The Board authorized Field Order in the amount of $4,970.00 to set up classification, testing, closure cap and materials, engineering analysis, for solid waste site, based on Mr. Kwarsick's confirmation money was in the budget.

WORKSHOP HELD: AMENDMENTS TO ICC 16.13.100, 16.19.020, 16.20A.040, 17.02.020, 17.02.030, 17.02.040, 17.02.110, 17.02.150, 17.02.170, 17.02.180, 17.02.250, & ADOPTION OF POLICIES & PROCEDURES FOR CLASSIFYING FISH & WILDLIFE HABITATS & SPECIES & AN AMENDMENT TO THE LIST OF PROTECTED SPECIES & HABITATS CONTAINED IN THE ZONING ORDINANCE ICC 17.02

The Board of Island County Commissioners at public hearing on March 2, 1992, continued from February 3, 1992, by unanimous motion continued the subject to a workshop for this date and time in order to go through the document extensively. A number of citizens were present in the audience to listen to the discussion. The Proposed alteration of the County's Zoning Ordinance to accommodate additional protection for protected species, different framework for protection of streams in Island County, in part, required under the GMA to add protection for critical areas. One of the critical areas to be protected is fish and wildlife habitat conservation areas, and Mr. Kwarsick reviewed the 9 listed which should be protected as habitats.

As of this date, Island County has no state natural area preserves or natural resource conservation areas. Shellfish tidelands, kelp and eel grass beds, herring and smelt spawning areas are protected under Island County Shoreline Management Master Program and implementing regulations. Naturally occurring ponds under 20 acres and their submerged aquatic beds are included within the definition under Island County Zoning Ordinance of a deep water habitat and are protected. Lakes are protected under the Shoreline Management Master Program; ponds are protected. It was Mr. Kwarsick's understanding there were no areas specifically planted with game fish by governmental or tribal entities. Proposal before the Board is that portion of the waters of the State, specifically Class 2-5 waters (basically streams) Class 1 water intertidal areas or aquatic lands and protected species including habitats and species of local importance. Island County has since 1984 a protected species requirement under the Island County Zoning Ordinance.

Definition of protected species is: species of flora and fauna recognized by the Federal government or the State of Washington as endangered, threatened or sensitive which are present in Island County and those species of flora and fauna which while not necessarily endangered or threatened are unique in Island County and worthy of projection. The Zoning Ordinance lists flora and fauna species which are protected (refer to Mr. Kwarsick's Memo 3/6/92).

Under the Zoning Ordinance, forest practices that are non-conversion forestry activities are not subject to requirements of the Ordinance therefore, the stream overlay proposed or stream protections now existing in the Ordinance and the protected species provisions of the Ordinance that exist or as proposed, do not pertain to non-conversion forestry.

Commissioner Colby referred to (page 2 Mr. Kwarsick's memo): stating "by exclusion, the following species are deemed to be unique in Island County and worthy of protection: migratory waterfowl; snow goose; short-eared & great horned owl; river otter; black-crowned night heron; brandt; Virginia rail; Bittern; Muskrat; red fox; beaver; brown creeper". He did not want to see the County getting involved with whatever the State Game Department was doing with migratory waterfowl.

Mr. Kwarsick pointed out that the Planning Commission identified three migratory waterfowl (attachment B); his memo tried to explain that within the existing Zoning Ordinance, there are flora and fauna

protected that are not endangered, threatened or sensitive. Intention of the Planning Commission recommendation that these list of highly sensitive species be added to the list of species that are protected under the protected species of the Zoning Ordinance.

Commissioner Caldwell was leery about incorporating someone else's definition with no local control over the process used to add a species.

Mr. Kwarsick knew of no circumstance in Island County since 1984 where anyone was denied either a development or a building permit based on the presence of a protected species. He referred to the definition of habitat of protected species in the Zoning Ordinance.

The Chair felt this should be carefully thought through because there were many species on the list which might only do one of the listed things; and Commissioner Caldwell commented that river otters frequently temporarily nest anywhere they can get to along the shore.

Commissioner Caldwell discussed the following concerns with the proposal:

> Page 1- definition of purpose - principal goals. Page 13, subparagraph "o" indicating one of the purposes to protect streams and riparian corridors for fish and wildlife habitat, protect property from flooding and erosion, provide recreational opportunities and aesthetic values and minimize impacts to watersheds from cumulative impacts, expanding the definition of purpose; most items mentioned are worthwhile activities and probably should try to reflect in the ordinances. Page 15 under definition of stream, streams are defined in such a way that any place there is existence of passage of water it is a stream. Page 28.c, moves from growth management guidelines for preserving fish and wildlife habitat to a "no net loss" of the acreage or functional values for all streams in Island County.

Mr. Kwarsick explained intent being to try and narrow the existing definition of tributary stream and the application of the current wetland overlay. The current definition of a tributary stream is a stream whether permanent or intermittent which enters or exits a category b or a wetland or deepwater habitat.

Commissioner Caldwell brought up the issue of fencing, which he felt clearly violated standards contained in the Attorney General's minimum guidelines on a taking issue.

Commissioner Colby noted plenty of reasons to consider protection of streams; felt the County did a good job originally of protecting streams. He felt that if the definition for streams occurring on Page 15 were put into current language it would probably solve the problem.

Commissioner Caldwell saw the basic problem with the definition to hinge on the phrase "where there is clear evidence of the passage of water" a trickle of water anywhere will leave evidence.

Commissioner Colby felt there was some value to the statement, coming in the remainder of the sentence. He suggested if it were to state instead "such as, bedrock channels, gravel beds, sand and silt beds ..." rather than "including but not limited to" would then give a clearer picture.

According to Mr. Kwarsick, intent was to narrow the definition, and give property owners notice. DNR water type guidelines, water types 2-5, type 2 by definition are generally stream segments having defined channel width of 20' or greater; #3 a channel width of 5' or greater; #4 a channel width until the stream width becomes less than 2'; anything less than 2' a type #5. There are DNR water type maps.