AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Tuesday, July 20, 2021 – 9:00 a.m.

****ATTENTION****

In response to the current Governors order Clallam County is now operating under the Washington Ready Plan. To be in compliance with the Washington Ready Plan and to reduce the spread of COVID the following general requirements for COVID safety for meetings held in the Board of Commissioners Board Room are as follows:

1. All attendees are encouraged to provide contact information on a sign in sheet which will be retained for 28 days for contact tracing purposes.

2. Public seating areas and Board member seating must be arranged to ensure physical distancing is maintained.

3. Meeting attendees must follow current face covering guidelines.

4. No food or drink should be consumed in the BOCC Board Room.

5. Meeting organizers shall clean or arrange to have cleaned high-touch surfaces before and after each meeting.

6. Hand sanitizing stations will be available in the BOCC Board Room.

7. Keep doors and windows open where possible to improve ventilation.

8. The Chair of the meeting shall ensure current masking and social distancing practices are enforced and practiced by all event attendees.

This meeting can be viewed on a live stream at this link: http://www.clallam.net/features/meetings.html

If you would like to participate in the meeting via Zoom audio only, call 253-215-8782 and use meeting ID: 875 561 7844 and passcode: 12345

If you would like to participate in the meeting via Zoom video conference, visit https://zoom.us/j/8755617844 and use meeting ID: 875 561 7844 and passcode: 12345

Public comment and questions can be directed to the Clerk of the Board at 360-417-2256 or agores@co.clallam.wa.us.

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

PUBLIC COMMENT – Please limit comments to three minutes (10 minutes total)

CONSENT AGENDA – Any Commissioner may remove items for discussion

1a. Approval of vouchers for the week of July 12

Approval of vouchers

1b. Approval of payroll for the period ending June 30

Approval of payroll

1c. Approval of minutes for the week of July 12

Due to the file size for the 7-13-21 minutes the document would not load as one attachment. Minutes have been loaded in sections 1-12 below:

7-13-21 Draft Minutes Section #1

7-13-21 Draft Minutes Section #2

7-13-21 Draft Minutes Section #3

7-13-21 Draft Minutes Section #4

7-13-21 Draft Minutes Section #5

7-13-21 Draft Minutes Section #6

7-13-21 Draft Minutes Section #7

7-13-21 Draft Minutes Section #8

7-13-21 Draft Minutes Section #9

7-13-21 Draft Minutes Section #10

7-13-21 Draft Minutes Section #11

7-13-21 Draft Minutes Section #12

1d. Proclamation recognizing Allen Sill for a lifetime of service on his 100th Birthday

Proclamation

REPORTS AND PRESENTATIONS

*** Recognizing Wendy Peterson for over 37 years of service to Clallam County**

HEARING(S) – Beginning at 10:30 a.m.

H1. Ordinance amending Clallam County Code Chapter 5.100 Consolidated Fee Schedule – Auditor's Office Services Fee Schedule 510-A

Ordinance

H2. 2021 Mid-year Budget Status Review

Review

PUBLIC COMMENT – Please limit comments to three minutes

EXECUTIVE SESSION

The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110

The following meetings are scheduled for the Board of Commissioners July 19 - 23:

Monday, July 19:
9:00 a.m. Work Session
12:00 p.m. WSAC Virtual COVID Update

Tuesday, June 20:
10:00 a.m. Board Meeting
10:30 a.m. Hearing(s) - See Agenda
1:00 p.m. Board of Health Meeting

Wednesday, June 21:
10:00 a.m. Clallam Transit Meeting

CONTRACTS AND AGREEMENTS

2a. Agreement with Washington State Department of Commerce for Secure Residential Crisis Center (SCRC) and Ancillary Therapeutic Services (ATS)

Agreement

2b. Agreement with Clallam Conservation District for resource conservation planning and implementation

Agreement

2c. Agreement and project prospectus form with Washington State Department of Transportation for Dungeness National Wildlife Refuge Project

Agreement

2d. Agreement with Lutheran Community Services Northwest for Homeless Task Force Funds/$165,000

Agreement

BIDS AND AWARDS

3a. Bid opening – Lower Dungeness River Floodplain Restoration and Levee / Road Realignment Project – Phase 1 Earthwork

Bid opening

COMMUNITY DEVELOPMENT

4a. Resolution adopting of Findings for an Ordinance approving an updated Clallam County Shoreline Mater Program (SMP) AND an Ordinance amending Clallam County Code Title 35.01 Shoreline Management

Resolution and Ordinance

INSTRUCTIONS FOR SPEAKING AT A COMMISSIONERS' MEETING:

- Members of the public wishing to address the Board on general items may do so during the designated times on the agenda.
- Members of the public wishing to comment at the public hearing are asked to sign in on the sheet provided giving their name and address.

- The Chair may limit the comment period to 3 minutes for each speaker subject to Board concurrence.
- Speakers, generally, will be heard in the order they signed up. All comments must be made from the speaker's rostrum and any individual making comments shall first state their name and address for the official record.
- General comments, applause, booing from members of the audience are inappropriate and may result in removal.

These guidelines are intended to promote an orderly system for conducting a public hearing so that each person has an opportunity to be heard and to ensure that exercising their right of free speech embarrasses no one.

Note: Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board. Copies of public documents from Board meetings are available by contacting the Public Records Department.

1a
7/20/2

Date of report: July 14, 2021

General	**$128,242.53**
Other	**$280,138.22**
Total	**$408,380.75**

STATE OF WASHINGTON)
)
County of Clallam)

This is to certify that the foregoing Final Check Lists a.k.a., Register of Warrants for the period herein indicated, is a full, true, and correct representation of the corresponding payments for services rendered to and supplies and equipment received by all Clallam County government operations as recorded in the books or original entry maintained by this office.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____ 2021.

COPY

_____COUNTY AUDITOR
SHOONA RIGGS

CLALLAM COUNTY BOARD OF COMMISSIONERS does hereby certify that the services and merchandise herein specified have been received and that the claims listed and numbered above are hereby approved for payment:

BOARD OF COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

_____
MARK OZIAS, Chair

_____
BILL PEACH

COPY

_____
RANDY JOHNSON

_____
RICH SILL (County Administrator)

Weekly Expenditures

July 12 - 16, 2021

Fund #	Department	Expenditures		Use Tax	
		General Fund	Other	General Fund	Other
00100.211	**Assessor**	602.17			
00100.241/291	**Commissioners (BOCC)**	2,490.94			
19914.291	BOCC - Veterans Relief		1,711.94		
19941.291	BOCC - Opportunity Fund		48,193.54		
19991.291	BOCC - Emergency Communications		113,329.82		
00100.331-334	**Dept. of Community Develop't (DCD)**	2,059.93			
30301.331	DCD - Lower Dungeness Floodplain		21,941.13		
00100.871	**District Court I** - Jury	555.04			
11301.511	**Health & Human Services (HHS)**		19,626.67		
00100.511	HHS - Environmental Health	860.00			
11323.511	HHS - Chem Dep/Mental Hlth		2,829.63		
11331.511	HHS - Developmental Disabilities		3,135.25		
00100.461	**Human Resources (HR)**	2,245.04			
50401.461	HR - Risk Management		1,232.25		
50501.461	HR - Workers Compensation		130.00		
00100.411	**Information Technology (IT)**	9,301.59			
00100.851	**Juvenile Services**	14,332.85			
13001/13051	**Noxious Weed/LMD #2** (Lake Mgmt. Dist.)		59.54		
00100.911/912	**Parks Fair Facilities (PFF)**	26,174.58			
30101.911	PFF - REET 1 (Real Estate Excise Tax)		748.77		
30501.911	PFF - Capital Projects		4,522.50		
00100.841-843	**Prosecuting Attorney**	2,849.18			
11701.841	Pros Atty - Local Crime Victim		36.94		
	Public Works (PW)				
10101.611	PW - Roads		18,465.05		
41401.611	PW - Clallam/Sekiu Sewer		15,104.89		
42401.611	PW - Carlsborg Sewer		16,884.44		
43401.611	PW - Bullman Beach Water System		2,110.05		
50301.611	PW - ER&R (Equip't Rental & Revolving)		4,744.19		
00100.811-815	**Sheriff**	22,593.82			
00100.816	Sheriff - Jail Medical	30,262.34			
11003.811	Sheriff - Boating Safety		134.28		
11008.811	Sheriff - OPNET Drug		1,600.06		
11068.811	Sheriff - Stonegarden		205.65		
11070.811	Sheriff - 24/7 Sobriety		53.25		
11080.811	Sheriff - Inmate Commissary		172.25		8.89
00100.861	**Superior Court**	12,408.33			
00100.231	**Treasurer**	1,161.58			
12201.231	Treasurer - O&M (Operation & Maintenance)		418.00		
12231.231	Treasurer - REET Electronic Technology		2,739.24		
00100.931	**WSU Extension**	345.14			
	Total	**128,242.53**	**280,129.33**	-	**8.89**

Report Reconciliation		Totals			
Total	**408,371.86**	**General Fund**	**128,242.53**		
Final Check Lists	**408,371.86**	**Other**	**280,138.22**		
Difference	-	**Total**	**408,380.75**	**Use Tax**	**8.89**

COPY

Prepared by: _____

Sara DeBiddle, Clallam County Auditor's Office

Invoice History Use Tax Report
CLALLAM COUNTY

Tran Date	Vendor Name	Invoice / Credit Memo No.	Doc Group	Taxable Amount	Tax Amount	Invoice Total
7/8/2021	SWANSONS SERVICES CORP.	1463068	jkoon	56.00	4.93	56.00
7/8/2021	SWANSONS SERVICES CORP.	1464304	jkoon	45.00	3.96	45.00
			Totals:	**101.00**	**8.89**	**101.00**

Final Check List
CLALLAM COUNTY

Assessor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000390	COMPLETE LINE, LLC, THE	22442	7/8/2021	PAPER FOR SHARED MAP SC	117.50	117.50
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082620	7/8/2021	CONTRACT OVERAGE CANO	72.31	
				1082619	7/8/2021	CONTRACT OVERAGE CANO	68.97	141.28
	7/20/2021	0001315	QUILL CORP	17588156	7/8/2021	COPY PAPER	103.33	103.33
	7/20/2021	0001641	VERIZON WIRELESS	9882613270	7/8/2021	DATA FOR APPRAISAL MOBIL	240.06	240.06

Sub total for U S BANK: 602.17

602.17+
164,014.30+
24,001.06+
555.04+
26,451.55+
3,607.29+
7,758.40+
9,301.59+
14,332.85+
59.54+
29,979.20+
2,886.12+
4,744.19+
12,173.30+
34,099.38+
24,759.31+
30,262.34+
12,408.33+
4,318.82+
1,711.94+
345.14+
408,371.86*

0.*

0.*

Final Check List
CLALLAM COUNTY

Bocc

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001113	OFFICE DEPOT, INC	177661218001	7/8/2021	PAPER, ENVELOPES	78.35	78.35
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082626	7/8/2021	MAINTENANCE & USAGE - 91	12.59	12.59
	7/20/2021	0001252	PORT ANGELES, CITY OF	E911 June 2021	7/8/2021	EMERGENCY COMMUNICATI	113,329.82	113,329.82
	7/20/2021	0001632	U S POSTMASTER	USPS Stamps 7/	7/8/2021	1ST CLASS STAMPS	1,100.00	1,100.00
	7/20/2021	0001632	U S POSTMASTER	Jury 7/08/2021	7/8/2021	1,000 SUMMONS @ .46	460.00	460.00
	7/20/2021	0023330	DEPT OF COMMERCE	CERB-111543	7/8/2021	CONTRACT # T2004-066	48,193.54	48,193.54
	7/20/2021	0039378	NORTH OLYMPIC PENINSULA	409	7/8/2021	CONTRACT # 291.21.011	840.00	840.00
						Sub total for U S BANK:		164,014.30

Final Check List
CLALLAM COUNTY

DCD

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000360	CLALLAM COUNTY ER&R	2021.172E	7/1/2021	JUNE 2021 VEHICLE LEASE	89.50	89.50
	7/20/2021	0000361	CLALLAM COUNTY ROAD DEI	2021.042R	7/2/2021	G147 TASK PRO SERVICES	8,835.23	8,835.23
	7/20/2021	0001641	VERIZON WIRELESS	9882694252	6/24/2021	G146 TASK 1 $105.82 JUNE 2(	158.01	
				9882520913	6/22/2021	INSPECTOR JUNE 2021	26.76	
				9882520914	6/22/2021	LRP JUNE 2021	22.32	207.09
	7/20/2021	0020849	U S BANK	WABO 6-9-21	6/9/2021	BD REFERENCE BOOKS	475.10	
				NENA 6-9-21	5/9/2021	LRP GIS REGISTRATION	199.00	
				AMZN 7-4-21	7/4/2021	G145 TASK 4 OP SUPPLIES	148.26	
				WMART 6-19-21	6/19/2021	G145 TASK 1 OPERATING SU	49.64	872.00
	7/20/2021	0028699	SOUND PUBLISHING INC	8029462	6/30/2021	JUNE ADVERTISING	461.66	461.66
	7/20/2021	0036990	ANCHOR QEA LLC	03144	7/6/2021	G147 TASK 7 PRO SERVICES	13,000.08	13,000.08
	7/20/2021	0042760	COCHNAUER, TIM	COCHNAUER 4	6/7/2021	G145 TASK 1 $195.44; 2: $184	393.68	
				COCHNAUER 6	6/30/2021	G145 TASK 1 OPERATING SU	141.82	535.50
						Sub total for U S BANK:		24,001.06

Final Check List
CLALLAM COUNTY

District Ct I Jury

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0031528	HOGOBOOM, MARTY	DIST121709046	7/1/2021	JURY PAYMENT	27.92	27.92
	7/20/2021	0045460	HOPKINS AUSTIN, ANN	DIST121666610	7/1/2021	JURY PAYMENT	15.60	15.60
	7/20/2021	0045461	BONHAM, KAMILYN	DIST121662949	7/1/2021	JURY PAYMENT	38.56	38.56
	7/20/2021	0045462	KASICKI, SHANNON	DIST121692158	7/1/2021	JURY PAYMENT	22.88	22.88
	7/20/2021	0045463	LOPEZ RICO, ALVARO	DIST121663602	7/1/2021	JURY PAYMENT	43.60	43.60
	7/20/2021	0045464	MCHUGH, BETH	DIST121707912	7/1/2021	JURY PAYMENT	26.80	26.80
	7/20/2021	0045465	MERIDETH, NOAH	DIST121683976	7/1/2021	JURY PAYMENT	12.24	12.24
	7/20/2021	0045466	MILLER, SCOTT	DIST121709384	7/1/2021	JURY PAYMENT	30.72	30.72
	7/20/2021	0045467	PAINE, CORENE	DIST121684083	7/1/2021	JURY PAYMENT	10.56	10.56
	7/20/2021	0045468	PICKER, JONATHAN	DIST121672432	7/1/2021	JURY PAYMENT	17.84	17.84
	7/20/2021	0045469	PORTER, KASSANDRA	DIST121708671	7/1/2021	JURY PAYMENT	27.92	27.92
	7/20/2021	0045470	PRESLER, RICHARD	DIST121696498	7/1/2021	JURY PAYMENT	16.16	16.16
	7/20/2021	0045471	ROONEY, LAURA	DIST121671830	7/1/2021	JURY PAYMENT	13.92	13.92
	7/20/2021	0045472	BRATTON, JUDITH	DIST121692836	7/1/2021	JURY PAYMENT	12.24	12.24
	7/20/2021	0045473	SIMONS, REALYNN	DIST121707379	7/1/2021	JURY PAYMENT	21.76	21.76
	7/20/2021	0045474	SMALL, WENDY	DIST121664148	7/1/2021	JURY PAYMENT	27.92	27.92
	7/20/2021	0045475	VOGEL, JOSEPH	DIST121697485	7/1/2021	JURY PAYMENT	12.80	12.80
	7/20/2021	0045476	WANNER, JOSEPH	DIST121666730	7/1/2021	JURY PAYMENT	16.16	16.16
	7/20/2021	0045477	WEGENER, VICTORIA	DIST121672333	7/1/2021	JURY PAYMENT	11.68	11.68
	7/20/2021	0045478	WENTLAND, BIRDENA	DIST121696539	7/1/2021	JURY PAYMENT	25.68	25.68
	7/20/2021	0045479	ZEEMAN, ERICA	DIST121690827	7/1/2021	JURY PAYMENT	13.36	13.36
	7/20/2021	0045480	CARROLL, TANJA	DIST121712953	7/1/2021	JURY PAYMENT	26.24	26.24
	7/20/2021	0045481	ENGEL, EULALIA	DIST121664730	7/1/2021	JURY PAYMENT	11.68	11.68
	7/20/2021	0045482	FLORES, BENJAMIN	DIST121710905	7/1/2021	JURY PAYMENT	13.92	13.92
	7/20/2021	0045483	FLOTTO, LINDA	DIST121665719	7/1/2021	JURY PAYMENT	17.84	17.84
	7/20/2021	0045484	GALLAUHER, GUNNER	DIST121706710	7/1/2021	JURY PAYMENT	12.80	12.80
	7/20/2021	0045485	GREEN, JOSEPH	DIST121662410	7/1/2021	JURY PAYMENT	26.24	26.24
						Sub total for U S BANK:		555.04

Final Check List
CLALLAM COUNTY

HHS

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0045448	ALBRICH, MICHAEL & JANET	OSSREBATE-02	2/5/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0045445	BEVIER, ROSS & BARBARA	OSSREBATE-02	2/1/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0045446	CHECKMAN, SUE & ROBERT I	OSSREBATE-02	2/1/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0045450	COOPER, BONNETTE	OSSREBATE-02	2/16/2021	OSS-SEPTIC SYSTEM LOCAT	160.00	160.00
	7/20/2021	0045449	FLETCHER, RICK & LUCIA	OSSREBATE-02	2/3/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0045444	FORRESTER, CANDI	OSSREBATE-01	2/1/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0042389	MATTISON, AURYETTE	OSSREBATE-01	1/27/2021	HOPS-SEPTIC SYSTEM LOCA	100.00	100.00
	7/20/2021	0045447	WOODS, SANDRA	OSSREBATE-02	2/5/2021	OSS-SEPTIC SYSTEM LOCAT	100.00	100.00
	7/20/2021	0022148	CENTURYLINK BUSINESS SE	231214453	6/24/2021	HOPS-LAND LINE	8.19	8.19
	7/20/2021	0000352	CLALLAM COUNTY DEPT OF,	603	7/6/2021	HOPS-DATA PROCESSING/IT	9,777.38	9,777.38
	7/20/2021	0045456	CORDEIRO, NICHOLAS	MILEAGE-06292	7/7/2021	HOPS-MILEAGE REIMBURSEI	125.44	
				MILEAGE-06152	6/15/2021	HOPS-MILEAGE REIMBURSEI	82.88	208.32
	7/20/2021	0000546	EXPRESS SERVICES, INC	25610291	6/22/2021	HOPS-COVID STAFFING-PH M	1,342.77	1,342.77
	7/20/2021	0000593	FORKS, CITY OF	3801.0-070121	7/6/2021	HOPS-FORKS OFFICE WATEI	64.44	64.44
	7/20/2021	0000825	JOHNSON, ANN	MILEAGE-06302	6/30/2021	HOPS-MILEAGE REIMBURSEI	125.44	125.44
	7/20/2021	0042963	KENOYER, HELEN	MILEAGE-06302	6/30/2021	HOPS-MILEAGE REIMBURSEI	189.62	189.62
	7/20/2021	0003418	LAUREL BLACK DESIGN, INC.	11967	7/2/2021	HOPS- COVID COMMUNICATI	1,508.75	1,508.75
	7/20/2021	0040427	NORPOINT GROUP LLC	1178 NPG	7/1/2021	HOPS- SDC SECURITY 6/27-7	6,190.00	6,190.00
	7/20/2021	0001113	OFFICE DEPOT, INC	178822926001	6/20/2021	HOPS-PH FLOOR LAMP	76.15	76.15
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	20704-062421	6/29/2021	HOPS-FORKS OFFICE ELECT	97.52	97.52
	7/20/2021	0001767	WEST WASTE & RECYCLING	218641	6/30/2021	HOPS-FORKS OFFICE TRASH	38.09	38.09
	7/20/2021	0000333	CLALLAM COUNTY SUPERIOF	CCC-TCS Q2 20	7/7/2021	CD/MH - THERAPEUTIC COUI	508.55	508.55
	7/20/2021	0001209	PENINSULA BEHAVIORAL HEA	11323-21-PBH-P	7/7/2021	CD/MH - PATH OUTREACH SE	1,421.08	
				11323-21-PBH-M	7/7/2021	CD/MH - MENTAL HEALTH FIF	900.00	2,321.08
	7/20/2021	0000396	CONCERNED CITIZENS, FOR	11331-20-CCEC	5/12/2021	DD-APRIL 2021 ENHANCED C	1,578.17	
				11331-20-CCEC	7/6/2021	DD-MAY 2021 ENHANCED CH	1,508.13	3,086.30
	7/20/2021	0037042	OFFICE DEPOT	178749366001	6/21/2021	DD-ATTACHE CASE	48.95	48.95

Sub total for U S BANK: 26,451.55

Final Check List
CLALLAM COUNTY

HR

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082662	7/7/2021	INVOICE 1082662	249.91	
				1082661	7/7/2021	INVOICE 1082661	31.28	
				1082663	7/7/2021	INVOICE1082663	5.09	286.28
	7/20/2021	0001444	SHRM	S01215410	7/7/2021	STATEMENT S01215410 - RIC	219.00	219.00
	7/20/2021	0001641	VERIZON WIRELESS	9882613269	7/7/2021	9882613269 ACCT 571512924	50.22	50.22
	7/20/2021	0017582	ARTHUR J GALLAGHER RMS	3862518	7/7/2021	INVOICE 3862518	80.00	80.00
	7/20/2021	0020849	U S BANK	45228703	7/7/2021	INVOICE 45228703	551.31	
				44955962	7/7/2021	INVOICE 44955962	548.65	
				46154832	7/7/2021	INVOICE 46154832	414.20	
				BACKES BGRD	7/7/2021	BACKGROUND INVESTIGATI(	225.00	
				1257-4986	7/7/2021	1257-4986	125.00	
				1592-0212	7/7/2021	1592-0212	119.00	
				238551381	7/7/2021	238551381	29.95	
				HNAT WAPRO 2	7/7/2021	KRISTIN HNAT WAPRO 2021	25.00	
				239161776	7/7/2021	239161776	24.95	
				239183908	7/7/2021	239183908	17.95	
				239966300	7/7/2021	239966300	17.95	
				238071354	7/7/2021	238071354	14.95	
				16067366846	7/7/2021	16067366846	12.88	2,126.79
	7/20/2021	0033193	ASSN OF WASHINGTON CITIE	89816	7/7/2021	INVOICE 89816 - CLALLAM C(	500.00	500.00
	7/20/2021	0045459	COASTAL HEALTH	564	7/7/2021	INVOICE 564	345.00	345.00
						Sub total for U S BANK:		3,607.29

