

**#8. JOHNSON DEBAY’S SLOUGH GAME RESERVE – RULE BRIEFING,  
PUBLIC HEARING, AND RULE ACTION**

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## “GREEN SHEET”

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**Meeting:** September 11-12, 2009

**Agenda Item** 8. Johnson/Debay’s Slough Game Reserve – **Rule Briefing, Public Hearing, and Rule Action**

**Prepared By:** Steve Pozzanghera

**Presented By:** Steve Pozzanghera, Deputy Assistant Director, Wildlife Program

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### **Background:**

RCW 77.12.047 provides the legal authority for the Washington Department of Fish and Wildlife to establish game reserves, and RCW 77.08.010(14) defines a game reserve as “a closed area where hunting for all wild animals and wild birds is prohibited.” While there is no requirement either by rule or by statute that the Commission seek landowner permission prior to establishing a game reserve, the Department makes every effort to work cooperatively with landowners when designating such areas.

Located approximately 3 miles northeast of Mount Vernon, the 331 acre Johnson/Debay’s Slough Game Reserve was established in 1997 as an area where wintering Trumpeter and Tundra Swans can rest, feed, and roost. The area is an extremely popular viewing site within the Skagit Wildlife Area and draws thousands of visitors per year.

In 2008, during a review of game reserve boundary descriptions, it was determined that the boundary description for the Johnson/Debay’s Slough Game Reserve was incomplete, leaving a portion of the area’s northern boundary “open” (Figure 1 – Red Line). In preparing to fix the boundary, the Department met with several of the interested stakeholder’s including the Trumpeter Swan Society, the Washington Waterfowl Association, and the Waterfowl Advisory Group. The initial proposal closed the reserve by extending the northern boundary along the river to the original point of origin (Figure 1 – Green Line). This proposal while agreeable to the stakeholder’s was not supported by the landowner that owns property in the northeast corner of the area that would be enclosed within the reserve. The Department then modified its proposal (Figure 1 – Blue Line) and presented that recommendation to the Fish and Wildlife Commission at the August 2008 Commission meeting.

Based on testimony at the meeting, some of the stakeholders did not support the Department’s modified proposal. Concerns were raised that the “carving out” of the northeast portion of the reserve could negatively impact swan use on the area. The landowner, however, testified in support of the proposal. Given this, the Commission adopted the Department’s recommendation, indicating that the action was a one-year interim measure. The Commission then directed the Department to work with the stakeholders and the landowner to seek a solution that could be acceptable to the majority of the participants.

This briefing, hearing, and proposed rule action is a culmination of the past year’s activities. A brief summary of what will be presented is as follows:

The Department is recommending that the “interim” boundary that was adopted by the Commission in August 2008 (Figure 1 – Blue Line), be adopted as the permanent boundary for the northeast corner of the game reserve. This recommendation is consistent with the goal of keeping the area functioning as a swan reserve and is also supported by the landowner. While adoption of this boundary will allow the reserve to fully function as a swan reserve, the Department is committed to continuing to work cooperatively with the landowner to purchase private property. The acquisition of additional acreage by WDFW will further solidify the long term integrity of the reserve. Lastly, WDFW and the stakeholders are looking at opportunities to enhance the site as a viewing area for wildlife. Based on our commitment to continue to pursue private land acquisition as well as develop partnerships to expand wildlife viewing infrastructure, the Department recommendation is also being supported by the stakeholders.

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**Policy Issue(s) you are bringing to the Commission for consideration:**

Retention and continuation of a functioning game reserve.

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**Public involvement process used and what you learned:**

Since the August 2008 Commission meeting, Department staff has met several times with landowners and stakeholders regarding the reserve boundary. Staff has updated the Commission on activities associated with this issue in October 2008 and in May 2009 and met during an onsite field trip in July 2009 with the Chair of the Commission and a representative of the Trumpeter Swan Society. Lastly, the Wildlife Program Deputy met with the landowner in August to discuss the long term interests of both the Agency and the landowner.

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**Action requested (identify the specific Commission decisions you are seeking):**

The Commission will take public input and adopt, amend, repeal, or reject this WAC as presented.

