Project was implemented, there have been concerns raised by adjacent landowners about seepage under and/or through the Wiley Setback Dike and whether those issues have increased since the restoration project. Seepage, whether from water coming under and through the dike or as a result of the shallow groundwater table, affects the landowners' abilities to farm and utilize the adjacent land for agriculture, and has been expressed as a primary concern of both WDFW and neighboring landowners. The project documentation submitted with this SEPA (*Mitigation Bank Use Plan – Wiley Slough Dike Repair* by Shannon & Wilson, October 15, 2021) indicates that one of the primary purposes (1.2 Project Summary) of this project is to improve seepage conditions.

In discussions leading up to the design of the Wiley Dike Repair project, Swinomish raised the seepage issue as an objection to WDFW proceeding with the dike raising. In a letter dated June 19, 2020, Swinomish requested that WDFW conduct a specific seepage study that would assess the cause(s) and amount of farm seepage identified in WDFW's original dike proposal. This request was in response to a previous design report prepared by Shannon & Wilson report that specifically did not examine the seepage concerns from the landward agricultural operator. Swinomish urged WDFW to seek an indemnification from the landward property owners because the Shannon & Wilson report stated that mitigation to directly address the seepage – which raising the dike would not do beyond limiting storm surges and waves up to a certain height – would at a minimum cost $5 million. WDFW has not, to date, taken any such action.

We continue to be concerned that the seepage phenomenon was not sufficiently studied to provide any confidence that the selected design will alleviate the concerns of adjacent landowners regarding seepage under/through the dike. Yet, despite the unwillingness to examine the root cause of the neighboring concerns, WDFW has elected to proceed with implementing the design regardless of whether it solves one of the primary problems.

We understand that for the current design, WDFW elected to evaluate seepage in terms of dike stability, but not in terms of effects to neighboring landowners. WDFW has taken the approach that "additional monitoring and observations be completed to confirm the landward farm areas, landward ditch, and Old Wiley Slough seepage conditions during storm/flood events" (*Draft Wiley Dike Repair 60% Geotechnical Design Report*, Shannon & Wilson, July 8, 2021). While the design addresses seepage that affects the integrity of the dike, seepage into neighboring properties will be addressed by a 'wait and see' approach and the problem may persist after project implementation.

The need for the project has been overtopping and seepage issues, but there is a lack of any documentation that seepage into adjacent fields will improve after the project. WDFW must clearly communicate to the community that addressing seepage is no longer a primary goal of the project as it has not studied the seepage into farm fields and that it makes absolutely no guarantees of improving landward seepage concerns of neighboring property owners. If there are expectations that the 'new' dike is going to fix any seepage issues, we are concerned that the failure to meet those expectations will aggravate an aversion to habitat restoration projects in the nearby community, with consequences for the recovery of Skagit River Chinook salmon habitat.

We believe the appropriate data collection and engineering analysis has not been conducted at this time, putting the accomplishment of project goals (improve seepage conditions) at risk. We are additionally concerned that WDFW will implement this substantial and expensive levee reconstruction project, but seepage will persist in adjacent properties and result in eventual additional proposals for civil works projects to further address seepage into the very low-lying land behind the Wiley Dike.

This area behind the Wiley Dike is indeed the *lowest* lying land on Fir Island, and a rise in the water table with sea level rise may make this area unfarmable. Perpetual raising of levees is not a practical solution to rapidly intensifying climate impacts including stronger storm surges and seawater intrustion. WDFW must complete an analysis of seepage to adjacent farmland, as the proposed project may not result in the desired outcomes of improved farming conditions.

Spur Dike Repairs

This SEPA (DNS 21-053) is specific to the Wiley Dike Repair project, however, this is the first opportunity we've had to review in detail the proposed onsite and offsite mitigation for the Wiley Spur Dike Repair (DNS 21-010), including the estuarine restoration at the west end of the Wiley Dike Repair.

As such, we will utilize this opportunity to raise a concern about continued future maintenance of the Wiley Spur Dike.

The Wiley Spur Dike Repair (DNS 21-010) project entails replacing lost bank armoring on the Spur Dike. The Spur Dike is exposed to erosive conditions during high water and overtopping events. We recognize that the design approach aims to fortify the Spur Dike and ensure the durability of the quarry spalls armor by toeing the rock in along the east side of the Spur Dike.

It can be anticipated that eventually, however, the armoring of the Spur Dike will need maintenance attention again as the high-water events and overtopping conditions are expected to continue into the future.

In the future, before additional amor is proposed for the Spur Dike, we will expect to see a specific analysis of *how much* of the Spur Dike needs fortification or maintenance in order to maintain continued effective drainage conditions out of Wiley Slough. The Spur Dike is currently a 2,400-foot long levee that extends into the Skagit Delta, otherwise prime rearing habitat for endangered Chinook salmon. We would like to understand what portion of that Spur Dike length contributes to effective outflow from Wiley Slough, and what proportion is in excess of that benefit, and what the final length of the Spur Dike should be. That is, after the current proposal, we will not support maintenance to the Spur Dike without a technical engineering analysis the clarifies how much of the Spur Dike is necessary to retain, and how much of the current footprint can be restored to salmon habitat.

As we consider how the entire proposal and mitigation plan affect the environment, we feel it will be important to consider to what extent maintenance is implemented.

We appreciate the opportunity to review and comment on the proposed projects. If you have any questions, please feel to reach me at (360) 391-8472 or nkammer@skagitcoop.org.

Sincerely,

Nora Kammer

Nora Kammer
Environmental Protection Ecologist

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