Final Check List
CLALLAM COUNTY

HR Payroll

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0016373	WESTERN CONFERENCE OF	PENJUN21	7/7/2021	TEAMSTERS PENSION TRUS	7,758.40	7,758.40
						Sub total for U S BANK:		7,758.40

Final Check List
CLALLAM COUNTY

IT

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000674	GOVCONNECTION, INC.	71495974	7/7/2021	DCD20210623 - COLOR LASE	488.51	488.51
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082627	7/7/2021	BOCC COUNTS	1,549.50	
				1082628	7/7/2021	TAG 8510 IT COUNTS	320.45	
				1082629	7/7/2021	TAG 8630 - MULTIMEDIA COU	58.50	1,928.45
	7/20/2021	0001641	VERIZON WIRELESS	9882694251	7/7/2021	IT CELL & DATA PLANS	779.50	779.50
	7/20/2021	0003410	LEMAY MOBILE SHREDDING	4707119	7/7/2021	IT SHREDDING	15.95	15.95
	7/20/2021	0004211	CENTURYLINK	206T313735-07(	7/7/2021	COURTHOUSE T-1	490.14	
				206T222202-07(	7/7/2021	COURTHOUSE T-1 #2	490.14	
				206T211472-07(	7/7/2021	FORKS T-1 LINE	233.16	
				3604574863-Id0	7/7/2021	JUVIE FAX LINES	70.54	
				206t414008-07(	7/7/2021	SHERIFF COURTHOUSE LINE	56.84	
				206T413216-07(	7/7/2021	JUVIE COURT	41.17	
				206T415684-07(	7/7/2021	ALARMS	4.38	1,386.37
	7/20/2021	0023718	AT&T	03060240160011	7/7/2021	WEST END TOLL FREE	34.37	34.37
	7/20/2021	0041047	ZOHO CORPORATION	67185716	7/7/2021	IT20210614A - MANAGE ENGI	1,745.45	
				67185610	7/7/2021	IT20210614 - ZOHO ASST EN	1,566.72	3,312.17
	7/20/2021	0043864	ZOOM VIDEO COMMUNICATI	INV93664795	7/7/2021	ZOOM DID NUMBER	9.80	9.80
	7/20/2021	0045293	LUMEN	234168577	7/7/2021	TRUNK 1	1,346.47	1,346.47
						Sub total for U S BANK:		9,301.59

Final Check List
CLALLAM COUNTY

Juv Svcs

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000368	CLALLAM PUBLIC DEFENDER	7221CPD	7/2/2021	PRO SVCS-DIV	20.00	20.00
	7/20/2021	0000371	CLALLAM TRANSIT SYSTEM	2021-J06	6/30/2021	PRO SVCS	18.00	18.00
	7/20/2021	0000628	GALLS LLC	018691726	6/28/2021	UNIFORMS & CLOTHING	592.61	
				018691727	6/28/2021	UNIFORMS & CLOTHING	553.45	1,146.06
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082866	6/30/2021	EQUIP-REPAIR/MAINT	162.49	
				1082867	6/30/2021	EQUIP-REPAIR/MAINT	115.44	
				1082865	6/30/2021	EQUIP-REPAIR/MAINT	32.60	
				1082868	6/30/2021	EQUIP-REPAIR/MAINT	7.43	
				1082869	6/30/2021	EQUIP-REPAIR/MAINT	4.26	322.22
	7/20/2021	0001212	PENINSULA DISPUTE RESOL	JFS#144C2	7/5/2021	PRO SVCS	1,847.00	1,847.00
	7/20/2021	0001252	PORT ANGELES, CITY OF	62621PA	6/26/2021	UTILITIES-CITY OF PA	4,656.88	4,656.88
	7/20/2021	0001262	PORT OF PORT ANGELES	171695	7/1/2021	BUILDING/OFFICE RENTAL-L/	2,572.86	2,572.86
	7/20/2021	0001509	CORDANT HEALTH SOLUTION	TC-1645006302	6/30/2021	PRO SVCS-DIV	192.05	
				20149	6/30/2021	OP SUPPLIES	176.55	368.60
	7/20/2021	0002630	VALPAK OF WESTERN WASHI	68909	6/30/2021	ADVERTISING-CAP	364.92	364.92
	7/20/2021	0003701	MAYNARD, MIKE	62921MM	6/29/2021	TRVL BUS-MAYNARD REIMBL	81.69	81.69
	7/20/2021	0003702	MCBRIDE, MIKE	62921MMC	6/29/2021	TRVL BUS-MCBRIDE REIMBU	76.25	76.25
	7/20/2021	0017787	DAIRY FRESH FARMS INC	8052118204	7/1/2021	DET FOOD	67.78	
				8122118326	7/2/2021	DET FOOD	32.56	100.34
	7/20/2021	0022041	THOMAS SHERRY, M.S.	4332	6/30/2021	PRO SVCS-SSODA	300.00	
				4333	6/30/2021	PRO SVCS-SSODA	300.00	
				4334	6/30/2021	PRO SVCS-SSODA	300.00	
				4335	6/30/2021	PRO SVCS-SSODA	200.00	1,100.00
	7/20/2021	0039632	COLE, MILTON	63021MC	6/30/2021	CAP VOL-MILEAGE	48.94	
				53121MC	5/31/2021	CAP VOL-MILEAGE	27.72	76.66
	7/20/2021	0039847	LUQUETTA-COLE, MERCY	63021MLC	6/30/2021	CAP VOL-MILEAGE	70.00	
				053121MLC	5/31/2021	CAP VOL-MILEAGE	12.32	82.32
	7/20/2021	0041537	MCKESSON MEDICAL-SURGI	18282219	6/29/2021	DET SUPPLIES	91.07	91.07
	7/20/2021	0041605	HOME DEPOT PRO	624809026	6/23/2021	DET SUPPLIES	142.44	142.44
	7/20/2021	0042636	HARBOR FOODSERVICE	312716	6/30/2021	DET FOOD	1,265.54	1,265.54
						Sub total for U S BANK:		14,332.85

Final Check List
CLALLAM COUNTY

Nox Weeds

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001540	SWAIN'S GENERAL STORE IN	288526	7/6/2021	HOSE FOR DEER PARK-RDS	52.78	
				288332	7/6/2021	STAPLES-FS	4.32	57.10
	7/20/2021	0001641	VERIZON WIRELESS	9881978282	7/6/2021	GEN=1.22 FS=1.22	2.44	2.44
						Sub total for U S BANK:		59.54

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000087	ANGELES ELECTRIC INC	17394	7/8/2021	JAIL COMMERCIAL DRYER EL	653.63	653.63
	7/20/2021	0000091	ANGELES MILLWORKS & LUM	291130	7/8/2021	CH U BOLTS FOR SIGNS	24.28	
				291219	7/8/2021	CH MAKITA 5" ULTRATHIN DE	22.39	46.67
	7/20/2021	0000332	CLALLAM CO AUDITORS TAX	PFF 06/21	7/8/2021	PFF JUNE 2021 EXCISE TAX I	8,277.21	8,277.21
	7/20/2021	0000546	EXPRESS SERVICES, INC	25644313	7/8/2021	CH SC WK END 6/27/21 M KEI	3,732.00	3,732.00
	7/20/2021	0000725	HEARTLINE, THE	a17807	7/8/2021	CH SCREENED SAND	40.26	40.26
	7/20/2021	0001036	MURREYS OLYMPIC DISPOSA	6662812	7/8/2021	SC JUNE GARBAGE	2,491.74	
				6662797	7/8/2021	DRA JUNE GARBAGE	1,344.59	
				6664216	7/8/2021	SC JUNE RECYCLE	480.37	
				6663615	7/8/2021	CH JUNE RECYCLE	416.53	
				6664217	7/8/2021	DRA JUNE RECYCLE	218.35	
				6663706	7/8/2021	CH JUNE RECYCLE	87.34	
				6663669	7/8/2021	VET JUNE RECYCLE	33.03	5,071.95
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082634	7/8/2021	FG COPIER SERVICE	14.00	14.00
	7/20/2021	0001187	PAPE MACHINERY INC	12770438	7/8/2021	CH BALL JOINT BUSHING TIE	254.58	254.58
	7/20/2021	0001198	PART WORKS INC, THE	inv68984	7/8/2021	CH (4) SENSOR SOLAR FAUC	1,514.87	1,514.87
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	22650 6/21	7/8/2021	CB JUNE ELECT & WATER	211.87	
				22216 6/21	7/8/2021	CDJ JUNE ELECT	206.29	
				57419 6/21	7/8/2021	DRA JUNE ELECT	89.79	
				13424 6/21	7/8/2021	FWB JUNE ELECT	55.02	
				126922 6/21	7/8/2021	LKPLSNT UNMETERED LIGH	12.74	
				54219 6/21	7/8/2021	W LKPLSNT UNMETERED LIC	12.74	588.45
	7/20/2021	0001472	SOLMAR WATER SYSTEM, IN	RH 6/21	7/8/2021	RH MAY JUNE WATER	88.00	88.00
	7/20/2021	0001540	SWAIN'S GENERAL STORE IN	288845	7/8/2021	CDJ WHEEL TIRE FLAT	124.99	
				288394	7/8/2021	1906CH CUALK GUT BIT DRIL	84.29	
				288548	7/8/2021	CH CHIP BRUSHES	34.45	
				288611	7/8/2021	CDJ PAINT FOR WATER PRES	27.04	
				288647	7/8/2021	CH LIGHT BULBS FOR FLAGS	17.34	
				288420	7/8/2021	CH AIR HOSE KEY STEM ELB	14.78	
				288708	7/8/2021	SMPK FLY PAPER MASK TAPE	11.90	
				288561	7/8/2021	1906CH CAUTION BARCADE	10.85	
				288806	7/8/2021	CH PLUGS JOINT TEFLON	8.03	
				288424	7/8/2021	CH BRASS COUPLING FOR IF	5.92	339.59
	7/20/2021	0001576	THURMAN SUPPLY	761644	7/8/2021	CDJ PLUMBING SUPPLIES	57.51	57.51

Bank : apbank U S BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001577	TK ELEVATOR	3006040608	7/8/2021	CH ELEVATOR MAINTENANCI	1,925.76	1,925.76
	7/20/2021	0001641	VERIZON WIRELESS	9882613267	7/8/2021	CH FG ADM JUV CELLPHONE	301.32	301.32
	7/20/2021	0001641	VERIZON WIRELESS	9882866489	7/8/2021	CH CUSTODIAN PHONES	31.65	31.65
	7/20/2021	0017412	TERRY'S LOCK & SAFE INC	062321-1106	7/8/2021	JUV (8) MKH KEYS	156.53	156.53
	7/20/2021	0032999	PLATT	1PO27293	7/8/2021	JUV LED BULBS	145.60	145.60
	7/20/2021	0037225	JACKSON, DALE	817-21-01 6/21	7/8/2021	2006FAC JUNE 2021 PROJEC	4,522.50	4,522.50
	7/20/2021	0041295	C & C TIMBER INC	9700	7/8/2021	SC 320 BUNDLES FIREWOOL	1,116.80	1,116.80
	7/20/2021	0041605	HOME DEPOT PRO	625613617	7/8/2021	CH SEAT COVERS HAND SOA	687.88	
				626177836	7/8/2021	JUV THERMOMETERS	127.36	
				626177828	7/8/2021	JUV THERMOMETERS	127.36	
				624808937	7/8/2021	CDJ BLEACH	89.56	
				625613591	7/8/2021	CDJ BRUSH SET CREDIT RET	-213.36	818.80
	7/20/2021	0044161	MAYDA & SONS MECHANICAL	0000065313	7/8/2021	JAIL WALK IN FREEZER REFF	281.52	281.52
						Sub total for U S BANK:		29,979.20

Final Check List
CLALLAM COUNTY

Prosecutor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000363	CLALLAM COUNTY SHERIFF	21-5-00052-05	7/8/2021	PERSONAL SERVICE 210003	46.24	46.24
	7/20/2021	0000418	WA STATE COURT OF APPEAI	15569	7/8/2021	COURT OF APPEALS	4.65	4.65
	7/20/2021	0000546	EXPRESS SERVICES, INC	25610308	7/8/2021	EXPRESS SERVICES	679.98	679.98
	7/20/2021	0001113	OFFICE DEPOT, INC	177569394001	7/8/2021	OFFICE SUPPLIES	106.55	
				175662316001	7/8/2021	OFFICE SUPPLIES	64.93	171.48
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082665	7/8/2021	POE CONTRACT	378.24	
				1082666	7/8/2021	POE CONTRACT	346.32	
				1082667	7/8/2021	POE CONTRACT	198.49	
				1082668	7/8/2021	POE CONTRACT	62.98	
				1082664	7/8/2021	POE CONTRACT	44.00	1,030.03
	7/20/2021	0001641	VERIZON WIRELESS	9882613268	7/8/2021	CORONER PHONE	953.74	953.74
						Sub total for U S BANK:		2,886.12

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000329	CO-OP FARM AND GARDEN, T	52162	7/7/2021	Propane - SQ 839	34.62	34.62
	7/20/2021	0000546	EXPRESS SERVICES, INC	25644312 E	6/29/2021	Personnel services - PA ER&R	1,239.60	1,239.60
	7/20/2021	0001036	MURREYS OLYMPIC DISPOSA	6662823	7/1/2021	Garbage service - SQ	192.08	192.08
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082686	6/30/2021	Billable copies - Admin. 6553	340.69	
				1082685	6/30/2021	Billable copies - Engineering 62	190.40	
				1082687	6/30/2021	Billable copies - PA Shop	24.20	555.29
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	22716/07022021	7/2/2021	Utility charges - CB	100.24	100.24
	7/20/2021	0001699	WA ST DEPT OF ECOLOGY	5400457420	6/30/2021	Hazardous Waste Generation F	56.00	56.00
	7/20/2021	0001714	WA ST DEPT OF NATURAL RE	4900/010015311	7/2/2021	21/22 Surface Mining Permit fe	2,000.00	2,000.00
	7/20/2021	0001720	WA ST DEPT OF REVENUE	06/21SUT-50301	6/30/2021	Sales & Use Tax - 50301 2113,	501.63	501.63
	7/20/2021	0029108	WA ST DEPT OF LICENSING	0014086D 21 Q2	6/30/2021	2021 Dyed Diesel Tax Q2 S301	64.73	64.73
						Sub total for U S BANK:		4,744.19

Final Check List
CLALLAM COUNTY

Public Works Roads

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000091	ANGELES MILLWORKS & LUM	291893	7/9/2021	MAINTENANCE SUPPLIES - C	61.30	
				291895	7/9/2021	MAINTENANCE SUPPLIES - C	28.61	
				291801	7/8/2021	MAINTENANCE SUPPLIES - C	27.91	
				291901	7/9/2021	MAINTENANCE SUPPLIES - C	25.51	143.33
	7/20/2021	0000546	EXPRESS SERVICES, INC	25644312-10101	6/29/2021	06/21/21~06/27/21 ROADS	7,016.52	7,016.52
	7/20/2021	0000594	DECKER CITY HARDWARE, TI	653525	6/24/2021	MAINTENANCE SUPPLIES - L	36.33	
				654591	6/30/2021	MAINTENANCE SUPPLIES - L	34.71	71.04
	7/20/2021	0000885	LAKESIDE INDUSTRIES, INC	164982	6/26/2021	MAINTENANCE SUPPLIES - P	2,543.31	
				165654	6/30/2021	MAINTENANCE SUPPLIES - P	1,041.87	
				164983	6/26/2021	MAINTENANCE SUPPLIES - P	165.88	3,751.06
	7/20/2021	0001614	UNITED STATES DOSIMETRY	02002	6/30/2021	2021 Q2 BADGES	412.29	412.29
	7/20/2021	0016373	WESTERN CONFERENCE OF,	0621TEAMPENE	6/30/2021	06/21 TEAMSTER PENSION -	404.00	404.00
	7/20/2021	0026957	LEITZ FARMS INC	15272	6/11/2021	MAINTENANCE SUPPLIES - C	281.96	281.96
	7/20/2021	0043469	PETROCARD	C764155	6/30/2021	06/21 FUEL CHARGES - SQ	93.10	93.10
						Sub total for U S BANK:		12,173.30

Final Check List
CLALLAM COUNTY

Public Works

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0002458	EVERGREEN RURAL WATER	43590	7/1/2021	ANNUAL SYSTEM MEMBERSI	200.80	200.80
	7/20/2021	0026025	KAWAL, LARA	LKL06/30/21	6/30/2021	STORMWATER DISCHARGE (	2,263.88	2,263.88
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	22718-070221	7/2/2021	05/28/21~06/29/21 410 FRONT	728.00	
				23193-062821	6/28/2021	05/25/21~06/21/21 HWY 112	244.23	
				22602-070221	7/2/2021	05/28/21~06/29/21 BOGACHIE	211.02	1,183.25
	7/20/2021	0001720	WA ST DEPT OF REVENUE	06/21SUT-41401	6/30/2021	06/21 SALES & USE TAX	572.46	572.46
	7/20/2021	0045452	WILSON ENGINEERING LLC	16223	6/21/2021	TREATMENT PLANT EVALUAT	9,449.50	9,449.50
	7/20/2021	0020614	WOOD HAWK, INC	1913	7/5/2021	WASTE TRANSFER - WWTP	1,435.00	1,435.00
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	119586-062421	6/24/2021	05/20/21~06/18/21 1453 W WA	63.15	63.15
	7/20/2021	0001426	SEQUIM, CITY OF	4405.0.0621 US	6/30/2021	06/01/21~06/30/21 USAGE	10,557.81	
				C21-06	6/30/2021	06/21 MONTHLY MAINTENAN(	3,934.84	
				4405.0.0621 BS	6/30/2021	06/01/21~06/30/21 BASE	2,045.00	16,537.65
	7/20/2021	0001641	VERIZON WIRELESS	9882638895	6/23/2021	06/21 MACHINE TO MACHINE	100.04	100.04
	7/20/2021	0001720	WA ST DEPT OF REVENUE	06/21SUT-42401	6/30/2021	06/21 SALES & USE TAX	183.60	183.60
	7/20/2021	0000361	CLALLAM COUNTY ROAD DEI	2021.043R	7/2/2021	2021 Q2 PAYROLL EXPENSE I	1,724.48	1,724.48
	7/20/2021	0000546	EXPRESS SERVICES, INC	25644312-43401	6/29/2021	06/21/21~06/27/21 BBWA	258.80	258.80
	7/20/2021	0041605	HOME DEPOT PRO	625083217	6/24/2021	MAINTENANCE SUPPLIES - B	126.77	126.77
						Sub total for U S BANK:		34,099.38

Final Check List
CLALLAM COUNTY

Sheriff

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000008	LEXIS NEXIS RISK MGMT INC	1035851-202106	6/30/2021	PERSON SEARCHES	54.40	54.40
	7/20/2021	0000536	PENINSULA TOWING INC.	13024	7/5/2021	TOWING	1,000.96	1,000.96
	7/20/2021	0000608	FRANZ FAMILY BAKERIES	117101000254	6/10/2021	FOOD	245.87	
				117101000293	6/17/2021	FOOD	193.24	
				117101000223	6/4/2021	FOOD	180.06	
				117101000319	6/24/2021	FOOD	178.94	
				117101000215	6/1/2021	FOOD	155.00	
				117101000278	6/14/2021	FOOD	155.00	
				117101000240	6/7/2021	FOOD	138.30	
				117101000306	6/21/2021	FOOD	138.30	
				117101000341	6/28/2021	FOOD	125.18	1,509.89
	7/20/2021	0000628	GALLS LLC	018599511	6/15/2021	UNIFORM - WENZL	205.64	
				018627158	6/18/2021	UNIFORM - MCCANN	137.07	342.71
	7/20/2021	0000917	LINCOLN INDUSTRIAL CORP I	0158922	6/8/2021	SIDES ON CHAIN GANG TRAI	1,499.26	1,499.26
	7/20/2021	0000918	LINCOLN STREET STATION	Account1 - Jul21	6/30/2021	SHIPPING CHARGES	284.48	284.48
	7/20/2021	0001140	OLYMPIC PRINTERS INC	27985	6/23/2021	BUSINESS CARDS - HECK, DI	224.13	
				28175	6/23/2021	BUSINESS CARDS - HNAT, M/	168.64	392.77
	7/20/2021	0001148	OLYMPIC SPRINGS INC	339836	6/7/2021	WATER	224.89	
				340136	6/21/2021	WATER	181.64	
				340433	6/30/2021	WATER COOLER RENT	43.30	449.83
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1083179	6/30/2021	MAINTENANCE AGREEMENT	369.46	
				1083184	6/30/2021	MAINTENANCE AGREEMENT	227.50	
				1083181	6/30/2021	MAINTENANCE AGREEMENT	202.74	
				1083183	6/30/2021	MAINTENANCE AGREEMENT	151.51	
				1083189	6/30/2021	MAINTENANCE AGREEMENT	99.69	
				1083182	6/30/2021	MAINTENANCE AGREEMENT	75.25	
				1083180	6/30/2021	MAINTENANCE AGREEMENT	74.47	
				1083177	6/30/2021	MAINTENANCE AGREEMENT	51.57	
				1083178	6/30/2021	MAINTENANCE AGREEMENT	27.20	
				1083188	6/30/2021	MAINTENANCE AGREEMENT	25.09	
				1083185	6/30/2021	MAINTENANCE AGREEMENT	23.73	
				1083191	6/30/2021	MAINTENANCE AGREEMENT	16.68	
				1083190	6/30/2021	MAINTENANCE AGREEMENT	5.60	
				1083187	6/30/2021	MAINTENANCE AGREEMENT	5.52	1,356.01

