

SHRUBSTEPPE QUESTIONS

1. When assessing shrubsteppe, is there any consideration given to “quality” as how it would relate to mitigation requirements?

Yes, and a site-scale assessment is typically needed to determine the quality of shrubsteppe present. WDFW’s [Management Recommendations for Washington's Priority Habitats: Shrubsteppe](#) (page 28) recommends the following regarding mitigation and shrubsteppe quality that “runs with the land” to ensure it is carried to future landowners.

While WDFW has a general recommended mitigation ratio of no less than two acres of protected shrubsteppe for every acre of lost habitat, WDFW may recommend lower or higher mitigation ratios for compensation depending on the impact to functions and values of the habitat. We recommend assessing the quality of shrubsteppe using DNR’s [Rapid Ecological Integrity Assessment](#), in addition to wildlife species surveys. A summary of this protocol can be found in Appendix 9 of the WDFW [Management Recommendations for Washington's Priority Habitats: Shrubsteppe](#). This information can be used to satisfy the requirements for the vegetation description required in Grant County’s Site Assessment Report (GCC 24.08.320) and Habitat Management Plan (GCC 24.08.360).

Based on the results of the site-scale assessment, if compensation is required as part of mitigation, lands identified to replace the lost function and values of the impacted shrubsteppe, should be of equal or better functions and values. The concept of mitigating for lost habitat based on the functions and values of the habitat impacted is consistent with mitigation requirements of impacts to wetlands, for example. Just like Ecology has higher mitigation ratios for harm to higher quality wetlands, WDFW recommends that local governments should require higher ratios and/or require that compensatory mitigation take place in high quality shrubsteppe.

2. Will WDFW Habitat Mitigation Plans (1:1 = loss of 50% of use) be implemented without regard to existing zoning – i.e., on properties zoned heavy industry, general commercial, residential, or agriculture? Does pre-existing zone/land use designation affect shrubsteppe mitigation requirements? Haven’t properties with these zone/land use designations already been approved for development subject only to Development Code requirements?

WDFW does not require “Habitat Mitigation Plans”. A Habitat Management Plan is a requirement of GCC 24.08.350, if it is determined by the Administrative Official that a proposed development will have a significant adverse impact to a Fish and Wildlife Habitat Conservation Area (FWHCA). A Habitat Management Plan outlines how a proposed project or activity will mitigate for any adverse impacts, per GCC 24.08.360. Zoning designations, such as industrial, commercial, or residential, are still subject to the Grant County Code, which includes Critical Area Ordinances.

The Growth Management Act (GMA), RCW 36.70(a), requires that local jurisdictions develop policies and development regulations to “protect” functions and values of Critical Areas using best available science. Fish and Wildlife Habitat Conservation Areas (FWHCAs) are one of five types of Critical Areas defined in the GMA ([RCW 36.70A.030\(6\)](#)). The WDFW Priority Habitats and Species (PHS) Program is considered a source of best available science for identifying FWHCAs ([WAC 365-190-130\(4\)\(a\)](#)). Shrubsteppe habitat is identified as a type of Priority Habitat in WDFW’s PHS Program. “Protect” means provide for no net loss of FWHCA functions and values. ([WAC 365-190-830\(4\)](#)) Whether those functions and values are located in an area zoned for industrial, commercial, residential or agriculture use is immaterial – if a FWHCA is present, and impacts cannot be avoided or minimized, then compensatory mitigation is required by GCC 24.08.350.

3. Previously approved plats are considered vested since they received a critical areas review component. How is shrubsteppe applied once the approved plat commences development and is there a cut off timeframe where these plats are considered grandfathered or vested?

“Shrubsteppe” is considered a type of FWHCA. WDFW recommends the local jurisdiction answer this question regarding approved development and CAO requirements for FWHCA, such as shrubsteppe. Please refer to Grant County Development Services for more information on this topic.

4. When identifying areas of shrubsteppe and areas where mitigation can be accomplished, is there flexibility in creating a Habitat Mitigation Plan to incorporate areas of shrubsteppe preservation within a PUD (Planned Unit Development) or does shrubsteppe areas have to be identified in bulk, contiguous areas?

There is flexibility for identifying areas to site mitigation. To achieve no net loss of habitat functions and values, WDFW recommends, “Mitigation sites should be as geographically close as possible to the affected habitat.” (page 28). This could be on-site or at another location, that is contiguous with existing shrubsteppe habitat that is already in a permanent conservation status (e.g. adjacent to The Nature Conservancy, WDFW, USFWS or BLM lands).

In general, if mitigation is necessary, WDFW recommends using an established shrubsteppe mitigation bank as an acceptable form of off-site mitigation. By using a mitigation bank, the loss of small, isolated patches of shrubsteppe can be acceptable when offset by protecting large, intact, well-connected areas of shrubsteppe (page 28).

In the absence of a mitigation bank, acquisition and/or permanent preservation of existing shrubsteppe habitat with equal or better functions and values to the location proposed for development can serve as mitigation as long as the site will be permanently protected utilizing a binding site plan with restrictive covenants recorded

on the plat and an HMP or equivalent that “runs with the land” to ensure it is carried to future landowners. (page 28).

Grant County’s CAO and WDFW’s project-specific advice may identify preferences about where to site the offsetting compensatory mitigation (e.g., on a parcel owned by the project proponent, on a nearby parcel, on a higher quality patch of shrubsteppe, etc.). Contact the County and the [WDFW Habitat Biologist](#) for advice on your proposed project.

Keep in mind that if the project occurs within a large, unbroken patch of shrubsteppe, and/or contains listed species and their habitat, such as sage grouse leks, it may be impossible to replicate that ecosystem function within a fragmented patch of shrubsteppe. In this case, a different location or a much higher ratio may be required to offset the lost ecosystem function.