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**Draft motion language:**

I move to adopt WAC 232-16-800 Johnson/Debay’s Slough Game Reserve.

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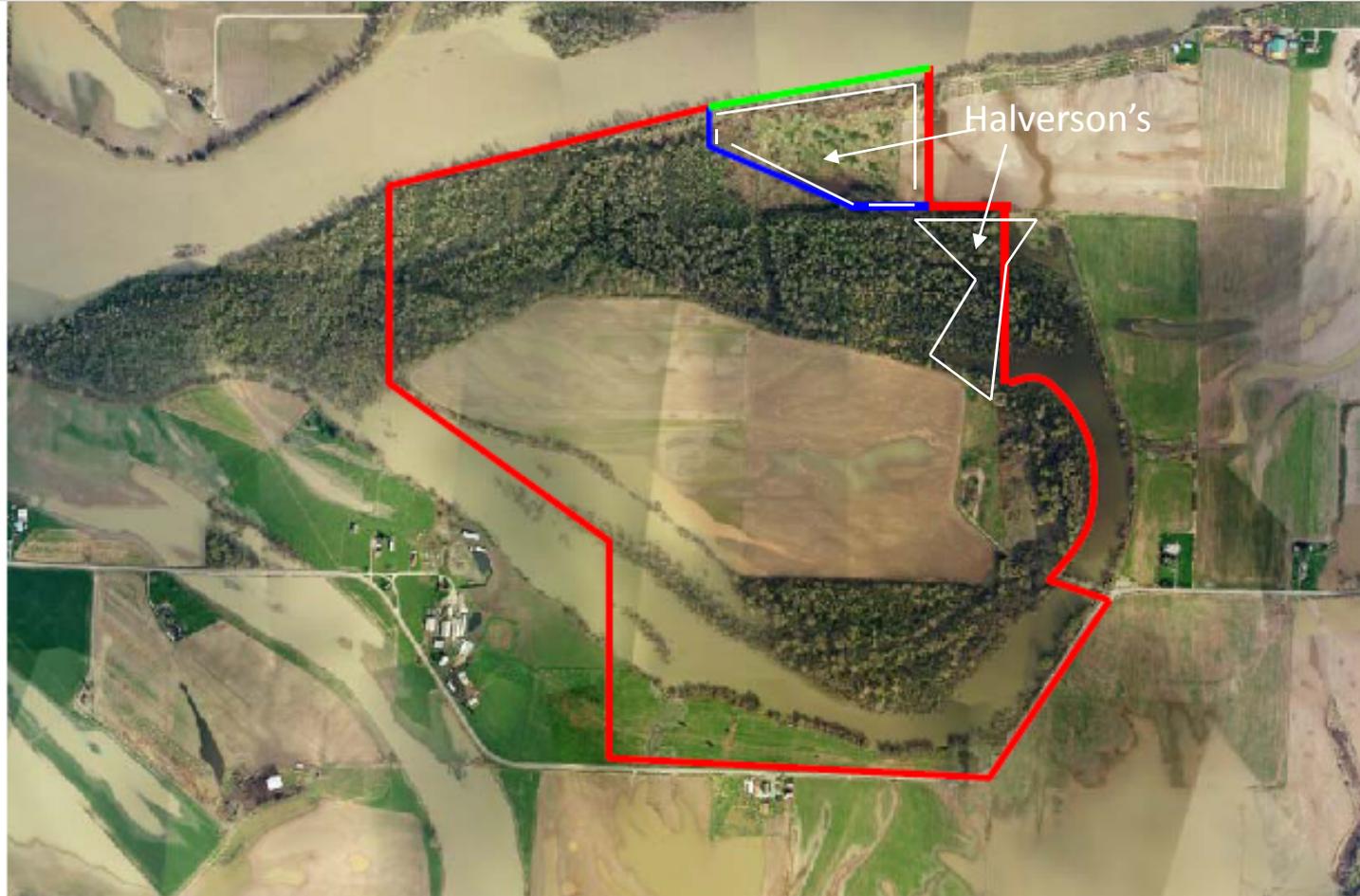
**Justification for Commission action:**

Continued functioning of the Johnson/Debay’s Slough Game Reserve.