Bank : apbank U S BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001229	PETERSON FRUIT CO. INC.	417050	6/4/2021	FOOD	397.00	
				417615	6/22/2021	FOOD	289.60	
				417282	6/11/2021	FOOD	194.65	881.25
	7/20/2021	0001300	PUBLIC UTILITY DISTRICT	22794-Jul21	7/2/2021	UTILITIES - FRONTIER #1	161.71	
				96237-Jul21	7/2/2021	UTILITIES - FRONTIER #2	48.69	
				65837-Jul21	7/1/2021	MORSE CRK HOOKUP	46.21	256.61
	7/20/2021	0001420	SECURITY SERVICES NW INC	116883	7/1/2021	TELEPHONE ANSWERING SE	247.50	247.50
	7/20/2021	0001543	SWANSONS SERVICES CORP	1463068	6/24/2021	INDIGENT PACKS	56.00	
				1464304	7/1/2021	INDIGENT PACKS	45.00	101.00
	7/20/2021	0001547	SYSCO FOOD SERVICES OF S	355657897	6/9/2021	FOOD & KITCHEN SUPPLIES	1,649.68	
				355646702	6/2/2021	FOOD & KITCHEN SUPPLIES	965.58	
				355693113	6/30/2021	FOOD, JAIL & KITCHEN SUPP	942.09	
				355669359	6/16/2021	FOOD & KITCHEN SUPPLIES	651.30	
				355681127	6/23/2021	FOOD	642.59	
				355651287	6/5/2021	KITCHEN SUPPLIES	47.52	4,898.76
	7/20/2021	0001641	VERIZON WIRELESS	9882613266	6/23/2021	CELL PHONE SERVICE	674.98	674.98
	7/20/2021	0002929	WA ST TREASURER, ATTN: SC	070621	7/6/2021	PERCENT OF SEIZURES FOR	1,571.50	1,571.50
	7/20/2021	0003410	LEMAY MOBILE SHREDDING	47047122	7/1/2021	SHREDDING	50.52	
				4707116	7/1/2021	SHREDDING	11.88	62.40
	7/20/2021	0004361	USA TODAY	0015622171	6/27/2021	INMATE NEWSPAPERS	71.25	71.25
	7/20/2021	0021923	FIRST RACE CAR WASH	063021	6/30/2021	CAR WASHES	178.00	178.00
	7/20/2021	0031772	WE PROMOTE YOU	41763672	6/3/2021	INCENTIVE ITEMS	1,298.70	1,298.70
	7/20/2021	0032992	STYLER EMBROIDERY & DES	011781	7/4/2021	POLO SHIRTS EMBROIDERY	315.73	315.73
	7/20/2021	0033486	LN CURTIS & SONS INC	INV504509	6/30/2021	UNIFORM - GRIBBON	15.18	15.18
	7/20/2021	0041605	HOME DEPOT PRO	624808945	6/23/2021	JAIL & KITCHEN SUPPLIES	1,840.36	
				625340377	6/25/2021	JAIL SUPPLIES	95.09	1,935.45
	7/20/2021	0042636	HARBOR FOODSERVICE	307870	6/21/2021	FOOD & KITCHEN SUPPLIES	1,999.16	
				301742	6/7/2021	FOOD	1,201.91	
				311084	6/28/2021	FOOD & JAIL SUPPLIES	782.88	
				304679	6/14/2021	FOOD	460.60	
				302802	6/8/2021	CREDIT MEMO	-4.13	4,440.42
	7/20/2021	0043250	SMART START LLC	15	7/2/2021	BREATH CHECK FEES - JUNE	53.25	53.25
	7/20/2021	0043469	PETROCARD	C768557	6/30/2021	FUEL FOR VARIOUS CCSO VI	767.14	767.14
	7/20/2021	0044691	VERIZON CONNECT FLEET U	362000017607	7/1/2021	TRACKING SUBSCRIPTION F	99.88	99.88

Sub total for U S BANK:	24,759.31

Final Check List
CLALLAM COUNTY

Sheriff Jail Med

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000815	JIM'S PHARMACY	Jims Pharm Jun	6/25/2021	INMATE MEDICINE	112.19	112.19
	7/20/2021	0001136	OLYMPIC MEDICAL CENTER	OMC 7.8.21	7/8/2021	INMATE MEDICAL	2,295.54	2,295.54
	7/20/2021	0004826	OLYMPIC MEDICAL PHYSICIAI	71227023991	7/8/2021	INMATE MEDICAL	37.00	37.00
	7/20/2021	0024978	CORRECTIONAL HEALTHCAR	INV0082293	7/1/2021	NURSING CONTRACT	27,432.70	27,432.70
	7/20/2021	0025115	RADIA INC PS	z84aivl	7/8/2021	INMATE MEDICAL	5.20	5.20
	7/20/2021	0039487	ALBERTSONS LLC	2106CCJMP010	7/1/2021	INMATE MEDICINE	358.14	358.14
	7/20/2021	0041537	MCKESSON MEDICAL-SURGI	18279916	6/28/2021	CLINIC SUPPLIES	21.57	21.57
						Sub total for U S BANK:		30,262.34

Final Check List
CLALLAM COUNTY

Superior Court

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000716	HAYDEN, JOHN F	JH 07-21	7/8/2021	JULY 2021 - CHINS/YAR ATTO	2,333.33	2,333.33
	7/20/2021	0001607	KAREN L UNGER, P.S.	KU 07-21	7/8/2021	JULY 2021 - ADULT CRIMINAL	3,000.00	3,000.00
	7/20/2021	0002298	JOHN D BLACK, PLLC	JB 07-21	7/8/2021	JULY 2021 - JUVENILE OFFEN	700.00	700.00
	7/20/2021	0020134	STANLEY B MYERS, JR, ATTO	SM 07-21	7/8/2021	JULY 2021 - ADULT CRIMINAL	3,000.00	3,000.00
	7/20/2021	0021617	WOLFLEY LAW OFFICE P.S.	LW 07-21	7/8/2021	JULY 2021 - ADULT CRIMINAL	3,000.00	
				JW 07-21	7/8/2021	JULY 2021 - CONTEMPT SUPI	375.00	3,375.00
						Sub total for U S BANK:		12,408.33

Final Check List
CLALLAM COUNTY

Treasurer

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0000008	LEXIS NEXIS RISK MGMT INC	1382924-202106	7/8/2021	MONTHLY SUBSCRIPTION	112.06	112.06
	7/20/2021	0000331	CLALLAM COUNTY AUDITOR	21-131231	7/8/2021	DFL REMOVAL RECORDING 2	104.50	
				21-131318	7/8/2021	DFL REMOVAL 21-131318	104.50	
				21-131319	7/8/2021	DFL REMOVAL RECORDING 2	104.50	
				21-131443	7/8/2021	CURRENT USE REMOVAL RE	104.50	418.00
	7/20/2021	0001140	OLYMPIC PRINTERS INC	28010	7/8/2021	#10 WINDOW ENVELOPES	917.95	917.95
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082669	7/8/2021	COPY MACHINE CONTRACT	131.57	131.57
	7/20/2021	0029534	HARRIS GOVERN	TACT00000213	7/8/2021	CONFIGURE DATABASE TO M	2,739.24	2,739.24
						Sub total for U S BANK:		4,318.82

Final Check List
CLALLAM COUNTY

Veterans

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/8/2021	0000360	CLALLAM COUNTY ER&R	ER&R 7/8/21	7/8/2021	VEHICLE RENTAL	140.00	140.00
	7/8/2021	0001716	DEPT OF ENTERPRISE SVCS	DES 7/8/21	7/8/2021	BUSINESS CARDS	23.94	23.94
	7/8/2021	0020849	U S BANK	BG6299 7/8/21 V	7/8/2021	FOOD	150.00	
				BP0572 7/8/21 V	7/8/2021	FOOD	150.00	
				JJ2522 7/8/21 S	7/8/2021	FOOD	150.00	
				MB8950 7/8/21 V	7/8/2021	FOOD	150.00	
				MG9761 7/8/21 V	7/8/2021	FOOD	150.00	
				MJ3268 7/8/21 V	7/8/2021	FOOD	150.00	
				SR6054 7/8/21 V	7/8/2021	FOOD	150.00	
				RA5095 7/8/21 V	7/8/2021	FOOD	100.00	
				HG1393 7/8/21 S	7/8/2021	FUEL	75.00	
				HG1393 7/8/21 V	7/8/2021	FOOD	75.00	
				RA5095 7/8/21 S	7/8/2021	FUEL	50.00	1,350.00
	7/8/2021	0033217	RADIO PACIFIC, INC	RADIO PACIFIC	7/8/2021	RADIO ADS	198.00	198.00
						Sub total for U S BANK:		1,711.94

Final Check List
CLALLAM COUNTY

WSU Ext

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	7/20/2021	0001179	PACIFIC OFFICE EQUIPMENT	1082683	7/7/2021	POE JUNE 2021	94.04	94.04
	7/20/2021	0001641	VERIZON WIRELESS	9882613271	7/7/2021	VERIZON JUNE 2021	251.10	251.10
						Sub total for U S BANK:		345.14

1b
7/20/21

Payroll Ending: 6/30/2021

Gross Earnings:	**$1,578,662.99**
Benefits Paid:	**$789,524.59**
Total Expenditures:	**$2,368,187.58**

STATE OF WASHINGTON)
)
COUNTY OF CLALLAM)

This is to certify that the foregoing 'Labor Distribution Totals by Fund' Report for the period herein indicated is a full, true, and correct representation of the earnings and benefits paid to all Clallam County employees as recorded in the books of original entry maintained by this office.

WITNESS MY HAND THIS 12th DAY OF July 2021

Sandra L. Williams

SANDRA L. WILLIAMS, CHIEF DEPUTY FOR
SHOONA RIGGS, CLALLAM COUNTY AUDITOR

CLALLAM COUNTY BOARD OF COMMISSIONERS does hereby certify that the payroll herein specified has been disbursed and that the earnings and benefits listed above are approved for payment:

BOARD OF COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

RANDY JOHNSON

MARK OZIAS

COPY

BILL PEACH

(County Administrator)

Payroll and Benefits Paid for 3 Payrolls: July 9, 2021					
Fund Name	Fund Number	Gross Earnings Paid by Fund #	Benefits Paid by Fund #	Employees Paid by Fund #	Total Expenditures
MONTHLY: June 2021					
General Fund	00100	778,573.75	298,953.66	156	1,077,527.41
Sheriff: Boating Safety/VRF	11003/04				0.00
Sheriff: OPNET	11008	7,219.02	2,353.68	2	9,572.70
Sheriff: OPSCAN	11065				0.00
Sheriff: Stonegarden	11068				0.00
Sheriff: Port Security	11069				0.00
HHS	11301	17,367.84	8,171.03	5	25,538.87
HHS-Alcohol/Drug	11321				0.00
HHS-Dev Disabilties	11331	8,315.00	3,824.80	2	12,139.80
Law Library	11401	490.32	42.85	1	533.17
Prosecutor-Local Crime Victim	11701				0.00
Treasurer- O&M	12201				0.00
Treasurer-REET Electronic Tech	12231				0.00
Auditor-Doc Preservation	12401	1,196.67	105.37	1	1,302.04
Noxious Weed Control	13001	6,001.81	2,551.97	1	8,553.78
Dist Court 1 - Probation	13501				0.00
DCD Lwr Dungeness Floodplain	30301	6,851.09	2,859.64	2	9,710.73
Dungeness Reservoir	30401				0.00
HR Risk Management	50401	6,211.02	574.74	4	6,785.76
Wellness Benefit/Transit Passes	50601				0.00
MONTHLY TOTALS		**832,226.52**	**319,437.74**		**1,151,664.26**
SEMI-MONTHLY: 6/16-30/2021					
General Fund	00100	515,170.88	326,474.95	192	841,645.83
Sheriff: Boating Safety	11003				0.00
Sheriff: OPNET	11008				0.00
Sheriff: OPSCAN	11065				0.00
Sheriff: Stonegarden	11068				0.00
Sheriff: Port Security	11069				0.00
HHS	11301	22,362.36	16,286.58	12	38,648.94
HHS-Alcohol/Drug	11321				0.00
HHS-Homeless Task Force	11322	682.08	703.94	1	1,386.02
Chem Depend/Mental Health	11323	682.08	703.93	1	1,386.01
HHS-Dev Disabilties	11331				0.00
Law Library	11401				0.00
HHS-Dev Disabilties	11331				0.00
Prosecutor-Local Crime Victim	11701	4,985.26	2,981.34	2	7,966.60
Treasurer- O&M	12201	1,172.23	923.37	1	2,095.60
Auditor-Doc Preservation	12401	1,952.75	1,536.23	2	3,488.98
Noxious Weed Control	13001	1,766.07	1,542.83	1	3,308.90
Veterans Relief	19914	3,580.51	3,065.22	2	6,645.73
Dist Court 1 - Probation	13501				0.00
DCD Lwr Dungeness Floodplain	30301	557.33	347.05	1	904.38
HR-Risk Management	50401	9,736.15	4,937.89	3	14,674.04
HR-Worker's Compensation	50501	1,483.01	749.30	2	2,232.31
Wellness Benefit/Transit Passes	50601		73.50		73.50
SM TOTALS		**564,130.71**	**360,326.13**		**924,456.84**
ROADS: 6/16-30/2021 TOTALS					
PW - Roads	10101	153,170.77	92,892.71	58	246,063.48
PW - Flood Control	10135	3,812.12	2,035.22	3	5,847.34
Dungeness Reservoir	30401				0.00
PW - Carlsborg Sewer Project	30801				0.00
PW - Solid Waste	40201	109.12	64.91	1	174.03
Clallam Bay/Sekiu Sewer	41401	7,458.42	3,176.46	6	10,634.88
PW - Carlsborg Sewer M&O	42401	616.70	376.18	4	992.88
ER&R	50301	17,138.63	11,215.24	10	28,353.87
Wellness Benefit/Transit Passes	50601				0.00
ROADS TOTALS		**182,305.76**	**109,760.72**		**292,066.48**
TOTALS		**$1,578,662.99**	**$789,524.59**		**$2,368,187.58**

Prepared by:

Angi Klahn, Deputy Auditor

COPY

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Monthly

Fund Worked : 00100
 # Emps : 156

Earnings Code & Description		Amount	Hours
r	REGULAR	634,143.06	18,531.95
s	SICK	28,096.67	885.15
o15s	OVERTIME X 1.5 - SHERIFF DEPT	17,546.14	323.50
cu	COMP USED	2,627.42	78.34
cp	COMP TIME PAID - COUNTY	1,900.28	47.32
aute	AUTO ALLOWANCE ELECTED	1,360.00	
fl	FUNERAL LEAVE	1,249.07	38.00
detpay	DETECTIVE PAY	1,169.99	
phsm	PHONE STIPEND SMART PHONE	600.00	
adml	ADMINISTRATIVE LEAVE PAID	389.23	14.25
sprt	SICK PAYOFF RETIRE 25%	119.44	16.00
asp	SHERIFF ACTING SUPERVISOR PAY	74.22	48.00
swa	SICK - WA PART-TIME	68.68	3.50
lon5	LONGEVITY - 5 YEARS 1619LC	15.00	
v	VACATION	50,585.14	1,449.26
fh	FLOATING HOLIDAY	20,171.33	588.00
vp	VACATION PAYOFF	10,153.34	324.81
hazpay	HAZARD PAY	2,454.75	
bsba	BS/BA EDUCATION INCENTIVE	1,442.89	
o15j	OVERTIME x 1.5 - JUV DETENTION	1,315.63	35.00
aaas	AA/AS EDUCATION INCENTIVE	1,172.98	
auto	AUTO ALLOWANCE CONTRACTUAL	1,020.00	
oth	OVERTIME X 1.5 - HOURLY	494.85	45.00
retr	RETRO PAY	181.89	
wep	WEST END PAY	100.00	
aspj	ACTING SUPERVISOR PAY JUVENILE	72.11	60.00
phns	PHONE STIPEND	40.00	
swapt	SICK PAYOFF - TERMINATION 10%	9.64	0.39
	Totals:	**778,573.75**	**22,488.47**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	70,553.10
pers2	PERS 2 RETIREMENT	29,061.62
401a	401A DEFERRED COMPENSATION	15,104.35
icm457	ICMA DEFERRED COMP	13,482.25
psers	PSERS RETIREMENT	6,300.72
n457	NATIONWIDE 457	4,498.83
udteam	UNION DUES - TEAMSTERS	2,728.74
aflpre	AFLAC PRE TAX	1,615.45
rth457	ROTH-ICMA DEFERRED COMP	1,000.00
udpd	UNION DUES - 1619 D	892.60
hr125	HEALTH REIMBURSEMENT	590.34
udmp	UNION DUES - 1619 MP	532.98
udlc	UNION DUES - 1619 LC	437.54
leofcu	LEOFF RETIREMENT CATCH UP	382.09
n457rt	ROTH-NATIONWIDE 457	300.00
dc125	DEPENDENT CARE	154.17
colaft	COLONIAL LIFE INS. POST TAX	145.68
wsatf	1619CD WSATF DUES	60.00
shrfnd	SHERIFF EMPLOYEE FUND	32.00
socsec	SOCIAL SECURITY	45,606.71
medpre	HEALTH INSURANCE PRE TAX	22,735.75
leoff2	LEOFF 2 RETIREMENT	13,740.26
medtx	MEDICARE TAX	10,666.17
h457	MASSMUTUAL 457	6,219.95
pers3	PERS 3 RETIREMENT	3,618.80
fmlatx	WA Paid Family & Medical Leave	1,930.21
ltdshr	LTD - SHERIFF	1,182.60
l&i	L&I - SELF INSURED	973.78
genpre	SUN LIFE PRE TAX	732.62
udcd	UNION DUES - 1619 CD C	582.50
udps	UNION DUES - 1619 S	488.25
aflaft	AFLAC POST TAX	403.03
pers1	PERS 1 RETIREMENT	338.83
udcs	UNION DUES - 1619 CS	233.00
uw	UNITED WAY	150.00
colpre	COLONIAL LIFE INS. PRE TAX	88.12
shrfcf	SHERIFF COFFEE FUND	51.00
perscu	PERS RETIREMENT CATCH UP	1.22

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 00100
 # Emps : 156

					Totals:	**257,615.26**	
Benefit Code and Description		**Amount**		**Benefit Code and Description**		**Amount**	
medpre	HEALTH INSURANCE PRE TAX	134,121.29		pers2	PERS 2 RETIREMENT	47,712.60	
socsec	SOCIAL SECURITY	45,606.71		401a	401A DEFERRED COMPENSATION	13,394.99	
psers	PSERS RETIREMENT	10,719.96		medtx	MEDICARE TAX	10,666.17	
l&i	L&I - SELF INSURED	9,793.25		vebahr	HRA VEBA	8,773.26	
leoff2	LEOFF 2 RETIREMENT	8,525.69		pers3	PERS 3 RETIREMENT	6,494.15	
fmlatx	WA Paid Family & Medical Leave	1,117.68		pers1	PERS 1 RETIREMENT	732.43	
unemp	UNEMPLOYMENT	699.50		genpre	SUN LIFE PRE TAX	355.00	
leofcu	LEOFF RETIREMENT CATCH UP	237.08		perscu	PERS RETIREMENT CATCH UP	3.90	
					Totals:	**298,953.66**	
					Gross Earnings by Fund:	**778,573.75**	**22,488.47**
					Total Fund Deductions:	**257,615.26**	
					Fund Net:	**520,958.49**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 11008
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	7,147.51	248.50
s	SICK	71.51	2.50
	Totals:	**7,219.02**	**251.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	432.61
pers2	PERS 2 RETIREMENT	397.71
medtx	MEDICARE TAX	101.17
fmlatx	WA Paid Family & Medical Leave	18.28
shrfnd	SHERIFF EMPLOYEE FUND	5.00
fedtx	FEDERAL WITHHOLDING TAX	417.37
medpre	HEALTH INSURANCE PRE TAX	241.60
udlc	UNION DUES - 1619 LC	58.25
l&i	L&I - SELF INSURED	12.82
	Totals:	**1,684.81**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,110.00
socsec	SOCIAL SECURITY	432.61
l&i	L&I - SELF INSURED	39.14
unemp	UNEMPLOYMENT	7.22
pers2	PERS 2 RETIREMENT	652.95
medtx	MEDICARE TAX	101.17
fmlatx	WA Paid Family & Medical Leave	10.59
	Totals:	**2,353.68**

Gross Earnings by Fund:	**7,219.02**	**251.00**
Total Fund Deductions:	**1,684.81**	
Fund Net:	**5,534.21**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 11301
 # Emps : 5

Earnings Code & Description		Amount	Hours
r	REGULAR	15,800.49	615.50
v	VACATION	456.32	16.00
cu	COMP USED	186.60	8.00
s	SICK	466.07	19.50
fh	FLOATING HOLIDAY	365.06	12.80
oth	OVERTIME X 1.5 - HOURLY	93.30	8.00
	Totals:	**17,367.84**	**679.80**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	1,351.21
pers2	PERS 2 RETIREMENT	1,008.82
icm457	ICMA DEFERRED COMP	785.33
udteam	UNION DUES - TEAMSTERS	224.00
fmlatx	WA Paid Family & Medical Leave	44.00
medpre	HEALTH INSURANCE PRE TAX	1,130.40
socsec	SOCIAL SECURITY	1,006.73
medtx	MEDICARE TAX	235.45
pers3	PERS 3 RETIREMENT	116.19
l&i	L&I - SELF INSURED	31.76
	Totals:	**5,933.89**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	4,440.00
socsec	SOCIAL SECURITY	1,006.73
401a	401A DEFERRED COMPENSATION	296.29
l&i	L&I - SELF INSURED	192.05
unemp	UNEMPLOYMENT	17.36
pers2	PERS 2 RETIREMENT	1,656.26
pers3	PERS 3 RETIREMENT	301.41
medtx	MEDICARE TAX	235.45
fmlatx	WA Paid Family & Medical Leave	25.48
	Totals:	**8,171.03**

Gross Earnings by Fund:	**17,367.84**	**679.80**
Total Fund Deductions:	**5,933.89**	
Fund Net:	**11,433.95**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 11331
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	7,921.05	270.75
s	SICK	35.50	1.31
v	VACATION	358.45	12.20
	Totals:	**8,315.00**	**284.26**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	671.88
medpre	HEALTH INSURANCE PRE TAX	494.55
dc125	DEPENDENT CARE	312.49
udteam	UNION DUES - TEAMSTERS	114.76
icm457	ICMA DEFERRED COMP	75.00
l&i	L&I - SELF INSURED	13.97
pers2	PERS 2 RETIREMENT	656.89
socsec	SOCIAL SECURITY	465.50
h457	MASSMUTUAL 457	300.00
medtx	MEDICARE TAX	108.87
fmlatx	WA Paid Family & Medical Leave	21.07
	Totals:	**3,234.98**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,942.50
socsec	SOCIAL SECURITY	465.50
medtx	MEDICARE TAX	108.87
fmlatx	WA Paid Family & Medical Leave	12.20
pers2	PERS 2 RETIREMENT	1,078.46
401a	401A DEFERRED COMPENSATION	166.30
l&i	L&I - SELF INSURED	42.65
unemp	UNEMPLOYMENT	8.32
	Totals:	**3,824.80**

Gross Earnings by Fund:	**8,315.00**	**284.26**
Total Fund Deductions:	**3,234.98**	
Fund Net:	**5,080.02**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 11401
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	490.32	26.25

Earnings Code & Description		Amount	Hours
	Totals:	**490.32**	**26.25**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	30.40
medtx	MEDICARE TAX	7.11
fmlatx	WA Paid Family & Medical Leave	1.24