5. Is access to shrubsteppe mitigation completely restricted or are passive uses for recreation, religious, tribal, grazing, agriculture uses still allowed?

It depends on whether or not those activities will impact the functions and values of the shrubsteppe mitigation site and whether those activities are within the County’s authority. Allowed activities having minimal adverse effects should be described in the Habitat Mitigation Plan for review and approval by the local jurisdiction.

The “lift” provided by the mitigation site must be equal to (or greater than) the harm caused by the project. If uses of the mitigation site takes away from the ecosystem functions and values it provides, then those functions and values are not counted when weighing the benefit provided by the restoration site.

6. Are working ranches/farms exempt from any shrubsteppe requirements? Are existing agricultural operations at risk of being required to reestablish shrubsteppe where it was previously converted to ag?

No, existing agricultural operations are not at risk of being required to reestablish shrubsteppe where it was previously converted to agriculture.

Grant County is enrolled in the Voluntary Stewardship Program (VSP), which is a statewide program for counties to protect critical areas on lands where agricultural activities are conducted and improve the long-term viability of agriculture. Under the VSP framework, existing and on-going agricultural activities are exempt from the County’s CAO regulations and are instead covered under the County’s VSP Work Plan. Under VSP, it is intended that the overall functionality of critical areas that overlap agricultural uses remain the same as the 2011 baseline conditions (or improve) over time. The local VSP Work Group, led by the Columbia Basin Conservation District, can help identify if the functionality of shrubsteppe in the County is meeting this

requirement and local strategies to do so. Please contact Grant County and the Columbia Basin Conservation District for more information.

However, there are important considerations:

1. Counties enrolled in VSP are required to protect the functions and values of critical areas, including FWHCA designated habitats like shrubsteppe, according to the baseline conditions present in 2011. Any loss of critical area functions and values must be offset or mitigated through voluntary measures within the watershed where the impacts occur, for a County to remain in VSP. If a County fails to meet this requirement, they may be removed from the program and required to protect Critical Areas on agricultural land through the county's CAO.
2. The installment or construction of new agricultural activities, including activities that have not been conducted before **and** are proposed to take place on land not previously used for agriculture, are initially regulated through a County's CAO. Once developed, the County's VSP Work Plan, and not the County's CAO, applies to subsequent agricultural activities **within** the same footprint. See the Washington State Conservation Commissions Policy Advisory [#06-21](#) for more details.

7. Can a road and utility corridor transect an HCA of shrubsteppe?

A road or utility corridor may cross a FWHCA, however local jurisdiction regulations, such as the County's CAO, may apply. All unavoidable harm caused by the road or utility must be offset with compensatory mitigation to achieve no net loss of ecosystem functions and values.

WDFW offers recommendations for avoiding and minimizing impacts from roads and utilities in [Management Recommendations for Washington's Priority Habitats: Shrubsteppe](#), page 24.

8. Can an existing agricultural operation expand if the adjoining expansion area is determined to include shrubsteppe?

Yes, but restrictions may apply. If the planned agricultural expansion is on lands not previously used for agriculture, and the expanded area contains a FWHCA, such as shrubsteppe, then the landowner would be required to go through the County's CAO process for the initial installation and construction of the expansion. If impacts cannot be avoided, the local jurisdiction is obligated to provide for no net loss of ecosystem functions by requiring compensatory mitigation.

If the planned agricultural expansion is on lands currently enrolled in agriculture (e.g., changing from one agricultural practice to another), the landowner should consult with Grant County and the VSP Work Group/Columbia Basin Conservation District to determine if the expansion would be covered through Grant County's VSP Work Plan.

Agricultural landowners should contact the County and their local Conservation District to learn how they can participate in VSP.

In either case, all other non-CAO development regulations (e.g., building permits, clearing and grading permits, etc.) would still apply to landowners, in addition to other statutory requirements (e.g., the Clean Water Act, the Endangered Species Act, etc.).

For additional information about VSP, refer to question 6.

9. Who has priority in decision-making if the county weed board or fire marshal requires shrubsteppe areas to be disturbed for invasive species management or fire mitigation?

The County has regulatory authority over FWHCAs. If invasive species management is needed, WDFW offers guidance for avoiding and minimizing impacts to shrubsteppe habitat and for restoring shrubsteppe habitat, as might be needed (page 29). If a fire break is needed that involves the removal of shrubsteppe vegetation, the County's CAO would apply to compensate for loss of function and value of the FWHCA, and possibly other County Code as appropriate.

The standard is no net loss of ecosystem function and value, which comes from the GMA. It is understood that there may be unavoidable impacts for any number of reasons. Regardless of the reason, the standard remains no net loss of ecosystem function. After avoiding and minimizing harm, all remaining harm must offset with compensatory mitigation.

10. How will a determination of shrubsteppe affect expansion of agricultural operations in the area described as the Second Siphon under development by USBR?

More information/context is needed to understand this specific question. Below is general information that may or may not address this question.

By "second siphon", is this referring to the siphons meant to replace ground water extraction? Or is this referring to the pump station and laterals? If it is the later, the 7 pump stations are intended to move water users off the Odessa aquifer to FDR water. While the final alignment is still pending, the pump station and laterals are located on previously disturbed lands. Otherwise, the County has previously imposed mitigation for conversion of Critical Areas (Wetlands as well as FWHCAs) from USBR projects.

If this is referring to moving from a pivot (irrigated agriculture) to dryland agriculture, and there is shrubsteppe, the County and the VSP Work Group/Columbia Basin Conservation District would be able to offer guidance on whether or not this project is covered under the VSP work plan or under the County's CAO.