USACE/EPA/NOAA: **Protection of aquatic resources including ESA habitat landward of the Corps' current interpretation of the Clean Water Act jurisdictional boundary. Consider options in coordination with federal and state partners that may be implemented to protect ESA species, aquatic resources, and critical habitat**:

Since at least 2015, Puget Sound Tribes have asked the USACE and EPA to use Highest Astronomical Tide (HAT) instead of Mean Higher High Water (MHHW) mark as their interpretation of the tidal datum that represents the High Tide Line – the landward extent of Clean Water Act (CWA) regulatory jurisdiction in tidally-influenced water. The Corps convened a workgroup (staff from EPA, NOAA and the Corps) in January 2016, which met biweekly through September 2016. T Ex. 5 - Deliberative Process

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Ex. 5 - Deliberative Process The workgroup's recommendation was to move the Corps' jurisdictional boundary from MHHW to MAHT (Mean Annual Highest Tide), and all workgroup members were on board with this recommendation. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process The document was soon forwarded to General Spellmon in the Corps' Division office for his review and consideration. In December 2016, Gov. Inslee wrote a letter to the Corps urging them to move toward a change in the jurisdictional boundary that aligns with the workgroup's recommendation or something similar to what the state uses (Ordinary High Water Mark as defined in the Shoreline Management Act). General Spellmon responded to the Governor's letter in writing in January with a request to meet with the state to discuss options for how to protect shoreline habitat above the Corps' jurisdiction. EPA and NOAA have requested to USACE to be included in the meeting with the State.

Talking Points –

Ex. 5 - Deliberative Process

- Reminder that EPA and NOAA would have extensive role in helping the Corps implement both a change to the datum used to determine high tide line as well as carry out additional protective actions identified in the report.
- EPA and NOAA would like to attend the meeting with the Governor's office when it is set up and if possible have a separate meeting with General Spellmon on the issue beforehand.