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	16.12
l&i	L&I - SELF INSURED	1.36
	Totals:	**56.23**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	30.40
l&i	L&I - SELF INSURED	4.13
unemp	UNEMPLOYMENT	0.49

Benefit Code and Description		Amount
medtx	MEDICARE TAX	7.11
fmlatx	WA Paid Family & Medical Leave	0.72
	Totals:	**42.85**

Gross Earnings by Fund:	**490.32**	**26.25**
Total Fund Deductions:	**56.23**	
Fund Net:	**434.09**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 12401
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	1,196.67	69.00
	Totals:	**1,196.67**	**69.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	74.19
fedtx	FEDERAL WITHHOLDING TAX	15.08
fmlatx	WA Paid Family & Medical Leave	3.03
medtx	MEDICARE TAX	17.35
l&i	L&I - SELF INSURED	3.56
	Totals:	**113.21**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	74.19
l&i	L&I - SELF INSURED	10.87
unemp	UNEMPLOYMENT	1.20
medtx	MEDICARE TAX	17.35
fmlatx	WA Paid Family & Medical Leave	1.76
	Totals:	**105.37**

Gross Earnings by Fund:	**1,196.67**	**69.00**
Total Fund Deductions:	**113.21**	
Fund Net:	**1,083.46**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 13001
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	6,001.81	180.00
	Totals:	**6,001.81**	**180.00**

Deduction Code and Description		Amount
icm457	ICMA DEFERRED COMP	2,000.00
pers2	PERS 2 RETIREMENT	474.14
401a	401A DEFERRED COMPENSATION	300.09
medtx	MEDICARE TAX	83.16
fmlatx	WA Paid Family & Medical Leave	15.20
fedtx	FEDERAL WITHHOLDING TAX	599.23
socsec	SOCIAL SECURITY	355.58
medpre	HEALTH INSURANCE PRE TAX	266.60
udmp	UNION DUES - 1619 MP	58.25
l&i	L&I - SELF INSURED	8.26
	Totals:	**4,160.51**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,085.00
socsec	SOCIAL SECURITY	355.58
l&i	L&I - SELF INSURED	89.95
vebahr	HRA VEBA	25.00
unemp	UNEMPLOYMENT	6.00
pers2	PERS 2 RETIREMENT	778.44
401a	401A DEFERRED COMPENSATION	120.04
medtx	MEDICARE TAX	83.16
fmlatx	WA Paid Family & Medical Leave	8.80
	Totals:	**2,551.97**

Gross Earnings by Fund:	**6,001.81**	**180.00**
Total Fund Deductions:	**4,160.51**	
Fund Net:	**1,841.30**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 30301
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	6,083.21	173.20
s	SICK	127.97	3.40
v	VACATION	639.91	17.00
	Totals:	**6,851.09**	**193.60**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	504.67
medpre	HEALTH INSURANCE PRE TAX	297.26
401a	401A DEFERRED COMPENSATION	281.56
pers2	PERS 2 RETIREMENT	96.38
hr125	HEALTH REIMBURSEMENT	85.00
icm457	ICMA DEFERRED COMP	24.40
udteam	UNION DUES - TEAMSTERS	15.50
socsec	SOCIAL SECURITY	401.08
pers3	PERS 3 RETIREMENT	281.56
h457	MASSMUTUAL 457	148.75
medtx	MEDICARE TAX	93.81
udmp	UNION DUES - 1619 MP	49.52
fmlatx	WA Paid Family & Medical Leave	17.35
l&i	L&I - SELF INSURED	9.29
	Totals:	**2,306.13**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,199.75
socsec	SOCIAL SECURITY	401.08
401a	401A DEFERRED COMPENSATION	137.03
medtx	MEDICARE TAX	93.81
fmlatx	WA Paid Family & Medical Leave	10.06
pers3	PERS 3 RETIREMENT	730.37
pers2	PERS 2 RETIREMENT	158.23
l&i	L&I - SELF INSURED	101.20
vebahr	HRA VEBA	21.25
unemp	UNEMPLOYMENT	6.86
	Totals:	**2,859.64**

Gross Earnings by Fund:	**6,851.09**	**193.60**
Total Fund Deductions:	**2,306.13**	
Fund Net:	**4,544.96**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 50401
 # Emps : 4

Earnings Code & Description		Amount	Hours
r	REGULAR	6,211.02	249.50

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	525.19
medtx	MEDICARE TAX	90.06
l&i	L&I - SELF INSURED	12.87

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	385.09
l&i	L&I - SELF INSURED	84.27
unemp	UNEMPLOYMENT	6.21

Earnings Code & Description		Amount	Hours
	Totals:	**6,211.02**	**249.50**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	385.09
fmlatx	WA Paid Family & Medical Leave	15.74
	Totals:	**1,028.95**

Benefit Code and Description		Amount
medtx	MEDICARE TAX	90.06
fmlatx	WA Paid Family & Medical Leave	9.11
	Totals:	**574.74**

Gross Earnings by Fund:	**6,211.02**	**249.50**
Total Fund Deductions:	**1,028.95**	
Fund Net:	**5,182.07**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 65101
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	7,346.01	200.00
	Totals:	**7,346.01**	**200.00**

Deduction Code and Description		Amount
leoff2	LEOFF 2 RETIREMENT	527.94
fd1457	DRS 457 DEFERRED COMP FIRE 1	400.00
socsec	SOCIAL SECURITY	74.40
fmlf1	WA Paid Family & Medical Leave	18.61
fedtx	FEDERAL WITHHOLDING TAX	471.00
medtx	MEDICARE TAX	106.52
l&i1	L&I - FIRE 1	64.92
	Totals:	**1,663.39**

Benefit Code and Description		Amount
leoff2	LEOFF 2 RETIREMENT	327.58
socsec	SOCIAL SECURITY	74.40
medtx	MEDICARE TAX	106.52
	Totals:	**508.50**

Gross Earnings by Fund:	**7,346.01**	**200.00**
Total Fund Deductions:	**1,663.39**	
Fund Net:	**5,682.62**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 65151
 # Emps : 12

Earnings Code & Description		Amount	Hours
r	REGULAR	7,005.16	171.60
	Totals:	**7,005.16**	**171.60**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	474.22
medtx	MEDICARE TAX	101.60
socsec	SOCIAL SECURITY	434.33
fmlf5	WA Paid Family & Medical Leave	17.75
	Totals:	**1,027.90**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	434.33
medtx	MEDICARE TAX	101.60
	Totals:	**535.93**

Gross Earnings by Fund:	**7,005.16**	**171.60**
Total Fund Deductions:	**1,027.90**	
Fund Net:	**5,977.26**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 65161
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	253.26	18.50

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	15.70
fmlf6	WA Paid Family & Medical Leave	0.64

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	15.70

Earnings Code & Description		Amount	Hours
	Totals:	**253.26**	**18.50**

Deduction Code and Description		Amount
medtx	MEDICARE TAX	3.67
	Totals:	**20.01**

Benefit Code and Description		Amount
medtx	MEDICARE TAX	3.67
	Totals:	**19.37**

Gross Earnings by Fund:	**253.26**	**18.50**
Total Fund Deductions:	**20.01**	
Fund Net:	**233.25**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 65171
 # Emps : 12

Earnings Code & Description		Amount	Hours
r	REGULAR	11,637.32	278.17
bhu	BENEFIT HOURS USED - TAX DIST	1,090.91	24.00
	Totals:	**12,728.23**	**302.17**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	905.49
socsec	SOCIAL SECURITY	293.17
l&if4	L&I - FIRE 4	67.09
leof#4	LEOFF 2 RETIREMENT FIRE 4	687.20
medtx	MEDICARE TAX	184.59
fmlf4	WA Paid Family & Medical Leave	32.23
	Totals:	**2,169.77**

Benefit Code and Description		Amount
leof#4	LEOFF 2 RETIREMENT FIRE 4	426.40
medtx	MEDICARE TAX	184.59
socsec	SOCIAL SECURITY	293.17
	Totals:	**904.16**

Gross Earnings by Fund:	**12,728.23**	**302.17**
Total Fund Deductions:	**2,169.77**	
Fund Net:	**10,558.46**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 67101
 # Emps : 3

Earnings Code & Description		Amount	Hours
r	REGULAR	5,951.80	281.50
ott	OVERTIME - TAXING DIST	2,689.50	81.50
	Totals:	**8,641.30**	**363.00**

Deduction Code and Description		Amount
c13gar	CHAPTER 13 GARNISHMENT	980.00
socsec	SOCIAL SECURITY	535.76
medtx	MEDICARE TAX	125.30
fedtx	FEDERAL WITHHOLDING TAX	954.01
pers2	PERS 2 RETIREMENT	518.36
l&iagn	L&I - AGNEW	95.10
	Totals:	**3,208.53**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	851.03
medtx	MEDICARE TAX	125.30
socsec	SOCIAL SECURITY	535.76
fmlagn	WA Paid Family & Medical Leave	21.89
	Totals:	**1,533.98**

Gross Earnings by Fund:	**8,641.30**	**363.00**
Total Fund Deductions:	**3,208.53**	
Fund Net:	**5,432.77**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 67121
 # Emps : 5

Earnings Code & Description		Amount	Hours
r	REGULAR	2,510.00	69.00

Earnings Code & Description		Amount	Hours
	Totals:	**2,510.00**	**69.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	155.62
fmlcln	WA Paid Family & Medical Leave	6.35

Deduction Code and Description		Amount
medtx	MEDICARE TAX	36.40
	Totals:	**198.37**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	155.62

Benefit Code and Description		Amount
medtx	MEDICARE TAX	36.40
	Totals:	**192.02**

Gross Earnings by Fund:	**2,510.00**	**69.00**
Total Fund Deductions:	**198.37**	
Fund Net:	**2,311.63**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 67141
 # Emps : 3

Earnings Code & Description		Amount	Hours
r	REGULAR	4,070.08	188.00

Earnings Code & Description	Amount	Hours
Totals:	**4,070.08**	**188.00**

Deduction Code and Description		Amount
pers2h	PERS 2 RETIREMENT - HIGHLAND	280.46
fedtx	FEDERAL WITHHOLDING TAX	117.80
l&ihig	L&I - HIGHLAND IRRIGATION	49.39

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	252.35
medtx	MEDICARE TAX	59.02
fmlhig	WA Paid Family & Medical Leave	10.30
Totals:		**769.32**

Benefit Code and Description		Amount
pers2h	PERS 2 RETIREMENT - HIGHLAND	460.45
medtx	MEDICARE TAX	59.02

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	252.35
Totals:		**771.82**

Gross Earnings by Fund:	**4,070.08**	**188.00**
Total Fund Deductions:	**769.32**	
Fund Net:	**3,300.76**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 67701
 # Emps : 5

Earnings Code & Description		Amount	Hours
r	REGULAR	7,660.00	326.00
	Totals:	**7,660.00**	**326.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	474.92
medtx	MEDICARE TAX	111.07
fedtx	FEDERAL WITHHOLDING TAX	317.12
fmlbld	WA Paid Family & Medical Leave	19.42
	Totals:	**922.53**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	474.92
medtx	MEDICARE TAX	111.07
	Totals:	**585.99**

Gross Earnings by Fund:	**7,660.00**	**326.00**
Total Fund Deductions:	**922.53**	
Fund Net:	**6,737.47**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : 67731
 # Emps : 9

Earnings Code & Description		Amount	Hours
r	REGULAR	34,765.97	1,212.50
ott	OVERTIME - TAXING DIST	874.35	22.50
bhu	BENEFIT HOURS USED - TAX DIST	2,476.25	73.50
	Totals:	**38,116.57**	**1,308.50**

Deduction Code and Description		Amount
pers2s	PERS 2 RETIREMENT - SUNLAND	2,928.73
socsec	SOCIAL SECURITY	2,363.24
medsun	HEALTH INSURANCE SUNLAND	296.23
fmlsun	WA Paid Family & Medical Leave	96.56
fedtx	FEDERAL WITHHOLDING TAX	2,684.30
medtx	MEDICARE TAX	552.68
l&isun	L&I - SUNLAND	265.54
	Totals:	**9,187.28**

Benefit Code and Description		Amount
medsun	HEALTH INSURANCE SUNLAND	7,961.28
socsec	SOCIAL SECURITY	2,363.24
pers2s	PERS 2 RETIREMENT - SUNLAND	4,808.31
medtx	MEDICARE TAX	552.68
	Totals:	**15,685.51**

Gross Earnings by Fund:	**38,116.57**	**1,308.50**
Total Fund Deductions:	**9,187.28**	
Fund Net:	**28,929.29**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : - Totals -
 # Emps : 223

Earnings Code & Description		Amount	Hours
r	REGULAR	766,194.74	23,109.92
s	SICK	28,797.72	911.86
o15s	OVERTIME X 1.5 - SHERIFF DEPT	17,546.14	323.50
bhu	BENEFIT HOURS USED - TAX DIST	3,567.16	97.50
cu	COMP USED	2,814.02	86.34
cp	COMP TIME PAID - COUNTY	1,900.28	47.32
aute	AUTO ALLOWANCE ELECTED	1,360.00	
fl	FUNERAL LEAVE	1,249.07	38.00
detpay	DETECTIVE PAY	1,169.99	
phsm	PHONE STIPEND SMART PHONE	600.00	
adml	ADMINISTRATIVE LEAVE PAID	389.23	14.25
sprt	SICK PAYOFF RETIRE 25%	119.44	16.00
asp	SHERIFF ACTING SUPERVISOR PAY	74.22	48.00
swa	SICK - WA PART-TIME	68.68	3.50
lon5	LONGEVITY - 5 YEARS 1619LC	15.00	
v	VACATION	52,039.82	1,494.46
fh	FLOATING HOLIDAY	20,536.39	600.80
vp	VACATION PAYOFF	10,153.34	324.81
ott	OVERTIME - TAXING DIST	3,563.85	104.00
hazpay	HAZARD PAY	2,454.75	
bsba	BS/BA EDUCATION INCENTIVE	1,442.89	
o15j	OVERTIME x 1.5 - JUV DETENTION	1,315.63	35.00
aaas	AA/AS EDUCATION INCENTIVE	1,172.98	
auto	AUTO ALLOWANCE CONTRACTUAL	1,020.00	
oth	OVERTIME X 1.5 - HOURLY	588.15	53.00
retr	RETRO PAY	181.89	
wep	WEST END PAY	100.00	
aspj	ACTING SUPERVISOR PAY JUVENILE	72.11	60.00
phns	PHONE STIPEND	40.00	
swapt	SICK PAYOFF - TERMINATION 10%	9.64	0.39
	Totals:	**920,557.13**	**27,368.65**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	80,577.79
pers2	PERS 2 RETIREMENT	32,213.92
icm457	ICMA DEFERRED COMP	16,366.98
leoff2	LEOFF 2 RETIREMENT	14,268.20
h457	MASSMUTUAL 457	6,668.70
n457	NATIONWIDE 457	4,498.83
udteam	UNION DUES - TEAMSTERS	3,083.00
fmlatx	WA Paid Family & Medical Leave	2,066.12
ltdshr	LTD - SHERIFF	1,182.60
rth457	ROTH-ICMA DEFERRED COMP	1,000.00
udpd	UNION DUES - 1619 D	892.60
leof#4	LEOFF 2 RETIREMENT FIRE 4	687.20
udmp	UNION DUES - 1619 MP	640.75
udlc	UNION DUES - 1619 LC	495.79
dc125	DEPENDENT CARE	466.66
fd1457	DRS 457 DEFERRED COMP FIRE 1	400.00
pers1	PERS 1 RETIREMENT	338.83
medsun	HEALTH INSURANCE SUNLAND	296.23
l&isun	L&I - SUNLAND	265.54
socsec	SOCIAL SECURITY	53,357.38
medpre	HEALTH INSURANCE PRE TAX	25,166.16
401a	401A DEFERRED COMPENSATION	15,686.00
medtx	MEDICARE TAX	12,684.00
psers	PSERS RETIREMENT	6,300.72
pers3	PERS 3 RETIREMENT	4,016.55
pers2s	PERS 2 RETIREMENT - SUNLAND	2,928.73
aflpre	AFLAC PRE TAX	1,615.45
l&i	L&I - SELF INSURED	1,067.67
c13gar	CHAPTER 13 GARNISHMENT	980.00
genpre	SUN LIFE PRE TAX	732.62
hr125	HEALTH REIMBURSEMENT	675.34
udcd	UNION DUES - 1619 CD C	582.50
udps	UNION DUES - 1619 S	488.25
aflaft	AFLAC POST TAX	403.03
leofcu	LEOFF RETIREMENT CATCH UP	382.09
n457rt	ROTH-NATIONWIDE 457	300.00
pers2h	PERS 2 RETIREMENT - HIGHLAND	280.46
udcs	UNION DUES - 1619 CS	233.00

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/01/2021 to 06/30/2021-1 Cycle m

Fund Worked : - Totals -
 # Emps : 223

Deduction Code and Description		Amount
uw	UNITED WAY	150.00
fmlsun	WA Paid Family & Medical Leave	96.56
colpre	COLONIAL LIFE INS. PRE TAX	88.12
l&i1	L&I - FIRE 1	64.92
shrfcf	SHERIFF COFFEE FUND	51.00
shrfnd	SHERIFF EMPLOYEE FUND	37.00
fmlbld	WA Paid Family & Medical Leave	19.42
fmlf5	WA Paid Family & Medical Leave	17.75
fmlcln	WA Paid Family & Medical Leave	6.35
fmlf6	WA Paid Family & Medical Leave	0.64

Deduction Code and Description		Amount
colaft	COLONIAL LIFE INS. POST TAX	145.68
l&iagn	L&I - AGNEW	95.10
l&if4	L&I - FIRE 4	67.09
wsatf	1619CD WSATF DUES	60.00
l&ihig	L&I - HIGHLAND IRRIGATION	49.39
fmlf4	WA Paid Family & Medical Leave	32.23
fmlf1	WA Paid Family & Medical Leave	18.61
fmlhig	WA Paid Family & Medical Leave	10.30
perscu	PERS RETIREMENT CATCH UP	1.22
	Totals:	**295,301.07**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	143,898.54
pers2	PERS 2 RETIREMENT	52,887.97
medtx	MEDICARE TAX	12,684.00
l&i	L&I - SELF INSURED	10,357.51
vebahr	HRA VEBA	8,819.51
pers3	PERS 3 RETIREMENT	7,525.93
fmlatx	WA Paid Family & Medical Leave	1,196.40
pers1	PERS 1 RETIREMENT	732.43
leoff#4	LEOFF 2 RETIREMENT FIRE 4	426.40
leofcu	LEOFF RETIREMENT CATCH UP	237.08
perscu	PERS RETIREMENT CATCH UP	3.90

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	53,357.38
401a	401A DEFERRED COMPENSATION	14,114.65
psers	PSERS RETIREMENT	10,719.96
leoff2	LEOFF 2 RETIREMENT	8,853.27
medsun	HEALTH INSURANCE SUNLAND	7,961.28
pers2s	PERS 2 RETIREMENT - SUNLAND	4,808.31
unemp	UNEMPLOYMENT	753.16
pers2h	PERS 2 RETIREMENT - HIGHLAND	460.45
genpre	SUN LIFE PRE TAX	355.00
fmlagn	WA Paid Family & Medical Leave	21.89
	Totals:	**340,175.02**

Grand Total Gross Earnings:	**920,557.13**	**27,368.65**
Grand Total Deductions:	**295,301.07**	
Grand Total Net:	**625,256.06**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Semi-Monthly

Fund Worked : 00100
 # Emps : 192

Earnings Code & Description		Amount	Hours
r	REGULAR	434,764.98	14,449.68
o15s	OVERTIME X 1.5 - SHERIFF DEPT	10,950.49	243.75
fh	FLOATING HOLIDAY	10,654.06	388.30
vp	VACATION PAYOFF	4,569.15	160.71
hazpay	HAZARD PAY	906.80	
auto	AUTO ALLOWANCE CONTRACTUAL	680.00	
bsba	BS/BA EDUCATION INCENTIVE	537.90	
fl	FUNERAL LEAVE	331.54	7.25
phsm	PHONE STIPEND SMART PHONE	280.00	
aspcs	SHERIFF ACTING SUPERVISOR PAY	88.80	74.00
cb10	CALL BACK X 1.0	62.90	2.00
swapt	SICK PAYOFF - TERMINATION 10%	56.34	1.51
phns	PHONE STIPEND	20.00	

Earnings Code & Description		Amount	Hours
v	VACATION	31,777.81	1,048.29
s	SICK	10,768.59	408.46
wep	WEST END PAY	5,000.00	
cu	COMP USED	1,071.51	43.97
oth	OVERTIME X 1.5 - HOURLY	859.31	68.80
aute	AUTO ALLOWANCE ELECTED	680.00	
cp	COMP TIME PAID - COUNTY	395.74	14.63
aaas	AA/AS EDUCATION INCENTIVE	280.28	
uapr	URINE ANALYSIS PREMIUM	224.00	
oc1	ON CALL SHIFT DAY	85.15	3.00
asp	SHERIFF ACTING SUPERVISOR PAY	61.32	44.50
aspd	SHERIFF ACTING SUP PAY DEPUTY	52.02	30.00
lon5	LONGEVITY - 5 YEARS 1619LC	12.19	
	Totals:	**515,170.88**	**16,988.85**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	41,502.88
socsec	SOCIAL SECURITY	28,876.67
401a	401A DEFERRED COMPENSATION	10,314.14
medtx	MEDICARE TAX	6,753.53
psers	PSERS RETIREMENT	4,125.20
pers3	PERS 3 RETIREMENT	2,766.20
aflpre	AFLAC PRE TAX	2,225.75
dshs	DSHS CHILD SUPPORT	1,134.88
dc125	DEPENDENT CARE	866.00
ltdshr	LTD - SHERIFF	768.69
n457	NATIONWIDE 457	705.51
hr125	HEALTH REIMBURSEMENT	574.16
udcd	UNION DUES - 1619 CD C	436.95
udmp	UNION DUES - 1619 MP	349.56
uw	UNITED WAY	264.16
udtint	TEAMSTERS INIT FEE or ADJ	100.00
trnspp	TRANSIT PASS PREMIUM	73.50
udps	UNION DUES - 1619 S	34.88
shrfcf	SHERIFF COFFEE FUND	25.00
shrfnd	SHERIFF EMPLOYEE FUND	17.80

