

August 03, 2021

## MEMORANDUM

**To:** Transportation and Utilities Committee  
**From:** Eric McConaghy, Analyst  
**Subject:** Council Bill 120146 – Authorizing Deed Acceptance and Ratifying Deeds of Right for City Light Salmonid Habitat Properties

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On August 4, 2021, the Transportation and Utilities Committee (Committee) will review and consider a vote on [Council Bill \(CB\) 120146](#) which would authorize the City to accept statutory warranty deeds for twelve properties in Skagit and Snohomish Counties. City Light purchased the properties under the authority of [Ordinance 121114](#) for the purpose of preserving salmonid habitat. Salmonids are fish biologically classified in the salmon family (Salmonidae). In the context of the proposed legislation, the term, “salmonids,” refers to Puget Sound chinook salmon and Puget Sound bull trout, both listed as threatened species under the federal Endangered Species Act (ESA) in 2000.

City Light purchased the properties and the respective sellers (grantors) for each property executed deeds conveying the properties. City Light recorded the deed documents with either Skagit or Snohomish County, respective of the location of each property. To complete the property transfer, the City Charter requires that Council approve the acquisition by ordinance, phrased in the legislation as “accepting” the deeds.<sup>1</sup>

For nine of the twelve properties described above, CB 120416 would ratify deeds of right that City Light and the State of Washington previously executed and filed for recording with the Skagit County Auditor. The deeds of right convey to the State of Washington (acting by and through the State of Washington Salmon Recovery Funding Board (SRFB) and the Washington State Recreation and Conservation Office) the right to enforce certain duties of the City (acting through City Light) in compliance with requirements of SRFB grant funding that City Light used to purchase the properties.

In general, the duties serve to protect in perpetuity the habitat for salmonids on the properties covered by the deeds of right. The purchase of property with these grant funds is consistent with the purpose authorized by Ordinance 121114.

The City Charter requires that the Council approve by ordinance any transfer of property rights.<sup>2</sup> And, the Revised Code of Washington requires that the City hold a public hearing on the deeds of right because they convey rights from property acquired for utility purposes.<sup>3</sup> The Committee agenda for August 4 will include a public hearing on the deeds of right.

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<sup>1</sup> Seattle City Charter, Article IV, Section 14, Powers by Ordinance.  
[https://library.municode.com/wa/seattle/codes/municipal\\_code?nodeId=THCHSE\\_ARTIVLEDE\\_S14POOR](https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=THCHSE_ARTIVLEDE_S14POOR)

<sup>2</sup> Ibid.

<sup>3</sup> Revised Code of Washington 35.94.040. <https://app.leg.wa.gov/rcw/default.aspx?cite=35.94.040>.

City Light purchased the habitat property with appropriations that were included in the six-year, Adopted Capital Improvement Programs for City Light encompassing the years of the purchases: 2017, 2018, 2019, and 2020. City Light reports that sources of funding included \$624,000 in City Light funds and \$475,000 from the SRFB.

CB 120146 necessarily includes language ratifying and confirming prior City Light actions. City Light completed these actions over the span of time from 2017 through 2021. Going forward, the Council may wish to request that City Light propose legislation to authorize City Light's acceptance of deeds and/or to ratify deeds of right for salmonid habitat lands within a year of completing such actions. However, Central Staff finds the proposed legislation to be ministerial and has not identified policy issues for Council's consideration.

### **Background**

In 1999, the City acknowledged the Early Action Proposal for Puget Sound Chinook by adopting [Resolution 29905](#). The City's implementation of the Early Action Proposal is known as the "Early Action Program" (EAP). The City's purpose for the EAP is to respond to the federal listing of Puget Sound chinook and Puget Sound bull trout as threatened species under the ESA. Habitat acquisition (purchasing property) and restoration projects to benefit salmonids are among the actions specified in Resolution 29905.

In 2003, consistent with Resolution 29905, the City approved Ordinance 121114. This ordinance authorized City Light to purchase property in the Skagit watershed "consistent with at least one of the purposes of the Early Action Program (namely)...to prevent degradation of otherwise pristine land, to enhance prime habitat that would otherwise not be enhanced, or to help build a network of prime habitat locations in partnership with other interested parties for purposes of salmon recovery..." Since 2000, City Light has purchased and protected 3,700 acres of land for salmonid habitat in the watersheds of the Skagit and Tolt Rivers.<sup>4</sup>

The proposed effects of CB 120146 are consistent with those of ordinances that City has approved over the years since 2003. For examples, see [Ordinance 125497](#) from 2017 and [Ordinance 124981](#) from 2016.

### **Next Steps**

If the Committee votes to recommend approval of CB 120146 on August 4, 2021, then Council could consider and take final action on the legislation as soon as August 9, 2021.

cc: Dan Eder, Interim Director  
Aly Pennucci, Policy and Budget Manager

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<sup>4</sup> Ordinance 121114 also authorized City Light to purchase land in the Tolt/Snoqualmie watershed.