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# Johnson DeBay's Slough Game Reserve

## BOUNDARY & OWNERSHIP



- ORIGINAL WDFW BOUNDARY (ADOPTED 1997)**
- 2008 INITIAL WDFW PROPOSAL**
- 2008 MODIFIED WDFW PROPOSAL/RECOMMENDATION**

Figure 1

AMENDATORY SECTION (Amending Order 08-197, filed 8/13/08, effective 9/13/08)

**WAC 232-16-800 Johnson/Debay's Slough Game Reserve.** In Skagit County, beginning at the intersection of Francis Road and Debay's Slough Road; then south and west along Francis Road (3090 feet) to white corner marker; then north (1265 feet) to the middle of Debay's Slough (white corner marker); then westerly (2087 feet) along the channel of Debay's Slough to the western tip of the farmed portion of Debay's Island (white corner marker); then northerly (1485 feet) to the south bank of the Skagit River (white corner marker); then easterly (2200 feet) along the south bank of the Skagit River to fence line (white corner marker); then south along fence line (150 feet) to corner post; then southeast 1050 feet to fence line; then east 1090 feet along fence line to fence intersection; then south (300 feet) along fence line to existing tree line (white corner marker); then continue south (835 feet) to south shoreline of Debay's Slough (white corner marker); then easterly and southerly along the west shoreline of Debay's Slough (1770 feet) to the south side of Debay's Slough Road (white corner marker); then east along the south side of Debay's Slough Road to the intersection of Francis Road and the point of beginning.



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-10-069 ; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or           | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).                                  | <input type="checkbox"/> Continuance of WSR _____         |

Title of rule and other identifying information: (Describe Subject): WAC 232-16-800, Johnson/Debay's Slough Game Reserve

**Hearing location(s):**  
Natural Resources Building, Room 172  
1111 Washington Street SE  
Olympia, Washington 98501  
(360) 902-2515

Date: September 11-12, 2009 Time: 8:00 a.m.

**Date of intended adoption on or after:** September 11, 2009  
(Note: This is NOT the effective date)

**Submit written comments to:**  
Name: Wildlife Program commission meeting Public Comments  
Address: 600 Capitol Way North, Olympia WA 98501-1091  
  
e-mail [Wildthing@dfw.wa.gov](mailto:Wildthing@dfw.wa.gov)  
fax (360) 902-2162 by (date) August 26, 2009

**Assistance for persons with disabilities:** Contact  
Susan Yeager by September 1, 2009  
TTY (800) 833-6388 or (360) 902-2267

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

**WAC 232-16-800**

The amendment is intended to clarify and provide opportunity for additional discussions about the reserve boundaries.

**Reasons supporting proposal:**

**WAC 232-16-800**

There is currently confusion about the rationale for current reserve boundaries, and the proposal will allow additional discussions to finalize boundaries through the rule amendment process.

**Statutory authority for adoption:** 77.12.047; 77.12.020;  
77.12.570; 77.12.210; 77.12.040; 77.12.010

**Statute being implemented:** 77.12.047; 77.12.020; 77.12.570;  
77.12.210; 77.12.040; 77.12.010

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

**DATE**  
August 5, 2009

**NAME** (type or print)  
Lori Preuss

**SIGNATURE**

**TITLE**  
Rules Coordinator

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED**

**DATE: August 05, 2009  
TIME: 11:49 AM**

**WSR 09-16-145**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** <sup>4</sup>

None

**Name of proponent:** (person or organization)

Washington Fish and Wildlife Commission

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Dave Brittell	Natural Resources Building, Olympia	(306) 902-2504
Implementation.... Dave Brittell	Natural Resources Building, Olympia	(360) 902-2504
Enforcement..... Bruce Bjork	Natural Resources Building, Olympia	(360) 902-2373

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

This proposal does not affect small businesses or commercial operators.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain: This proposal does not involve hydraulics.