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	38,581.21
pers2	PERS 2 RETIREMENT	26,119.53
icm457	ICMA DEFERRED COMP	7,261.39
leoff2	LEOFF 2 RETIREMENT	4,799.77
h457	MASSMUTUAL 457	2,834.39
udteam	UNION DUES - TEAMSTERS	2,567.53
fmlatx	WA Paid Family & Medical Leave	1,294.55
genpre	SUN LIFE PRE TAX	928.18
pers1	PERS 1 RETIREMENT	788.05
l&i	L&I - SELF INSURED	743.60
rth457	ROTH-ICMA DEFERRED COMP	615.18
udpd	UNION DUES - 1619 D	459.94
aflaft	AFLAC POST TAX	370.23
udlc	UNION DUES - 1619 LC	306.45
colaft	COLONIAL LIFE INS. POST TAX	209.44
colpre	COLONIAL LIFE INS. PRE TAX	96.80
perscu	PERS RETIREMENT CATCH UP	54.06
udcs	UNION DUES - 1619 CS	29.13
wsatf	1619CD WSATF DUES	20.00
garnfe	GARNISHMENT FEE	1.50

Labor Distribution Totals By Fund

CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 00100
 # Emps : 192

				Totals:	**189,996.39**

Benefit Code	Description	Amount
medpre	HEALTH INSURANCE PRE TAX	206,752.25
socsec	SOCIAL SECURITY	28,876.67
vebahr	HRA VEBA	7,549.42
medtx	MEDICARE TAX	6,753.53
l&i	L&I - SELF INSURED	5,438.50
pers1	PERS 1 RETIREMENT	1,703.49
unemp	UNEMPLOYMENT	474.16
perscu	PERS RETIREMENT CATCH UP	101.15

Benefit Code	Description	Amount
pers2	PERS 2 RETIREMENT	42,879.95
401a	401A DEFERRED COMPENSATION	9,297.64
psers	PSERS RETIREMENT	7,018.53
pers3	PERS 3 RETIREMENT	5,530.99
leoff2	LEOFF 2 RETIREMENT	2,978.23
fmlatx	WA Paid Family & Medical Leave	749.63
genpre	SUN LIFE PRE TAX	370.81
	Totals:	**326,474.95**

Gross Earnings by Fund:	**515,170.88**	**16,988.85**
Total Fund Deductions:	**189,996.39**	
Fund Net:	**325,174.49**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 11301
 # Emps : 12

Earnings Code & Description		Amount	Hours
r	REGULAR	20,380.26	781.70
fl	FUNERAL LEAVE	716.58	24.00
s	SICK	154.81	6.60
v	VACATION	875.72	41.73
oth	OVERTIME X 1.5 - HOURLY	234.99	18.20
	Totals:	**22,362.36**	**872.23**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,663.59
socsec	SOCIAL SECURITY	1,269.38
fedtx	FEDERAL WITHHOLDING TAX	946.79
medtx	MEDICARE TAX	296.86
aflpre	AFLAC PRE TAX	145.21
aflaft	AFLAC POST TAX	82.37
udmp	UNION DUES - 1619 MP	58.26
udtint	TEAMSTERS INIT FEE or ADJ	50.00
pers2	PERS 2 RETIREMENT	1,653.28
icm457	ICMA DEFERRED COMP	1,262.81
401a	401A DEFERRED COMPENSATION	683.34
udteam	UNION DUES - TEAMSTERS	179.60
pers3	PERS 3 RETIREMENT	143.47
hr125	HEALTH REIMBURSEMENT	80.00
fmlatx	WA Paid Family & Medical Leave	56.64
l&i	L&I - SELF INSURED	40.69
	Totals:	**8,612.29**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	11,050.00
socsec	SOCIAL SECURITY	1,269.38
medtx	MEDICARE TAX	296.86
pers3	PERS 3 RETIREMENT	186.08
fmlatx	WA Paid Family & Medical Leave	32.80
pers2	PERS 2 RETIREMENT	2,714.32
401a	401A DEFERRED COMPENSATION	388.50
l&i	L&I - SELF INSURED	276.30
vebahr	HRA VEBA	50.00
unemp	UNEMPLOYMENT	22.34
	Totals:	**16,286.58**

Gross Earnings by Fund:	**22,362.36**	**872.23**
Total Fund Deductions:	**8,612.29**	
Fund Net:	**13,750.07**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 11322
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	682.08	24.00

Earnings Code & Description		Amount	Hours
	Totals:	**682.08**	**24.00**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	141.30
socsec	SOCIAL SECURITY	33.53
udteam	UNION DUES - TEAMSTERS	16.00
fedtx	FEDERAL WITHHOLDING TAX	3.31
l&i	L&I - SELF INSURED	1.24

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	53.89
401a	401A DEFERRED COMPENSATION	20.47
medtx	MEDICARE TAX	7.84
fmlatx	WA Paid Family & Medical Leave	1.73
	Totals:	**279.31**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	555.00
socsec	SOCIAL SECURITY	33.53
medtx	MEDICARE TAX	7.84
fmlatx	WA Paid Family & Medical Leave	1.00

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	88.47
401a	401A DEFERRED COMPENSATION	13.64
l&i	L&I - SELF INSURED	3.78
unemp	UNEMPLOYMENT	0.68
	Totals:	**703.94**

Gross Earnings by Fund:	**682.08**	**24.00**
Total Fund Deductions:	**279.31**	
Fund Net:	**402.77**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 11323
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	682.08	24.00
	Totals:	**682.08**	**24.00**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	141.30
socsec	SOCIAL SECURITY	33.53
udteam	UNION DUES - TEAMSTERS	16.00
fedtx	FEDERAL WITHHOLDING TAX	3.31
l&i	L&I - SELF INSURED	1.24
pers2	PERS 2 RETIREMENT	53.88
401a	401A DEFERRED COMPENSATION	20.46
medtx	MEDICARE TAX	7.84
fmlatx	WA Paid Family & Medical Leave	1.73
	Totals:	**279.29**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	555.00
socsec	SOCIAL SECURITY	33.53
medtx	MEDICARE TAX	7.84
fmlatx	WA Paid Family & Medical Leave	1.00
pers2	PERS 2 RETIREMENT	88.46
401a	401A DEFERRED COMPENSATION	13.64
l&i	L&I - SELF INSURED	3.78
unemp	UNEMPLOYMENT	0.68
	Totals:	**703.93**

Gross Earnings by Fund:	**682.08**	**24.00**
Total Fund Deductions:	**279.29**	
Fund Net:	**402.79**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 11701
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	2,402.91	114.50
vp	VACATION PAYOFF	216.40	8.00
dont	DONATED TIME USED	2,344.31	88.00
spt	SICK PAYOFF - TERMINATION 10%	21.64	8.00
	Totals:	**4,985.26**	**218.50**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	424.05
pers2	PERS 2 RETIREMENT	189.83
icm457	ICMA DEFERRED COMP	75.00
udmp	UNION DUES - 1619 MP	58.26
colaft	COLONIAL LIFE INS. POST TAX	13.90
l&i	L&I - SELF INSURED	4.13
socsec	SOCIAL SECURITY	305.51
401a	401A DEFERRED COMPENSATION	120.15
medtx	MEDICARE TAX	71.45
colpre	COLONIAL LIFE INS. PRE TAX	57.70
fmlatx	WA Paid Family & Medical Leave	12.63
	Totals:	**1,332.61**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	2,170.00
socsec	SOCIAL SECURITY	305.51
vebahr	HRA VEBA	50.00
l&i	L&I - SELF INSURED	12.60
unemp	UNEMPLOYMENT	4.74
pers2	PERS 2 RETIREMENT	311.66
medtx	MEDICARE TAX	71.45
401a	401A DEFERRED COMPENSATION	48.06
fmlatx	WA Paid Family & Medical Leave	7.32
	Totals:	**2,981.34**

Gross Earnings by Fund:	**4,985.26**	**218.50**
Total Fund Deductions:	**1,332.61**	
Fund Net:	**3,652.65**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 12201
 # Emps : 1

Earnings Code & Description		Amount	Hours
v	VACATION	599.44	27.00
s	SICK	253.09	11.40

Earnings Code & Description		Amount	Hours
r	REGULAR	319.70	14.40
	Totals:	**1,172.23**	**52.80**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	169.56
socsec	SOCIAL SECURITY	62.17
401a	401A DEFERRED COMPENSATION	35.17
medtx	MEDICARE TAX	14.54
l&i	L&I - SELF INSURED	0.74

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	92.60
fedtx	FEDERAL WITHHOLDING TAX	58.44
udteam	UNION DUES - TEAMSTERS	15.00
fmlatx	WA Paid Family & Medical Leave	2.97
	Totals:	**451.19**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	666.01
socsec	SOCIAL SECURITY	62.17
medtx	MEDICARE TAX	14.54
fmlatx	WA Paid Family & Medical Leave	1.72

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	152.04
401a	401A DEFERRED COMPENSATION	23.45
l&i	L&I - SELF INSURED	2.27
unemp	UNEMPLOYMENT	1.17
	Totals:	**923.37**

Gross Earnings by Fund:	**1,172.23**	**52.80**
Total Fund Deductions:	**451.19**	
Fund Net:	**721.04**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 12401
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	1,934.99	87.37
s	SICK	17.76	0.62
	Totals:	**1,952.75**	**87.99**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	282.60
401a	401A DEFERRED COMPENSATION	132.75
fedtx	FEDERAL WITHHOLDING TAX	102.05
pers2	PERS 2 RETIREMENT	49.39
udteam	UNION DUES - TEAMSTERS	24.87
fmlatx	WA Paid Family & Medical Leave	4.95
aflpre	AFLAC PRE TAX	162.82
pers3	PERS 3 RETIREMENT	112.84
socsec	SOCIAL SECURITY	93.46
icm457	ICMA DEFERRED COMP	25.00
medtx	MEDICARE TAX	21.85
l&i	L&I - SELF INSURED	4.50
	Totals:	**1,017.08**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,110.00
socsec	SOCIAL SECURITY	93.46
401a	401A DEFERRED COMPENSATION	39.06
l&i	L&I - SELF INSURED	13.76
unemp	UNEMPLOYMENT	1.96
pers3	PERS 3 RETIREMENT	172.18
pers2	PERS 2 RETIREMENT	81.09
medtx	MEDICARE TAX	21.85
fmlatx	WA Paid Family & Medical Leave	2.87
	Totals:	**1,536.23**

Gross Earnings by Fund:	**1,952.75**	**87.99**
Total Fund Deductions:	**1,017.08**	
Fund Net:	**935.67**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 13001
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	1,766.07	90.00
	Totals:	**1,766.07**	**90.00**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	282.60
socsec	SOCIAL SECURITY	91.98
udteam	UNION DUES - TEAMSTERS	22.00
l&i	L&I - SELF INSURED	4.64
fedtx	FEDERAL WITHHOLDING TAX	3.68
pers2	PERS 2 RETIREMENT	139.52
401a	401A DEFERRED COMPENSATION	52.98
medtx	MEDICARE TAX	21.51
fmlatx	WA Paid Family & Medical Leave	4.47
	Totals:	**623.38**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,110.00
socsec	SOCIAL SECURITY	91.98
401a	401A DEFERRED COMPENSATION	35.32
fmlatx	WA Paid Family & Medical Leave	2.59
pers2	PERS 2 RETIREMENT	229.06
l&i	L&I - SELF INSURED	50.60
medtx	MEDICARE TAX	21.51
unemp	UNEMPLOYMENT	1.77
	Totals:	**1,542.83**

Gross Earnings by Fund:	**1,766.07**	**90.00**
Total Fund Deductions:	**623.38**	
Fund Net:	**1,142.69**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 19914
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	3,580.51	138.00
	Totals:	**3,580.51**	**138.00**

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	282.86
401a	401A DEFERRED COMPENSATION	138.97
medtx	MEDICARE TAX	51.92
udmp	UNION DUES - 1619 MP	22.88
l&i	L&I - SELF INSURED	8.67
socsec	SOCIAL SECURITY	222.00
fedtx	FEDERAL WITHHOLDING TAX	106.70
udteam	UNION DUES - TEAMSTERS	25.50
fmlatx	WA Paid Family & Medical Leave	9.07
	Totals:	**868.57**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	2,195.00
socsec	SOCIAL SECURITY	222.00
medtx	MEDICARE TAX	51.92
vebahr	HRA VEBA	25.00
unemp	UNEMPLOYMENT	3.58
pers2	PERS 2 RETIREMENT	464.40
401a	401A DEFERRED COMPENSATION	71.61
l&i	L&I - SELF INSURED	26.46
fmlatx	WA Paid Family & Medical Leave	5.25
	Totals:	**3,065.22**

Gross Earnings by Fund:	**3,580.51**	**138.00**
Total Fund Deductions:	**868.57**	
Fund Net:	**2,711.94**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 30301
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	552.58	17.45
s	SICK	4.75	0.15
	Totals:	**557.33**	**17.60**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	73.33
pers2	PERS 2 RETIREMENT	44.04
socsec	SOCIAL SECURITY	28.94
aflpre	AFLAC PRE TAX	10.40
medtx	MEDICARE TAX	6.77
l&i	L&I - SELF INSURED	0.83
icm457	ICMA DEFERRED COMP	60.00
fedtx	FEDERAL WITHHOLDING TAX	35.91
401a	401A DEFERRED COMPENSATION	16.72
genpre	SUN LIFE PRE TAX	6.87
fmlatx	WA Paid Family & Medical Leave	1.41
	Totals:	**285.22**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	197.00
socsec	SOCIAL SECURITY	28.94
401a	401A DEFERRED COMPENSATION	11.15
l&i	L&I - SELF INSURED	2.52
fmlatx	WA Paid Family & Medical Leave	0.82
pers2	PERS 2 RETIREMENT	72.29
vebahr	HRA VEBA	25.00
medtx	MEDICARE TAX	6.77
genpre	SUN LIFE PRE TAX	2.00
unemp	UNEMPLOYMENT	0.56
	Totals:	**347.05**

Gross Earnings by Fund:	**557.33**	**17.60**
Total Fund Deductions:	**285.22**	
Fund Net:	**272.11**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 50401
 # Emps : 3

Earnings Code & Description		Amount	Hours
r	REGULAR	9,566.15	205.00

Earnings Code & Description		Amount	Hours
auto	AUTO ALLOWANCE CONTRACTUAL	170.00	
	Totals:	**9,736.15**	**205.00**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	1,081.85
socsec	SOCIAL SECURITY	606.57
pers2	PERS 2 RETIREMENT	282.42
medtx	MEDICARE TAX	141.85
icm457	ICMA DEFERRED COMP	118.75
fmlatx	WA Paid Family & Medical Leave	24.67
l&i	L&I - SELF INSURED	9.29
shrfnd	SHERIFF EMPLOYEE FUND	1.00

Deduction Code and Description		Amount
h457	MASSMUTUAL 457	847.62
medpre	HEALTH INSURANCE PRE TAX	458.25
aflpre	AFLAC PRE TAX	222.32
401a	401A DEFERRED COMPENSATION	139.33
genpre	SUN LIFE PRE TAX	65.70
uw	UNITED WAY	20.00
shrfcf	SHERIFF COFFEE FUND	5.00
	Totals:	**4,024.62**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	2,216.25
socsec	SOCIAL SECURITY	606.57
401a	401A DEFERRED COMPENSATION	311.15
medtx	MEDICARE TAX	141.85
genpre	SUN LIFE PRE TAX	55.50
unemp	UNEMPLOYMENT	9.57

Benefit Code and Description		Amount
h457	MASSMUTUAL 457	777.07
pers2	PERS 2 RETIREMENT	463.66
vebahr	HRA VEBA	281.25
l&i	L&I - SELF INSURED	60.73
fmlatx	WA Paid Family & Medical Leave	14.29
	Totals:	**4,937.89**

Gross Earnings by Fund:	**9,736.15**	**205.00**
Total Fund Deductions:	**4,024.62**	
Fund Net:	**5,711.53**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 50501
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	1,483.01	32.20

Earnings Code & Description		Amount	Hours
	Totals:	**1,483.01**	**32.20**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	127.33
pers2	PERS 2 RETIREMENT	115.70
401a	401A DEFERRED COMPENSATION	101.45
medtx	MEDICARE TAX	19.55
fmlatx	WA Paid Family & Medical Leave	3.76
shrfnd	SHERIFF EMPLOYEE FUND	0.20

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	115.81
icm457	ICMA DEFERRED COMP	112.28
socsec	SOCIAL SECURITY	83.62
genpre	SUN LIFE PRE TAX	12.07
l&i	L&I - SELF INSURED	1.43
	Totals:	**693.20**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	344.75
socsec	SOCIAL SECURITY	83.62
vebahr	HRA VEBA	43.75
genpre	SUN LIFE PRE TAX	6.69
fmlatx	WA Paid Family & Medical Leave	2.18

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	192.35
401a	401A DEFERRED COMPENSATION	50.51
medtx	MEDICARE TAX	19.55
l&i	L&I - SELF INSURED	4.41
unemp	UNEMPLOYMENT	1.49
	Totals:	**749.30**

Gross Earnings by Fund:	**1,483.01**	**32.20**
Total Fund Deductions:	**693.20**	
Fund Net:	**789.81**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : 50601
 # Emps : 1

Benefit Code and Description		Amount
trnspp	TRANSIT PASS PREMIUM	73.50

Benefit Code and Description	Amount
Totals:	**73.50**

Gross Earnings by Fund: 0.00
Total Fund Deductions:
Fund Net:

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : - Totals -
 # Emps : 210

Earnings Code & Description		Amount	Hours
r	REGULAR	478,115.32	15,978.30
s	SICK	11,199.00	427.23
fh	FLOATING HOLIDAY	10,654.06	388.30
vp	VACATION PAYOFF	4,785.55	168.71
oth	OVERTIME X 1.5 - HOURLY	1,094.30	87.00
fl	FUNERAL LEAVE	1,048.12	31.25
auto	AUTO ALLOWANCE CONTRACTUAL	850.00	
bsba	BS/BA EDUCATION INCENTIVE	537.90	
aaas	AA/AS EDUCATION INCENTIVE	280.28	
uapr	URINE ANALYSIS PREMIUM	224.00	
oc1	ON CALL SHIFT DAY	85.15	3.00
asp	SHERIFF ACTING SUPERVISOR PAY	61.32	44.50
aspd	SHERIFF ACTING SUP PAY DEPUTY	52.02	30.00
phns	PHONE STIPEND	20.00	

Earnings Code & Description		Amount	Hours
v	VACATION	33,252.97	1,117.02
o15s	OVERTIME X 1.5 - SHERIFF DEPT	10,950.49	243.75
wep	WEST END PAY	5,000.00	
dont	DONATED TIME USED	2,344.31	88.00
cu	COMP USED	1,071.51	43.97
hazpay	HAZARD PAY	906.80	
aute	AUTO ALLOWANCE ELECTED	680.00	
cp	COMP TIME PAID - COUNTY	395.74	14.63
phsm	PHONE STIPEND SMART PHONE	280.00	
aspcs	SHERIFF ACTING SUPERVISOR PAY	88.80	74.00
cb10	CALL BACK X 1.0	62.90	2.00
swapt	SICK PAYOFF - TERMINATION 10%	56.34	1.51
spt	SICK PAYOFF - TERMINATION 10%	21.64	8.00
lon5	LONGEVITY - 5 YEARS 1619LC	12.19	
	Totals:	**564,130.71**	**18,751.17**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	44,842.74
socsec	SOCIAL SECURITY	31,707.36
401a	401A DEFERRED COMPENSATION	11,775.93
medtx	MEDICARE TAX	7,415.51
psers	PSERS RETIREMENT	4,125.20
pers3	PERS 3 RETIREMENT	3,022.51
aflpre	AFLAC PRE TAX	2,766.50
dshs	DSHS CHILD SUPPORT	1,134.88
dc125	DEPENDENT CARE	866.00
pers1	PERS 1 RETIREMENT	788.05
n457	NATIONWIDE 457	705.51
rth457	ROTH-ICMA DEFERRED COMP	615.18
udpd	UNION DUES - 1619 D	459.94
udcd	UNION DUES - 1619 CD C	436.95
uw	UNITED WAY	284.16
colpre	COLONIAL LIFE INS. PRE TAX	154.50
trnspp	TRANSIT PASS PREMIUM	73.50
udps	UNION DUES - 1619 S	34.88
udcs	UNION DUES - 1619 CS	29.13
shrfnd	SHERIFF EMPLOYEE FUND	19.00

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	41,463.11
pers2	PERS 2 RETIREMENT	29,076.94
icm457	ICMA DEFERRED COMP	8,915.23
leoff2	LEOFF 2 RETIREMENT	4,799.77
h457	MASSMUTUAL 457	3,682.01
udteam	UNION DUES - TEAMSTERS	2,866.50
fmlatx	WA Paid Family & Medical Leave	1,418.58
genpre	SUN LIFE PRE TAX	1,012.82
l&i	L&I - SELF INSURED	821.00
ltdshr	LTD - SHERIFF	768.69
hr125	HEALTH REIMBURSEMENT	654.16
udmp	UNION DUES - 1619 MP	488.96
aflaft	AFLAC POST TAX	452.60
udlc	UNION DUES - 1619 LC	306.45
colaft	COLONIAL LIFE INS. POST TAX	223.34
udtint	TEAMSTERS INIT FEE or ADJ	150.00
perscu	PERS RETIREMENT CATCH UP	54.06
shrfcf	SHERIFF COFFEE FUND	30.00
wsatf	1619CD WSATF DUES	20.00
garnfe	GARNISHMENT FEE	1.50

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle sc

Fund Worked : - Totals -
 # Emps : 210

		Totals:	**208,463.15**

Benefit Code	Description	Amount
medpre	HEALTH INSURANCE PRE TAX	228,921.26
socsec	SOCIAL SECURITY	31,707.36
vebahr	HRA VEBA	8,024.42
psers	PSERS RETIREMENT	7,018.53
pers3	PERS 3 RETIREMENT	5,889.25
pers1	PERS 1 RETIREMENT	1,703.49
h457	MASSMUTUAL 457	777.07
genpre	SUN LIFE PRE TAX	435.00
trnspp	TRANSIT PASS PREMIUM	73.50

Benefit Code	Description	Amount
pers2	PERS 2 RETIREMENT	47,737.75
401a	401A DEFERRED COMPENSATION	10,303.73
medtx	MEDICARE TAX	7,415.51
l&i	L&I - SELF INSURED	5,895.71
leoff2	LEOFF 2 RETIREMENT	2,978.23
fmlatx	WA Paid Family & Medical Leave	821.47
unemp	UNEMPLOYMENT	522.70
perscu	PERS RETIREMENT CATCH UP	101.15

Totals:	**360,326.13**	
Grand Total Gross Earnings:	**564,130.71**	**18,751.17**
Grand Total Deductions:	**208,463.15**	
Grand Total Net:	**355,667.56**	

Roads

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 10101
 # Emps : 58

Earnings Code & Description		Amount	Hours
r	REGULAR	117,270.19	3,858.85
vp	VACATION PAYOFF	9,808.27	283.26
fh	FLOATING HOLIDAY	3,386.62	114.00
phns	PHONE STIPEND	690.00	
cpr	COMP TIME PAID - PW ROADS	398.20	11.50
sprt	SICK PAYOFF RETIRE 25%	69.28	8.00
v	VACATION	13,042.26	428.25
s	SICK	6,711.23	225.50
o15r	OVERTIME X 1.5 - ROADS DEPT	2,095.08	48.00
cu	COMP USED	530.62	18.75
auto	AUTO ALLOWANCE CONTRACTUAL	170.00	
c15r	COMP EARNED X 1.5 ROADS	-1,000.98	-23.50
	Totals:	**153,170.77**	**4,972.61**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	13,354.67
pers2	PERS 2 RETIREMENT	10,268.15
icm457	ICMA DEFERRED COMP	2,786.27
401a	401A DEFERRED COMPENSATION	1,365.35
h457	MASSMUTUAL 457	880.28
c13gar	CHAPTER 13 GARNISHMENT	538.00
fmlatx	WA Paid Family & Medical Leave	387.04
l&i	L&I - SELF INSURED	204.62
aflaft	AFLAC POST TAX	115.33
uw	UNITED WAY	47.98
colpre	COLONIAL LIFE INS. PRE TAX	31.82
fedtx	FEDERAL WITHHOLDING TAX	12,670.65
socsec	SOCIAL SECURITY	8,611.41
medtx	MEDICARE TAX	2,014.01
udteam	UNION DUES - TEAMSTERS	1,352.29
pers3	PERS 3 RETIREMENT	607.81
aflpre	AFLAC PRE TAX	519.35
n457	NATIONWIDE 457	250.00
udmp	UNION DUES - 1619 MP	191.92
hr125	HEALTH REIMBURSEMENT	111.54
genpre	SUN LIFE PRE TAX	32.03
garnfe	GARNISHMENT FEE	0.50
	Totals:	**56,341.02**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	57,415.53
socsec	SOCIAL SECURITY	8,631.36
401a	401A DEFERRED COMPENSATION	2,750.44
pers3	PERS 3 RETIREMENT	1,575.46
fmlatx	WA Paid Family & Medical Leave	224.67
genpre	SUN LIFE PRE TAX	39.25
pers2	PERS 2 RETIREMENT	16,898.16
l&i	L&I - SELF INSURED	2,871.57
medtx	MEDICARE TAX	2,018.68
vebahr	HRA VEBA	325.00
unemp	UNEMPLOYMENT	142.59
	Totals:	**92,892.71**

Gross Earnings by Fund:	**153,170.77**	**4,972.61**
Total Fund Deductions:	**56,341.02**	
Fund Net:	**96,829.75**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 10135
 # Emps : 3

Earnings Code & Description		Amount	Hours
r	REGULAR	3,812.12	89.95
	Totals:	**3,812.12**	**89.95**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	314.60
medpre	HEALTH INSURANCE PRE TAX	262.82
401a	401A DEFERRED COMPENSATION	185.15
udmp	UNION DUES - 1619 MP	29.77
fmlatx	WA Paid Family & Medical Leave	9.66
icm457	ICMA DEFERRED COMP	2.15
uw	UNITED WAY	1.44
pers2	PERS 2 RETIREMENT	301.05
socsec	SOCIAL SECURITY	219.96
medtx	MEDICARE TAX	51.44
h457	MASSMUTUAL 457	13.64
l&i	L&I - SELF INSURED	4.23
aflpre	AFLAC PRE TAX	1.59
	Totals:	**1,397.50**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,109.04
socsec	SOCIAL SECURITY	219.96
medtx	MEDICARE TAX	51.44
vebahr	HRA VEBA	25.00
unemp	UNEMPLOYMENT	3.82
pers2	PERS 2 RETIREMENT	494.43
401a	401A DEFERRED COMPENSATION	76.24
l&i	L&I - SELF INSURED	49.70
fmlatx	WA Paid Family & Medical Leave	5.59
	Totals:	**2,035.22**

Gross Earnings by Fund:	**3,812.12**	**89.95**
Total Fund Deductions:	**1,397.50**	
Fund Net:	**2,414.62**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 40201
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	109.12	3.20
	Totals:	**109.12**	**3.20**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	13.66
socsec	SOCIAL SECURITY	6.67
aflpre	AFLAC PRE TAX	1.59
uw	UNITED WAY	1.44
fmlatx	WA Paid Family & Medical Leave	0.28
pers2	PERS 2 RETIREMENT	8.51
icm457	ICMA DEFERRED COMP	2.15
medtx	MEDICARE TAX	1.56
udmp	UNION DUES - 1619 MP	1.05
l&i	L&I - SELF INSURED	0.15
	Totals:	**37.06**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	39.45
socsec	SOCIAL SECURITY	6.67
medtx	MEDICARE TAX	1.56
fmlatx	WA Paid Family & Medical Leave	0.16
pers2	PERS 2 RETIREMENT	14.15
401a	401A DEFERRED COMPENSATION	2.18
l&i	L&I - SELF INSURED	0.63
unemp	UNEMPLOYMENT	0.11
	Totals:	**64.91**

Gross Earnings by Fund:	**109.12**	**3.20**
Total Fund Deductions:	**37.06**	
Fund Net:	**72.06**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 41401
 # Emps : 6

Earnings Code & Description		Amount	Hours
r	REGULAR	4,272.10	114.45
phns	PHONE STIPEND	40.00	
o15r	OVERTIME X 1.5 - ROADS DEPT	3,146.32	57.50
	Totals:	**7,458.42**	**171.95**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	846.12
socsec	SOCIAL SECURITY	448.03
medtx	MEDICARE TAX	104.78
udteam	UNION DUES - TEAMSTERS	49.79
aflpre	AFLAC PRE TAX	28.45
401a	401A DEFERRED COMPENSATION	16.82
aflaft	AFLAC POST TAX	4.04
uw	UNITED WAY	1.44
pers2	PERS 2 RETIREMENT	597.99
medpre	HEALTH INSURANCE PRE TAX	378.77
icm457	ICMA DEFERRED COMP	82.88
h457	MASSMUTUAL 457	33.97
fmlatx	WA Paid Family & Medical Leave	19.34
l&i	L&I - SELF INSURED	9.04
genpre	SUN LIFE PRE TAX	3.06
udmp	UNION DUES - 1619 MP	1.05
	Totals:	**2,625.57**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,431.33
socsec	SOCIAL SECURITY	438.22
medtx	MEDICARE TAX	102.48
fmlatx	WA Paid Family & Medical Leave	10.94
genpre	SUN LIFE PRE TAX	3.75
pers2	PERS 2 RETIREMENT	962.17
l&i	L&I - SELF INSURED	130.23
401a	401A DEFERRED COMPENSATION	89.91
unemp	UNEMPLOYMENT	7.43
	Totals:	**3,176.46**

Gross Earnings by Fund:	**7,458.42**	**171.95**
Total Fund Deductions:	**2,625.57**	
Fund Net:	**4,832.85**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 42401
 # Emps : 4

Earnings Code & Description		Amount	Hours
r	REGULAR	616.70	18.45
	Totals:	**616.70**	**18.45**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	65.08
fedtx	FEDERAL WITHHOLDING TAX	61.12
icm457	ICMA DEFERRED COMP	25.29
401a	401A DEFERRED COMPENSATION	14.50
udteam	UNION DUES - TEAMSTERS	8.91
aflpre	AFLAC PRE TAX	1.59
uw	UNITED WAY	1.44
udmp	UNION DUES - 1619 MP	1.05
pers2	PERS 2 RETIREMENT	62.62
socsec	SOCIAL SECURITY	45.33
h457	MASSMUTUAL 457	16.32
medtx	MEDICARE TAX	10.61
fmlatx	WA Paid Family & Medical Leave	2.02
aflaft	AFLAC POST TAX	1.45
l&i	L&I - SELF INSURED	1.12
	Totals:	**318.45**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	231.82
socsec	SOCIAL SECURITY	35.19
medtx	MEDICARE TAX	8.24
fmlatx	WA Paid Family & Medical Leave	0.91
pers2	PERS 2 RETIREMENT	79.98
401a	401A DEFERRED COMPENSATION	12.34
l&i	L&I - SELF INSURED	7.08
unemp	UNEMPLOYMENT	0.62
	Totals:	**376.18**

Gross Earnings by Fund:	**616.70**	**18.45**
Total Fund Deductions:	**318.45**	
Fund Net:	**298.25**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : 50301
 # Emps : 10

Earnings Code & Description		Amount	Hours
r	REGULAR	16,918.63	581.10
phns	PHONE STIPEND	100.00	
tlss	TOOL STIPEND	120.00	
	Totals:	**17,138.63**	**581.10**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	1,720.26
pers2	PERS 2 RETIREMENT	1,125.16
dshs	DSHS CHILD SUPPORT	410.00
medtx	MEDICARE TAX	222.04
pers3	PERS 3 RETIREMENT	132.60
hr125	HEALTH REIMBURSEMENT	50.96
aflpre	AFLAC PRE TAX	42.83
l&i	L&I - SELF INSURED	27.38
uw	UNITED WAY	11.26
fedtx	FEDERAL WITHHOLDING TAX	1,318.97
socsec	SOCIAL SECURITY	949.41
icm457	ICMA DEFERRED COMP	309.86
udteam	UNION DUES - TEAMSTERS	167.01
401a	401A DEFERRED COMPENSATION	124.89
fmlatx	WA Paid Family & Medical Leave	43.43
udmp	UNION DUES - 1619 MP	37.33
colpre	COLONIAL LIFE INS. PRE TAX	11.74
garnfe	GARNISHMENT FEE	0.50
	Totals:	**6,705.63**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	7,132.83
socsec	SOCIAL SECURITY	949.41
401a	401A DEFERRED COMPENSATION	338.38
medtx	MEDICARE TAX	222.04
unemp	UNEMPLOYMENT	16.93
pers2	PERS 2 RETIREMENT	1,849.18
pers3	PERS 3 RETIREMENT	345.18
l&i	L&I - SELF INSURED	336.14
fmlatx	WA Paid Family & Medical Leave	25.15
	Totals:	**11,215.24**

Gross Earnings by Fund:	**17,138.63**	**581.10**
Total Fund Deductions:	**6,705.63**	
Fund Net:	**10,433.00**	

Labor Distribution Totals By Fund

CLALLAM COUNTY

06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : - Totals -
 # Emps : 61

Earnings Code & Description		Amount	Hours
r	REGULAR	142,998.86	4,666.00
vp	VACATION PAYOFF	9,808.27	283.26
o15r	OVERTIME X 1.5 - ROADS DEPT	5,241.40	105.50
phns	PHONE STIPEND	830.00	
cpr	COMP TIME PAID - PW ROADS	398.20	11.50
tlss	TOOL STIPEND	120.00	
c15r	COMP EARNED X 1.5 ROADS	-1,000.98	-23.50
v	VACATION	13,042.26	428.25
s	SICK	6,711.23	225.50
fh	FLOATING HOLIDAY	3,386.62	114.00
cu	COMP USED	530.62	18.75
auto	AUTO ALLOWANCE CONTRACTUAL	170.00	
sprt	SICK PAYOFF RETIRE 25%	69.28	8.00
	Totals:	**182,305.76**	**5,837.26**

Deduction Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	15,781.60
pers2	PERS 2 RETIREMENT	12,363.48
icm457	ICMA DEFERRED COMP	3,208.60
401a	401A DEFERRED COMPENSATION	1,706.71
h457	MASSMUTUAL 457	944.21
aflpre	AFLAC PRE TAX	595.40
fmlatx	WA Paid Family & Medical Leave	461.77
udmp	UNION DUES - 1619 MP	262.17
l&i	L&I - SELF INSURED	246.54
aflaft	AFLAC POST TAX	120.82
colpre	COLONIAL LIFE INS. PRE TAX	43.56
garnfe	GARNISHMENT FEE	1.00
fedtx	FEDERAL WITHHOLDING TAX	15,225.12
socsec	SOCIAL SECURITY	10,280.81
medtx	MEDICARE TAX	2,404.44
udteam	UNION DUES - TEAMSTERS	1,578.00
pers3	PERS 3 RETIREMENT	740.41
c13gar	CHAPTER 13 GARNISHMENT	538.00
dshs	DSHS CHILD SUPPORT	410.00
n457	NATIONWIDE 457	250.00
hr125	HEALTH REIMBURSEMENT	162.50
uw	UNITED WAY	65.00
genpre	SUN LIFE PRE TAX	35.09
	Totals:	**67,425.23**

Benefit Code and Description		Amount
medpre	HEALTH INSURANCE PRE TAX	67,360.00
socsec	SOCIAL SECURITY	10,280.81
401a	401A DEFERRED COMPENSATION	3,269.49
pers3	PERS 3 RETIREMENT	1,920.64
fmlatx	WA Paid Family & Medical Leave	267.42
genpre	SUN LIFE PRE TAX	43.00
pers2	PERS 2 RETIREMENT	20,298.07
l&i	L&I - SELF INSURED	3,395.35
medtx	MEDICARE TAX	2,404.44
vebahr	HRA VEBA	350.00
unemp	UNEMPLOYMENT	171.50
	Totals:	**109,760.72**

Labor Distribution Totals By Fund
CLALLAM COUNTY
06/16/2021 to 06/30/2021-1 Cycle s

Fund Worked : - Totals -
 # Emps : 61

Grand Total Gross Earnings:	**182,305.76**	**5,837.26**
Grand Total Deductions:	**67,425.23**	
Grand Total Net:	**114,880.53**	

1C
7/20/21

BOARD of CLALLAM COUNTY COMMISSIONERS
MINUTES for the week of July 12 - 16, 2021

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, July 12, 2021. Present were Commissioners Johnson and Peach and Administrator Sill. Commissioner Ozias is excused.

Items of discussion per the agenda published July 8 were:

- Calendar/Correspondence
- Agreement with Washington State Department of Commerce for Secure Residential Crisis Center (SCRC) and Ancillary Therapeutic Services (ATS)
- Agreement with Serenity House of Clallam County to extend term of contract
- Purdue Pharma Chapter 11 Bankruptcy vote relating to their role in the opioid crises
- Agreement and project prospectus form with Washington State Department of Transportation for Dungeness National Wildlife Refuge Project
- Agreement with Anchor QEA, LLC for the Dungeness Off-Channel Reservoir Project
- Review final report and discuss next steps for Lake Sutherland – wake boat topic
- Agreement with Clallam Conservation District for resource conservation planning and implementation
- Discussion on proposed budget revisions to be considered on July 27
- Discussion of proposed supplemental appropriations to be considered on July 27
- Discussion of proposed budget emergencies to be considered on July 27

Meeting adjourned at 10:55 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Vice Chair Johnson called the meeting to order at 10 a.m., Tuesday, July 13, 2021. Also present were Commissioner Peach, and Administrator Sill. Commissioner Ozias is excused.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CBPm to adopt the agenda as presented, CRJs, mc

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, sent in written comment on Purdue Pharma Claim (see attached)
- Anne Anderson, Port Angeles, commented on Lake Sutherland – wake boat

CONSENT AGENDA

1a Approval of vouchers for the week of July 5
1b Approval of minutes for the week of July 5

ACTION TAKEN: CBPm to adopt the consent agenda as presented, CRJs, mc

REPORTS AND PRESENTATIONS

- CBP commented on Clallam Bay / Sekiu Fun Days
- CRJ commented on Dan Wilder, Sr., Dream Playground, Elevate PA workshop

CONTRACTS AND AGREEMENTS

2a Agreement with Sequim School District for provision of Transition Program Training

ACTION TAKEN: CBPm to approve, CRJs, mc

DRAFT

2b Agreement with Serenity House of Clallam County to extend term of contract
ACTION TAKEN: CBPm to approve, CRJs, mc

2c Agreement with Anchor QEA, LLC for the Dungeness Off-Channel Reservoir Project
ACTION TAKEN: CBPm to approve, CRJs, mc

ADMINISTRATION

3a Purdue Pharma Chapter 11 Bankruptcy vote relating to their role in the opioid
ACTION TAKEN: CBPm to accept, CRJs, mc

PUBLIC WORKS

4a Resolution of vacation of a County sewer line easement – near Sekiu Airport Road
ACTION TAKEN: CBPm to adopt, CRJs, mc

4b Resolution of vacation of County right of way – a portion of Lincoln Avenue
ACTION TAKEN: CBPm to adopt, CRJs, mc

BUDGET

5a Notice that the following budget revisions will be adopted by Resolution on July 27:
Public Works – Roads – Transferring funds to pay for payroll and benefits for Trail Maintenance Coordinator position/$73,414
ACTION TAKEN: CBPm to issue, CRJs, mc

5b Notice that the following supplemental appropriations will be adopted by Resolution on July 27:
Health and Human Services – Homeless Task Force – Additional funding from Department of Commerce for needs assessment for homes services/$30,000
Health and Human Services - Operations

- Funding from Department of Health Local Health Jurisdiction CARES contract for salaries and wages of employees reassigned to COVID-19 pandemic activities/$853,065
- Funding from Department of Health Local Health Jurisdiction CARES contract for salaries and wages of employees performing contract tracing for COVID-19 pandemic/$90,289
- Funding from Department of Commerce to build an addition at Serenity House to house and provide services/$402,894

Health and Human Services - Administration – Funding from Department of Health Consolidated Contract for services related to COVID-19 response activities/$44,586
Health and Human Services – Environmental Health

- Funding from Department of Health to provide services in the onsite septic system program/$86,000
- Funding from Department of Health Local Health Jurisdiction CARES contract for salaries and wages of employees reassigned to COVID-19 pandemic activities/$108,647
- Funding from Department of Ecology for Pollution Identification and Control Project/$65,593

Auditor – Additional funding for unbudgeted February Election/$124,000
ACTION TAKEN: CBPm to issue, CRJs, mc

5c Resolution calling for a hearing to be held July 27 at 10:30 a.m. for the following debatable emergencies:
HHS Operations – Additional funding received from the Olympic Community of Health for costs associated with COVID-19/$42,950
Non Departmental – Additional funding for professional services for broadband projects/$11,000
Non Departmental – Veterans Relief – Additional funding for salary and benefits for additional hours of Veterans Program Coordinator/$25,406
Human Resources – Workers compensation Claims – Additional funding for Workers Compensation Medical and Lost Time Compensation claims for 2021/$135,000
Parks and Facilities – REET
- Additional funding for Jail Control Board project/$250,000
- Additional funding for purchase and installation of exhaust system for Sheriff's Office property and evidence storage room/$10,400

Parks and Facilities – Additional funding for expenses related to COVID-19 for goods and services expenditures incurred in June, 2021 expected to be reimbursed through FEMA/$8,723

ACTION TAKEN: CBPm to adopt, CRJs, mc

HEARING(S) – Beginning at 10:30 a.m.

H1 Continued hearing regarding update of Clallam County Shoreline Master Program (SMP) and Administrative Procedures
- Donella Clark provided a staff report.
- The following made comments:
  - Ed Bowen, Clallam Bay (see attached)
  - Ryan Stanley, Port Angeles
  - Scott Headrick, Port Angeles
  - Jim Pabst, Port Angeles
- The following sent in written comment: Darlene Schanfald, Ed Bowen, Alison Agness, Steve Cahill

ACTION TAKEN: CBP noted the hearing is continued to Tuesday, July 13 at 5 p.m.

Meeting concluded at 10:55 a.m. and continued to 5 p.m., for continued hearing regarding update of Clallam County Shoreline Master Program (SMP) and Administrative Procedures.

CONTINUED HEARING(S) – Beginning at 5 p.m.

Commissioner Peach called the meeting to order at 5 p.m. Commissioners Johnson and Ozias are excused.

H1 Continued hearing regarding update of Clallam County Shoreline Master Program (SMP) and Administrative Procedures
- Donella Clark, Department of Community Development, provided a staff report.
- CBP noted no one signed up to speak.

ACTION TAKEN: No action taken. Next meeting dates for topic will be held on July 19 and 20, 2021

Meeting concluded at 5:06 p.m. and continued to 9 a.m., Monday, July 19, 2021.

There are no Zoom chat logs fort the week of July 12.

DRAFT

The Board of Commissioners attended WSAC Virtual COVID update during the week of July 12

PASSED AND ADOPTED this twentieth day of July 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

Randy Johnson

ATTEST:

Loni Gores, Clerk of the Board

Bill Peach

KEY TO ABBREVIATIONS:

ARS	Administrator Rich Sill	m	moved
CMO	Commissioner Mark Ozias	mc	motion carried
CRJ	Commissioner Randy Johnson	s	seconded
CBP	Commissioner Bill Peach		

DRAFT

Ed Bowen
Public Comment
7/13/21
Purdue Pharma
Claim

Gores, Alanna

From: Ed Bowen <rockypt@olypen.com>
Sent: Thursday, July 08, 2021 5:21 PM
To: Peach, Bill; Johnson, Randy; Ozias, Mark
Cc: Gores, Alanna
Subject: Worksession and Board meeting agenda on Purdue Pharma Claim

Categories: Red Category

*** EXTERNAL EMAIL *** This message was sent from outside our County network.

Commissioners,

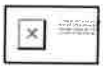
I request you explain what you are addressing in this matter when calling for a vote by the BOCC on Tuesday and discussed Monday. To vote in favor of the restructuring plan or not, and why. Not in the meeting packet available to the public, but referred to in a Google search: https://purduepharmaclaims.com/index.html

Is this the information you are working from to make this decision? If not or in part, what else are you depending on to make this timely decision?

And I really need to know what your explanation is because you are the one voting for or against, not the staff that is informing you and holding the discussion where we in the public don't get to interject at your worksession.

I'm not suggesting yes or no, just want to know what your logic is in how you are voting, and based on what?

Ed Bowen
P.O. Box 111
Clallam Bay, WA 98326


Virus-free. www.avg.com

H1 SMP CONTINUED HEARING 7-13-21

WRITTEN COMMENTS RECEIVED

PRIOR TO THE PUBLIC HEARING

Darlene Schanfald
Public comment
7/13/21
SMP Hearing

Gores, Alanna

From: Darlene Schanfald <darlenes@olympus.net>
Sent: Tuesday, June 15, 2021 2:23 PM
To: Ozias, Mark; Johnson, Randy; Peach, Bill; Gores, Alanna; info@clallam.org
Subject: SUPPLEMENT COMMENTS: OEC comments on DRAFT SMP

Please confirm receipt of this communication.

Clallam County Commissioners
Clallam County Courthouse
4th & Peabody
Port Angeles WA 98362

Dear Commissioners:

Please accept these additional comments on plastics, warming waters and protecting growing areas.

The aquaculture industry raises its in water finfish in plastic net pens. The commercial shellfish operators grow their shellfish in plastic bags or ringed in plastic tubing and covered with plastic netting. These plastics break into small pieces and end in the marine food, the benthic life, the sediment and can be caught in the sea grasses that are nurseries to baby forage fish, including salmon. This benefits no one but the growers. In reality, it does not benefit them, either.

Aquaculture businesses are losing money and will continue to lose. The waters are warming. The algae blooms are increasing. The waters are more toxic where these animals are raised. It is not unusual for 80% of their "product" to die. This leaves dead seafood floating in our waters and washing up on our beaches.
While Ecology, et al may ignore our climate changes and the affects on aquaculture, Clallam County can do its own homework and prepare. It may be that over time the animals will adapt, but we do not know that.

http://ijesd.org/papers/73-A10006.pdf

The Effects of Climate Change on Aquaculture

Abstract—Climate change is an additional pressure on top of the many (fishing pressure, loss of habitat, pollution, disturbance, introduced species) which fish stocks already experience. The impact of climate change must be evaluated in the context of other anthropogenic pressures, which often have much greater and more immediate effect. Factors that can shape climate are climate changes. These include such processes as variations in solar radiation, deviations in the Earth's orbit, mountain-building and continental drift, and changes in greenhouse gas concentrations. Some parts of the climate system, such as the oceans and ice caps, respond slowly in reaction to climate changes because of their large mass. Therefore, the climate system can take centuries or longer to fully respond to new external changes.Many of the studies made assumptions about changes in baseline socioeconomic conditions, adaptation, and biophysical processes. Almost all of the studies we examined estimated that there will be increasing adverse impacts beyond an approximate 3 to 4°C increase in global mean temperature. The studies do not show a consistent relationship between impacts and global mean temperatures between 0 and 3 to 4°C. In coastal resources it is clear that impacts will be adverse with low levels of temperature change.

What we do know is that the shellfish aquaculture attracts problems. Oyster drills come with the territory; drill through the shells and the meat and render the oysters uneatable and unsaleable. Denman Island parasitic disease that result in pustules is an associated problem. The oyster drills and the Denman Island disease have been found in Sequim Bay where shellfish were raised. Additionally, the beaches and near shores should not be stripped to accommodate this industry; sea grasses should not be removed; pesticides of any kind should not be used. Denuding, removal of bird and other animal feed, and poisoning an area must be disallowed.

RECOMMENDATION. Finfish should be raised upland. Shellfish raised through the aquaculture industry should not be raised in plastic bags. Nor should the growing area be stripped of its natural system.

Darlene Schanfald, Ph.D.
Secretary
Olympic Environment Council
PO Box 2664
Sequim WA 98382

Begin forwarded message:

From: "Gores, Alanna" <agores@co.clallam.wa.us>
Subject: RE: OEC comments on DRAFT SMP
Date: June 15, 2021 at 11:32:18 AM PDT
To: 'Darlene Schanfald' <darlenes@olympus.net>

Darlene Schanfald,

Thank you for your comment. I will share with the Board of Commissioners and Department of Community Development.

Loni

Loni Gores
Clerk of the Board
Commissioners Office
223 East 4th Street, Suite 4
Port Angeles, WA 98362
Phone: 360-417-2256

From: Darlene Schanfald [mailto:darlenes@olympus.net]
Sent: Tuesday, June 15, 2021 11:20 AM
To: Gores, Alanna
Subject: Fwd: OEC comments on DRAFT SMP
Importance: High

Loni:

I had your wrong address earlier.
For your files.
ds

Begin forwarded message:

From: Darlene Schanfald <darlenes@olympus.net>
Subject: OEC comments on DRAFT SMP
Date: June 15, 2021 at 9:43:28 AM PDT
To: "mozias@co.clallam.wa.us" <mozias@co.clallam.wa.us>, Randy Johnson <rjohnson@co.clallam.wa.us>, "bpeach@co.clallam.wa.us" <bpeach@co.clallam.wa.us>, info@clallam.org, lgores@co.clallam.wa.us

Please confirm receipt of this email.

Clallam County Commissioners
Clallam County Courthouse
4th & Peabody
Port Angeles WA 98362

OEC comments on DRAFT SMP

Dear Commissioners, Ozias, Johnson and Peach:

I am submitting these comments on behalf of the Olympic Environmental Council (OEC). OEC is a registered non-profit formed three decades ago, representing constituents in the counties of Clallam and Jefferson for the purpose of protecting our natural resources.

The focus herein is on aquaculture and the known contamination of finish and shellfish. and what marks the aquaculture-raised products as unsafe to eat and as unsafe practices for the environment. It is unfortunate that the WA State Department of Ecology, federal agencies, and other state agencies persist in promoting these operations that are seriously impacting our marine ecosystems and public health.

Right now, Ecology staff is working on guidance for oversight of this industry, as well as the level of PFAS in products. PFAS in humans is eliminated in their toilet waste, ends in the wastewater processing plants, and then distributes themselves in the processed solids and effluent.
The solids are land spread on crops, in forests, and on grazing lands, and taken up by plants and animals, circulating back to consumers. The effluent runs back into surface water bodies of into aquifers, circulating back into consumers of marines animals and in "potable" water.

Due to the pollution of marine life, there has been a phase out of net pens in British Columbia's Broughton Archipelago.
News covering today's announcement:
Government, First Nations chart path for aquaculture in Broughton Archipelago-- Office of the Premier
17 fish farms to be phased out under new agreement between B.C. government, First Nations-- CBC News
Closure of up to 17 fish farms by 2023 in Broughton Archipelago, province announces-- Chek
B.C. government announces transition of Vancouver Island-area fish farms by 2023-- BC Global News
Salmon farms in Broughton Archipelago to be shut down-- Business in Vancouver

All this work is summed up in Alexandra Morton's 2021 book, *Not on My Watch.*

You recall that in 2018, the WA State Legislature, with Mike Chapman and Kevin VanDeWege leading this, invasive/non-native finfish were banned in WA State, the only Pacific West Coast state to have these pens. Ecology was informing you at that time that you needed to approve these industrial operations, but then had to return, post-passage of the legislation, to correct itself. While so-called native species is currently allowed, the contamination of these fish and the ecosystem harm they do are no different than from the non-native species. It's the operations that are the problem. Where these operations can be more cleanly and safely handled, if operators would invest, is upland; out of surface water bodies.

Another
source: https://static1.squarespace.com/static/5898d1b3cd0f689b98657619/t/5ddc152426c4ae3e67cd892b/1574704429197/OSOS_Final_SEPA_Comments.pdf
Comments on Washington Department of Fish and Wildlife State Environmental Protection Act Review of Cooke Aquaculture Proposal to Commercially Propagate and Harvest Oncorhynchus mykiss in Puget Sound net pens: SEPA #19056

RECOMMENDATION: Rule that these operations in Clallam County must establish themselves upland and not in surface water bodies.

There is also a lawsuit against continuing Cooke finish aquaculture in WA State, led by the Wildfish Conservancy. If they are successful, these operations will be null.

FOREVER-CHEMICALS

If you saw the film *Dark Waters,* you will have a background on how these toxic chemicals were discovered. (There is a copy of the film in the NOLS Library.) This suite of chemicals have been spread on crop land, grazing land, in forests, and have circulated in the air and runoff with stormwater. They are circulating in almost every consumer.

You must also be aware that the "forever chemical" (a multi-thousand group of chemicals in leak-proof containers, water-resistant materials, and fire-fighting foam) are undergoing an Ecology guidance, a number yet to be set; It will be 70ppt or less. Some states and municipalities regulations are far less. Included below are just a few examples of the many documents. You can find more on-line on your own.

Comments on Washington Department of Fish andWildlife State Environmental Protection Act Reviewof Cooke Aquaculture Proposal to CommerciallyPropagate and Harvest Oncorhynchus mykiss inPuget Sound net pens: SEPA #19056

The dominance of long-chain and precursor/

fluorotelomer structures in sludge was also observed

in sludge samples analyzed from other WWTFs

across New Hampshire and Vermont (Figure 2).

Total ∑PFAS concentrations across New Hampshire and Vermont samples analyzed here ranged from 12 to 204 μg/kg. Samples collected by UNH showed long-chain compounds made up 56 to 82 percent of total measured PFAS based on molar mass, with precursors composing an additional 14 to 36 percent (Figure 1). Similarly, samples collected by others in New Hampshire and Vermont showed long-chain PFAS comprised up to 84 percent with precursors/ fluorotelomers up to 60 percent. Consistently, longchain PFSAs were higher in relative abundance and concentration than PFCAs in sludge, with average PFOS concentrations (11 ng/kg) about threefold higher than that of PFOA (3.9 ng/kg)—Figure 2 (Arvaniti et al., 2014; Gallen et al., 2018; Gu

Fate of long- and short-chain PFAS, pharmaceuticals, and personal care products in wastewater biosolids

Sydney Adams, Cassidy Yates, Carmela Antonellis, Jenna Luek, PhD, James P. Malley, Jr., PhD,

and Paula Mouser, PhD, PE (corresponding author)

Department of Civil and Environmental Engineering, University of New Hampshire, Durham, New Hampshire

==========

PFAS concentrations and distributions in WWTFs

influent and effluent ranged from 36–105 ng L -1 and 30–

129 ng L-1 during March (Fig. 1a, Table S3†) and 31–132 ng L-1

and 70–198 ng L-1 during July.

Think of the Navy station now at Ediz Hook when you read this
June 7, 2021 https://www.militarypoisons.org/latest-news/interview-with-george-erichsen-director-st-marys-county-md-metropolitan-commission
PFAS from the Patuxent River Naval Air Station is discharged 2 miles out into the Chesapeake Bay.

State Acknowledges "Massive Contamination"
in Chesapeake Beach, MD

PFAS levels in the soil may be the highest in the world
at the Navy's fire training facility.

Online Restoration Advisory Board (RAB) meeting alarms residents

https://www.militarypoisons.org/latest-news/state-acknowledges-massive-contamination-in-chesapeake-beach-md

Summary of numerous reports on PFAS in fish:
An analysis of PFAS concentrations in 3,262 fish and oysters from fish and oysters from rivers and lakes in 48 states shows that America's seafood is toxic. The average fish in the database contained 93,224 parts per trillion (ppt) of PFAS. The median value was 13,600ppt.

RECOMMENDATION: If aquaculture remains in the Clallam County SMP, testing the waters, the feed, the sea grass and the animals — finfish and shellfish — by a third (independent) party for long and short chains of PFAS/PFOS chemicals, paid for by the operator owner.

PLASTICS

Biosolids Areas of Concern Identified by U.S. Geological Survey Scientists/USGS

When biososids are land applied as fertilizers, the potential exists for commonly used chemicals including fragrances, detergents, fire retardants, plasticizers and antibacterials to **run off the land surface into local surface waters.**

The ubiquity of anthropogenic marine debris & toxicity raise concerns about how ingesting anthropogenic debris in marine animals may impact humans health https://www.nature.com/articles/srep14340#ref38

Hundreds of aquatic species often considered seafood contain anthropomorphic debris plus a cocktail of chemicals, as in the guts of tuna, opah and swordfish and parts of wild and commercially grown mussels and oysters.

Triclosan, flame retardants, strings, pharmaceuticals, human & livestock hormones, pathogens, microplastics, range of CECs, industrial nanoplastics, plasticizers, drugs – prescribed, OTC, and narcotics, marijuana, caffeine, heavy metals, sweeteners, estrogens, fluoride, CECs, bacteria, viruses, antibiotic genes and bacteria, dioxin, PAHs, PCB, etc…...

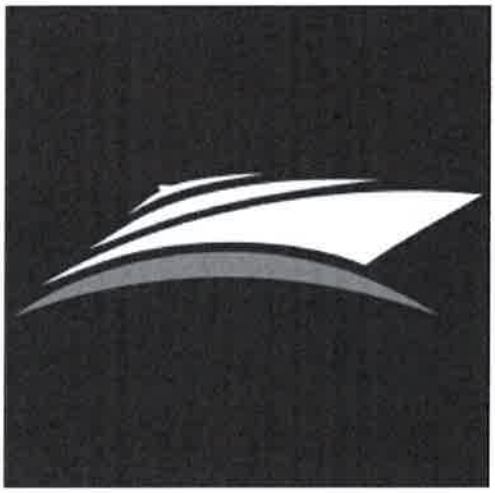
- The Washington Department of Fish and Wildlife discovered traces of opioids in mussels in Seattle and Bremerton harbors, enough oxycodone for shellfish to test positive for the addictive prescription drug. https://www.usnews.com/news/healthiest-communities/articles/2018-05-25/mussels-in-seattle-area-test-positive-for-opioid-oxycodone-chemotherapy-drug

Marine plastics | IUCN

www.iucn.org/resources/issues-briefs/marine-plastics

Marine species ingest or are entangled by **plastic** debris, which causes severe injuries and deaths. **Plastic** pollution threatens food safety and quality, human health, coastal tourism, and contributes to climate change. There is an urgent need to explore the use of existing legally binding international agreements to address **marine plastic** pollution.

Plastic Pollution and Marine Life: A Look at the Numbers ...



www.worldwideboat.com/knowledgebase/plastic-pollution-and-marine-life

Plastic pollution is a real threat to **marine life**, and the problem continues to grow each year. For example, the Great Pacific Garbage Patch, a swirling mass of **plastic** waste which floats off the coast of California, is now larger than the state of Texas .

RECOMMENDATION: Any aquaculture food produced in Clallam County waters must be certified as at least free of PFAS/PFOS, micro-plastics, and pathogens.

Darlene Schanfald, Ph.D.
Secretary

Olympic Environment Council
PO Box 2664
Sequim WA 98382

Ed Bowen
Public Comment
7/13/21
SMP Hearing

Gores, Alanna

From: Winborn, Mary Ellen
Sent: Monday, July 12, 2021 11:38 AM
To: Gores, Alanna; Ballard, Greg; Clark, Donella
Subject: RE: SMP, BOCC, Planning Commission

Hi Ed,

I understand your frustration. You have been truly invested in the entirety of SMP process. I always appreciate your paying attention to planning issues.

Public Hearings are our avenue for public outreach. The SMP has been around for a long time. No document is perfect and issues will come up as we implement it. That is why there are periodic updates to address these potential issues that we cannot anticipate now.

I understand that it is hard to let go of something that you are passionate about. However, no one else seems to see the need for more public comment. it is time to move on, Ed.

Thank you for all of your efforts, interest, commitment and enthusiasm.

Mary Ellen

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Gores, Alanna
Sent: Sunday, July 11, 2021 3:19 PM
To: Ballard, Greg; Clark, Donella; Winborn, Mary Ellen
Subject: FW: SMP, BOCC, Planning Commission

FYI

Loni Gores
Clerk of the Board
Commissioners Office
223 East 4th Street, Suite 4
Port Angeles, WA 98362
Phone: 360-417-2256

From: Ed Bowen [mailto:rockypt@olypen.com]
Sent: Wednesday, July 07, 2021 7:42 PM
To: Peach, Bill; Johnson, Randy; Ozias, Mark; mwindborn@co.clallam.wa.us

Cc: Gores, Alanna
Subject: SMP, BOCC, Planning Commission

*** EXTERNAL EMAIL *** This message was sent from outside our County network.

Commissioners and DCD Director, whoever is in charge this week if the four electeds have solved that yet:

I took my valuable time to give public comment at the planning commissioner meeting this evening, requesting they request of the BOCC to bring the SMP discussion/passage back to the Planning Commission for vetting and engagement of the public, such as their public hearing process that "allows" for two way discussion between the commission and the public testifying. This is for the reason that the BOCC decided at a previous Board meeting and seconded by the Director to take on the onus of outreaching to the public on this SMP update. The explanation presented by the county staff this evening is to hold two BOCC public hearings on the 13th and then make a decision on the 20th of this month. WHERE's the outreach; thus the request for the Planning Commission to do that since I have seen no response from either the BOCC or even the DCD director to do so. A public hearing is not public outreach. According to the Planning Commission's approved minutes of last month it was noted in the "Announcement" that mailers were sent out to Lake Sutherland shoreline citizens; where are the mailers for all the shoreline citizens that many aspects of the significant changes by Ecology affect directly? I testified to that aspect at the BOCC hearing and received no response; but the result is a biased select group of citizens are the privileged engaged (maybe, yet to be proven).

Much to my dismay and lack of representation, Zero response from the planning commission...not even a no thank you...just the same old one way communication the government calls: public comment.

So now the onus is back on both elected groups, this commission has failed this citizen and in respect, all the citizens of this county. They the Planning Commission didn't do their job; they didn't even bother to respond to my "comment" let alone request. I hold all four elected officials accountable. Staff's response was completely out of context with the comment and request, and was the failsafe for the planning commissioners to have a story to explain "how they responded". The commissioners did not respond; that is a point of fact.

I guess the other displeasing action (for the sake of the kinder word of bureaucracy one of the elected demands I utilize in communication, but my language is "disgusting") is the failure of the DCD Director to even be present tonight...an elected no-show when it was stated on the agenda.

Someday this will likely wind up in the courts, or even worse a war where the battle cry will be "Don't Tread on Me". There was once a tyrant by the name of King George.

Ed Bowen

P.O. Box 111
Clallam Bay, WA 98326

Virus-free. www.avg.com

Alison Agness
Public Comment
7/13/21
SMP Hearing

Halencak, Morgann

From: Gores, Alanna
Sent: Tuesday, July 13, 2021 9:23 AM
To: Halencak, Morgann
Subject: FW: SMP Comment

Morgann,
Please print and attach to the minutes for the SMP hearing today. I tried to add the name to the minutes for written comments but it appears you have the minutes open at your desk. Please add.
Thanks, Loni

Loni Gores
Clerk of the Board
Commissioners Office
223 East 4th Street, Suite 4
Port Angeles, WA 98362
Phone: 360-417-2256

From: Clark, Donella
Sent: Tuesday, July 13, 2021 9:03 AM
To: Gores, Alanna
Subject: FW: SMP Comment

From: notifications@cognitoforms.com [mailto:notifications@cognitoforms.com]
Sent: Monday, July 12, 2021 8:29 PM
To: Clark, Donella
Subject: SMP Comment

*** EXTERNAL EMAIL *** This message was sent from outside our County network.

Clallam County

Email Clallam County Dept. of Community Development

Entry Details

EMAIL TO OR REGARDING	Shoreline Master Program
NAME	Alison Agness
EMAIL	alison.agness@gmail.com
PHONE	(206) 214-7395
SUBJECT	SMP Comment
COMMENTS	Clallam County (the County) should seek clarification from the Washington State Department of Ecology (Ecology) regarding the definition of 'new development' relative to Ecology's Lake Sutherland requirement of landward buffers and mitigation. Additionally, the County should ask for Ecology's participation to help the public better understand any implications these new requirements would have for redevelopment of existing structures, including bulkheads and overwater structures on Lake Sutherland. Further, and related to the above requests for clarification and support of public education, the County should seek funding, extension, and expansion of the current process to update the County's Shoreline Master Program (SMP), specifically to: • Study shoreline impacts from waterward stressors (i.e., summertime boating and wintertime backwater); and • Support additional public process regarding ordinance modification and development for Lake Sutherland that meets Washington State's standard for maintaining shoreline ecological function (no net loss) from both landward and waterward stressors. As a first step: • The County should make Ecology aware of the Lake Sutherland community's raised issues related to shoreline habitat and property

damage from waterward stressors - including intensive speed and wake-surf boating - proximate to Lake Sutherland shorelines.
o The County should bring Ecology up to speed on the related management actions the County is currently contemplating to bring such boating into alignment with State code (RCW 79A.60.030) and potential modification of relevant County code (15.04.130).

Prior to finalizing this SMP, Ecology and the County should work together to:

• Develop contingency plans for amending the SMP to adopt additional measures that fairly address the no net loss standard for both waterward and shoreward stressors to shoreline habitat and property damage, alike.
• Seek State funding to match County funding of a study that would inform the adoption of modified County ordinance to prevent further waterward damage to habitat and property.
o Specifically, fund a peer-reviewed, unbiased study of summertime motor-boating and wintertime backwater on Lake Sutherland to inform updates to the current County code, including the appropriate no-wake zone or waterward buffer to be established by the study's identified placement distance of no-wake zone buoys that will prevent further habitat and property damage.

Steve Cahill
Public Comment
7/13/21
SMP Hearing

Halencak, Morgann

From: Clark, Donella
Sent: Tuesday, July 13, 2021 12:18 PM
To: Halencak, Morgann
Subject: FW: SMP Comment

Follow Up Flag: Follow up
Flag Status: Flagged

Regarding today's hearing.

From: notifications@cognitoforms.com [mailto:notifications@cognitoforms.com]
Sent: Tuesday, July 13, 2021 12:07 PM
To: Clark, Donella
Subject: SMP Comment

*** EXTERNAL EMAIL *** This message was sent from outside our County network.

Clallam County

Email Clallam County Dept. of Community Development

Entry Details

EMAIL TO OR REGARDING	Shoreline Master Program
NAME	Steve Cahill
EMAIL	steveandfumi@yahoo.com
PHONE	(360) 928-0270
SUBJECT	Lake Sutherland Shoreline Buffer & Vegetation Requirements
COMMENTS	Re: Lake Sutherland Shoreline Buffer &

Vegetation Requirements

The Clallam County SMP 35 ft buffer for Lake Sutherland would effectively render a majority of the properties around the lake undevelopable. The steepness of the terrain around the lake limits practical building sites for most parcels to within the 35 ft. buffer. That's why development has occurred where it has. Limiting development to beyond 35, 50 or 75 ft from ordinary high water mark will restrict development to terrain that is too steep to be built on for many, if not most, parcels around the lake. This requirement of the SMP seems to fit the definition of a regulatory taking without just compensation which the 5th Amendment to the U.S. Constitution does not allow.

The Department of Ecology's (DOE) required changes to Clallam County's SMP shoreline buffer requirements do further injury to property owner's Constitutional rights by imposing extremely burdensome rules in the form of : a) Specified mitigation measures to be funded, implemented and maintained in perpetuity by the property owner and the status of these measures reported upon to the County annually by the property owner. Or b) The property owner must hire a wildlife biologist or other qualified professional to create a site specific habitat management plan. The property owner must pay for the plan and all costs of monitoring for at least 5 years. The DOE, however, has graciously allowed that neither the mitigation planting nor the habitat management plan are required so long as development occurs 50 ft from high water on lots less than 200 ft in depth or 75 ft on lots greater than 200 ft in depth.

So that's the end game. DOE and the Department of Fish and Wildlife (WDFW) are through regulation attempting to take 50 to 75 ft of privately owned land bordering the Lake Sutherland shoreline without just compensation and through the extortion of extremely burdensome rules imposed on the County's 35

ft buffer. This is totally unacceptable. The DOE and WDFW should be told by the Board of Commissioners to back off. Crafting obnoxious rules for habitat enhancement at the expense of the property owner's ability to use and enjoy their recreational property on Lake Sutherland is unwise and will inevitably lead to much conflict should they be implemented.

H1 SMP CONTINUED HEARING 7-13-21

COMMENTS RECEIVED AT

THE PUBLIC HEARING

BOARD OF CLALLAM COUNTY COMMISSIONERS PUBLIC HEARING

H1 Ordinance amending Clallam County Code Title 35.01 Shoreline Management

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate.

№	PRINTED NAME	SIGNATURE	ADDRESS
1	ED BOWEN	Ed Bowen	PO Box 111 CB
2			
3			
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20			

Signed on July 13, 2021 in Port Angeles, Washington

Commissioners, Board of Clallam Commissioners (BOCC)

Continuation of Public Hearing on Clallam Shoreline Master Plan Update (CSMPU) as amended by Washington Department of Ecology (DOE)

On this 13th Day of July 2021, some 33 months after the BOCC approved and then forwarded to DOE for review the CSMPU; which has been returned with amendments of DOE's own doings in the form of requirements and recommendations (R&Rs), and I emphasize are predominately amendments of DOE's own doings.

My Testimony focuses on what should be the BOCC's ultimate findings that such R&Rs be returned to DOE with instructions that any new additions since October of 2018 must be a requirement for full vetting with the people of Clallam County, demonstrated as a mandated process required by the Clallam County public outreach plan calls out for meetings specified as Forums. Such requirement that attempts to interpret the RCW's and mostly the WAC's cited throughout this R&R product be fully explained as to how the BOCC approved plan did not/does not meet the legislated intent the RCW is derived from. I base this on the fact that the cited WAC's are products of the DOE themselves and to depend on the bases given in the R&R to the need for abiding by the WAC without as justifiable rational to meeting the RCW is nothing but DOE being arresting officer, Judge, Jury, and soon to be executioner. The WAC application, DOE did not and does not abide by the core state constitutional requirement that the authority of the government is contingent on the consent of the governed. I do not consent, I was and am not being given the chance to consent because these R&R's were developed and decided on by DOE behind closed doors without the governed being involved as per the county's outreach plan and another core requirement of the RCW to do so.

Thus the following 1310 pages of records from a public records request of Clallam County reflect many interesting findings; the primary finding is the DOE and the Department of Community Development as represented by the DCD Director that the creation of the R&Rs are all internal to those two government bodies without the needed consenting public to even be notified let alone engaged in the R&Rs now before the BOCC. Yes, there are records that are emails from inquiring citizens, but those emails are not related to the review by DOE and creation of the R&Rs; they do have their own value to the testimony submitted today but I will explain that separately. Two plus years for DOE to sit on its pedestal and dream up the substantial changes and rewrites (the blue text in the product) without lifting one finger to both review the mass amounts of public comment given during the lengthy period of time prior to BOCC 2018 approval let alone engage and notify the public what any issue the DOE had with the 2018 approved plan, let alone add all the additional/post 2018 period version of the plan. The cart before the horse was the theory the county was already subject to a new update requirement of the plan during this lengthy review period of DOE and needed (which

RCW requires that) inclusion in to the plan out of some form of efficiency. The governed claims this form of efficiency is hypocritical to the intent of the legislation and related RCW. I claim that is DOE's perspective all along and failure to uphold its core representative responsibility to the governed by coming up with more wild cards in the game of poker it has and is playing during this lengthy review period.

The public records request of Clallam County (PDR) had to be submitted just to be informed of what was going on. There were no updates or additional information provided at the county's principal medium for informing the governed, the web site: http://www.clallam.net/LandUse/smp.html

A question the BOCC has to evaluate: The County has to perform during the DOE review and approval process in terms of "negotiations". When such task are needed, are the governed discounted and left out of such "negotiations", and in this case very likely left out in all forms except for the incidental call us if one has a question even knowing what the question is in the first place?

This web site was not updated (as reflected in the lower right hand corner of the web page) during the 2 plus year period the plan was subject to DOE review. This point was brought up to DCD multiple times throughout that time frame with no results. And then the elected BOCC and DCD Director entered in to some reason for an executive session some time back, under the pretext of likely litigation aspects of the plan. This does not seem to be the case being a litigation issue in the R&R before the BOCC now, and the governed once again isn't even aware of what flaws may have or is still an aspect of this R&R and/or the approved 2018 version of the plan. The public records request should have informed the governed in terms if there is still a flaw in this plan or R&R or has the pretext of the executive session been solved, but I can't see any indication to what that was all about. Based on this additional aspect, the PDR had a specific time period that took over a year for the county to respond to and I might add has still not been satisfied, let alone finalized. So I can't be assured at this juncture of the BOCC deliberations that records don't exist but just haven't been yet provided; I claim I am still the uninformed governed and thus do not consent to the authority being exercised; that already by the DOE and what is currently before the BOCC.

Submitted June 2020: *All records related to "Washington State Department of Ecology has provided to the county a list of required and recommended changes to the County's proposed updated Shoreline Master Program abbreviated as the SMP." October 2018 to 29 June 2020 UPDATE: 1.) Include records that have not already been posted on the Clallam County SMP website of documents, unless they are updated versions of postings 2.) Include records that pertain to negotiations, different conclusions reached, flaws that are identified in the process or plan, itself; those cited by involved departments or agencies that pertain to the proposal; and those that were developed*

with specific SMP criteria in mind 3.) Exclude records that are already available to the public, except those on which notes and other information have been added that would not normally be included in the records or information that is already available to the public 4.) Exclude duplicates of e-mails

There were many additional pages of records provided; however, I have removed them from this package for they did not bare any relevance to the purpose and intent of the CSMPU or R&Rs such as emails related to salmon recovery meeting notifications and multiple times that repetitive records of the same thing (word for word) were provided. I did retain several communications between the individual public and the DCD that weren't CSMPU or R&R specific but were inquiries in to the current application of the county's Shoreline Management Plan enforced as to their specific property/potential. This was most educational and to me brings up a specific point that has failed during this entire update process: One of the DCD staff assisting the governed public with what appears to work and now a CSMPU or related R&R doesn't solve a need or clarity for the governed public that would have to live under such a government demand. If this BOCC feels the need to correct the lack of the governed' engagement in the R&R then send a post card to these folks reflected in the PDR release to see if they get it, do they understand or even know about all the additional amendments the R&R has created.

One additional aspect that is BOCC centric, I only find in these records a single case where the BOCC or a single commissioner inquired in to the review, for a single comment submitted to the DOE elite and segregationist approach to how it creates its own authority over the governed. That is the flaw that still exist because all the inquiries and comments to DOE that are a part of the review and approval process need to be inquired into with DOE in reflection on their requirements and recommendations; I know for fact for one they have not addressed this governed individual and factually not engaged this individual during the 2 plus years of what I sum up as wasted days and wasted nights, in a form that Freddy Fender applied for a likely different purpose but I'm confident applies in the a form to this loss of representative government when it comes to the loss of confidence this CSMPU and raze of the idea's promulgated in the R&Rs creates for all the governed of Clallam County:

Respect for the use of Freddy's words: "*When I know that you're not true…And why should I call your name…When you're to blame for making me blue*"

WHEN YOUR"RE TO BLAME FOR MAKING ME BLUE

Waste because the amount the governed has spent, has to spend, and expense, just to defend a core property principal while at the same time being a steward of such property and such responsibility obligatory of all of us already.

Refer this R&R “review and approved” version of the plan back to Washington Department of Ecology

For the record and my testimony at this public hearing of the BOCC, 13 July 2021

Ed Bowen

P.O. Box 111

Clallam Bay, WA 98326

Included: 1310 pages of PDR
Printed and electronic

From:	Harvey, Diane
Sent:	Monday, July 27, 2020 11:49 AM
To:	Beck, Afton
Subject:	FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments:	WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

Our intent for providing draft materials for staff review is in keeping with our state-local partnership approach and to help avoid any 'surprises' at the Board's final review & approval stage. For the issues identified we include suggested approaches to address our concerns. Attached please find the following materials:

- Draft Attachment B – ECY Required Changes (24);
- Draft Attachment C – ECY Recommended Changes (31); and
- April 2020 WDFW Clarifications to Previous Comments.

Please note, these materials are discussion drafts not intended for distribution. As you may know:

- Required changes are issues of compliance with RCW & WAC that must be addressed before our final approval;
- Recommended changes are optional issues intended to improve the document for more effective implementation.

As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,



Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

COVID-19 Response: WA State Department of Ecology offices are closed to public walk-in customers until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available online. We remain committed to service, so don't hesitate to reach out to us. Rely on coronavirus.wa.gov as the state's primary source of coronavirus information and please: practice patience, handwashing & social distancing for your & everyone's health!



Conserve our natural resources – print only as needed!

Public Record: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Coastal Region • Region 6 • 48 Devonshire Road, Montesano, WA 98563-9618
Telephone: (360) 249-4628 • Fax: (360) 249-1229

April 17, 2020

Michelle McConnell
WA Dept. of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

SUBJECT: WDFW ADDITIONAL CLARIFICATIONS AND TECHNICAL DETAILS TO DEPARTMENT OF ECOLOGY ON PROPOSED CLALLAM COUNTY SHORELINE MASTER PROGRAM COMPREHENSIVE UPDATE

Dear Ms. McConnell,

Thank you for welcoming additional collaboration on the Shoreline Master Program (SMP) Comprehensive Update for Clallam County (the County). The Washington Department of Fish and Wildlife (WDFW) applauds the commitment by the Department of Ecology (Ecology), the County, and stakeholders to craft an updated SMP for the County reflective of our shared responsibility of durable land use planning, for which the perpetuation of natural resources is fundamental.

Indian Creek, as a tributary of the Elwha River, was historically part of a thriving ecosystem that proved to be an ideal habitat for anadromous fish. Construction began on the Elwha Dam in 1910, downstream of the Indian Creek confluence with the Elwha River. The dam failed in 1912 and reconstruction was complete in 1913, blocking migration of salmon upstream and disrupting the flow of sediment and wood downstream. The Elwha River Ecosystem and Fisheries Restoration Act, passed by the U.S. Congress and was signed by President Clinton in 1992, authorizing dam removal to restore the ecosystem. The Elwha Dam removal was complete in 2012 and two years later the Glines Canyon Dam was removed, finalizing the largest dam removal project in U.S. history.

The Elwha River and its tributaries, including Indian Creek downstream of US 101, now flows freely from the headwaters to the Strait of Juan de Fuca. Since the dams were removed, anadromous salmon have been observed spawning above the former dam locations. Indian Creek flows from Lake Sutherland where, for a hundred years, a population of land-locked sockeye transitioned to non-anadromous kokanee. Fisheries biologists anticipate that the kokanee currently living in Lake Sutherland will provide the source for new anadromous sockeye runs.

Lake Sutherland currently provides habitat for native kokanee salmon, a relic population from former anadromous sockeye salmon from the pre-dam era, a unique population of cutthroat trout that spawns near the outlet of the Lake and spawns in the fall (typically cutthroat spawn in the spring). Rainbow Trout stocking by the department ended in approximately 2012 with removal of downstream dams.

The downstream crossing of Indian Creek between Lake Sutherland and the Elwha River, one of two water crossings on Indian Creek on State Route 101 owned by Washington State Department of Transportation (WSDOT) are not always passable for fish. The crossing is one of the most impacting in the state, by priority score, whereas the quantity and quality of habitat above the barrier that fish cannot access is ranked, it is the second highest priority to be replaced. And will be the first priority once Chimacum Creek is completed in 2020. Currently the existing crossing is scheduled to go to ad in 2021 and construction completed by 2023. The new crossing will be a bridge with an approximate 45 to 55-foot channel; that meets all requirements of the hydraulic code and fish passage injunction; to pass all fish at all times and all life stages.

Additional habitat largely unavailable to anadromous fish will soon become available with the correction of the barrier crossing. Habitat for fish resources in the lake include additional rearing for coho and steelhead juveniles in the lake as spawning adult fish use ideal habitats located just downstream of the outlet. Coho and Steelhead fry, will seek out low energy shallow areas where they can grow, avoid predation, and conserve energy. The undeveloped shallow habitat around the lake also provides woody material input, fallen trees, limbs and detritus provide shoreline complexity. This complexity can in turn reduce erosion, provide cover and a growth medium for aquatic insects. Terrestrial insects falling from the riparian around the lake provide prey for small fish, shade the shoreline helping to reduce thermal stressors, and in places improving water quality as stormwater filters through functional riparian areas.

None of the shoreline functions listed above can be achieved without an appropriate vegetated buffer on Lake Sutherland. WDFW maintains that a 35-foot standard buffer width on Lake Sutherland may be insufficient to ensure that new permitted developments on the shoreline will not contribute to a net loss of ecological function necessary for fish. This existing condition set poses a considerable challenge to the recovery of the current resident listed fish species, as well as for the anadromous species that are anticipated to use the nearshore habitat of Lake Sutherland after the Highway 101 culvert downstream is corrected. At present, this fish barrier passage work is projected for 2022; therefore, it is appropriate to address anadromous fish species' habitat needs in Lake Sutherland during this present SMP Comprehensive Update. Areas along the western half of the lake and areas near the outlet of the lake still maintain some resemblances of intact riparian areas and can provide functions as described above for the current and future fish in the lake.

While Lake Sutherland does have a substantial amount of existing developed shorelines, it also contains areas less developed, and areas with development and relatively intact riparian areas. The entire lake shoreline is not already intensively developed and is not deserving of a minimum 35 feet buffer. The appropriate Site Potential Tree Height (SPTH) buffer, where the ecological functions of the buffer would provide the most benefit, is 161-213 feet, depending on the location/parcel around the lake. As indicated in circled areas on the figure below, these areas, at a coarse scale, still appear to contain riparian area that is generally protective of the desired ecological functions of the SPTH buffers and would provide the functions and values described above and are more appropriate of a Residential Shoreline-Conservancy Designation similar to the outlet of the lake.



No Net Loss and use of Restoration to achieve NNL.

WDFW is also concerned by the SMP's characterization of restoration as a means of compensating for allowed ecological impacts. Restoration projects, by definition, are intended to result in net ecological lift when compared to the baseline condition. It is inappropriate to rely on restoration to perform the function of compensatory repair; it is not to be used to offset regulatory inabilities to meet no net loss. In addition to eroding the principle of no net loss, this misuse of the restoration tool shifts the responsibility for impact avoidance off of the project proponent causing ecological harm, and onto a surrogate. This raises significant concerns not only from an ecological perspective, but also from the vantage point of financial ethics. For this and other reasons, many restoration funding sources strictly prohibit funding from being used to mitigate impacts from development.

The County appears to be relying on restoration to help achieve no net loss (NNL) of shoreline functions as we have shown below. We firmly hold to the definition of restoration[1] as enhancement for the purpose of generating net ecological gain. In contrast, mitigation standards must be fully sufficient to ensure that each permitted development will not cause a net loss of ecological function of the shoreline, and mitigation is, by definition, a mandatory regulatory requirement, while restoration is inherently voluntary.

1."Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020 (31))

We agree with and support the County's commitment to the sequential prioritization of impact avoidance, minimization, and compensatory mitigation. However, we hold that any impacts which cannot be avoided entirely be fully compensated to meet the principle of NNL through mitigation exclusively, as the use of restoration to meet this standard undermines both the obligation of mitigation and the efficacy of restoration to achieve the State's salmon recovery goals.

Examples in the SMP where Restoration seems to be used to address No Net Loss (NNL).-
The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved. 3.9.9 #4

No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated. Chapter 8.1

These are just a few locations of many throughout the SMP where we felt it was unclear why restoration had to be used to meet no net loss. We would ask Ecology to make a statement that restoration and impacts from violations are intended to lift above base line conditions and not make up for the loss of function that development impacts cannot fully mitigate.

In closing, WDFW appreciates Ecology's willingness to receive our additional comments outside the public comment period for this SMP Comprehensive Update. The shorelines in Clallam County play a crucial role in providing irreplaceable habitat for fish and wildlife, contributing to recreation, and protecting local communities. We look forward to arriving together at a SMP update for Clallam County that meets the State's shared goals and purpose around riparian conservation and salmon recovery. We offer our comments in a spirit of partnership and collaboration, and hope that through this continued dialogue, we have clearly highlighted our outstanding areas of concern. Our relationship with your agency is very important to us, and in deference to that relationship, I welcome any opportunity to be of assistance or to discuss these comments further. Please feel free to contact me with any questions at 360-874-7258.

Sincerely,



Chris Waldbillig
Assistant Regional Habitat Program Manager

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
2.	**1.5 SMP Goals**	5. To accommodate and give ~~priority~~ preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
3.	**2.3 Aquatic Designation**	3. Management Policies i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised), and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of ORMA. The applicability of this provision needs to be clarified to include both shoreline development and activities considered as "new use & development" by the MSP to ensure proper implementation. Ecology requires text revisions for clarity and for improved consistency with the 2018 MSP, and for internal consistency. See also related edits to 1.4 above and 5.6 below.

<table>
<tr>
<td>4.</td>
<td>3.6.2 Parking - Regulations</td>
<td>2. Parking as a primary use shall be prohibited in all shoreline designations, ~~except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~

4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.</td>
<td>2. Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2.

4. Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy.

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10.
<table>
<tr><th>Use/Development/ Modification</th><th>Aquatic – Straits[1]</th><th>Aquatic – Pacific Ocean[1]</th><th>Marine Waterfront</th><th>Shoreline Residential - Intensive</th><th>Shoreline Residential - Conservancy</th><th>Resource Conservancy</th><th>Natural</th></tr>
<tr><td>Parking: (see Section 3.6)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>As a primary use</td><td>X</td><td>X</td><td>X/C[11]</td><td>X</td><td>X</td><td>X</td><td>X</td></tr>
<tr><td>Accessory to a permitted use</td><td>X</td><td>X</td><td>P</td><td>P</td><td>C</td><td>C</td><td>X</td></tr>
<tr><td>Public disabled parking</td><td>X</td><td>X</td><td>P</td><td>P</td><td>P</td><td>C</td><td>C</td></tr>
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<tr>
<td>5.</td>
<td>4.2.4 Regulations – Piers, Docks, Floats, Non-residential</td>
<td>1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:
a. The dock/pier/float is required to accommodate a water-dependent use or public access; and
b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.</td>
<td>WAC 173-26-231(3.b) Piers and docks. New piers and docks shall be allowed only for water-dependent uses or public access.</td>
</tr>
<tr>
<td>6.</td>
<td>5.2.2 Clearing, Grading, Filling –</td>
<td>Regulations
2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, and carried out in a manner that:
a. Minimizes land disturbance to the minimum necessary for the intended development; and
b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and
c. Includes plans to revegetate or otherwise stabilize areas of exposed soil</td>
<td>WAC 173-26-231(3.c) Fill. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.</td>
</tr>
</table>

Staff Discussion Draft

		following construction; and d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place. ;and g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.	
7.	**5.3.2 Public Access – Regulations**	2. Multi-family residential use and s~~S~~ubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: …	**WAC 173-26-241(3.j.A):** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter
8.	**5.6 Ocean Management**	5.6 Ocean Management …	The SMP includes a vision statement and management policies regarding the Marine Spatial Plan but also needs provisions to implement the MSP. Add a new section for consistency with **WAC 173-26-360** and ORMA. The SMP needs to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses. Ecology is currently finalizing guidance on approaches to incorporating ORMA and MSP requirements into SMPs and will make this available to the County as soon as it's ready.
9.	**6.3 General Shoreline Buffer & Vegetation Requirements**	**6.** Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. **…** **Table 6-1 Shoreline Buffer Widths**	Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35' buffer at Lake Sutherland. Ecology has concern that the uniform 35' buffer on Lake Sutherland is not fully supported by the record for the entire lake shoreline. Parcels with existing residential development that propose enlargement would be subject to Chapter 5.1 standards. An additional concern is whether it's appropriate for all

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		<table><tr><th rowspan="2">Shoreline Environment Designation</th><th colspan="3">Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM)</th></tr><tr><th>Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line</th><th>Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line</th><th>Major New Development, including all Land Divisions</th></tr><tr><td>Marine Waterfront</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Intensive</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Conservancy</td><td>100 feet</td><td>125 feet</td><td>150 feet</td></tr><tr><td>Resource Conservancy</td><td>150 feet</td><td>150 feet</td><td>150 feet</td></tr><tr><td>Natural</td><td>175 feet</td><td>175 feet</td><td>175 feet</td></tr></table> [1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply. Footnote 2. Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.	shorelines of the lake to be designated Shoreline Residential-Intensive when Shoreline Residential-Conservancy may be more appropriate in some locations, based on SMP 2.6 and 2.7 designation criteria and current conditions. Further discussion with the County regarding changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 6.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15. See also Periodic Checklist #2017.g Nonconforming Uses & Development.
10.	**7.6 Regulations - Wetland Protection Standards**	**1.** ~~New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:~~ ~~a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact.~~ ~~b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:~~ ~~i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and~~ ~~ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.~~ ~~c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation~~	As presented, Regulation #1.a – g allow impacts based on wetland category and are not consistent with WAC 173-26-221 Use of scientific and technical information, WAC 173-26-201(2)(c) Protection of ecological functions of the shorelines, and WAC 173-26-221(2.c.i.C) Alterations to wetlands. Wetlands within the shoreline jurisdiction contribute to the shoreline ecological function, as such all wetland (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size. All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision. Even in situations where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions. Ecology requires revision to delete the proposed Regulation #1.a – g and

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		~~for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~ ~~d. The use or development is specifically allowed by this Program.~~ ~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~ ~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~ ~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~ The following shoreline use and development activities in or near regulated wetlands shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function: a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater; c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table; d. The driving of pilings; e. The placing of obstructions; f. The construction, reconstruction, demolition, or expansion of any structure; g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or i. Activities reducing the functions of buffers.	replace with inserted text consistent with WAC 173-26-221(2.c.i.A).
11.	**7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas**	**1. Designation:** Class I Terrestrial Habitat Conservation Areas shall include the following: a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens. ~~b. Critical saltwater habitats.~~	As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c). Ecology required revision to correct this error.

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12.	**10.1 Administrative Authority and Responsibility**	1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: … … d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, including formal written interpretations in consultation with Ecology per WAC 173-26-140;	**WAC 173-26-140:** As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
13.	**10.2.9 Permit Revisions**	3. "Within the scope and intent of the original permit" means all of the following: a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less; …	This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent. **WAC 173-27-100(2):** "Within the scope and intent of the original permit" means all of the following: (a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; …
14.	**11.A**	**4. Accessory use** means any legally established use ~~or structure which is necessary for the full use and enjoyment of the primary use of the property,~~ that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use. **Appurtenance** means a structure that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield, and grading.	Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance. Appurtenance is not defined but used in the SMP at: **4.6.5(2.c) New/Expanded Stabilization** that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)' Revision required for internal consistency and consistency with WAC 173-27-040(2.g).
15.	**11.F**	**121. Fill** means the addition of ~~solid or semi-solid material such as~~ soil, sand, rock, gravel, sediment, ~~wood chips, mining overburden,~~ earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.

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16.	**11.G**	**144. Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including stripping, cutting, filling, or stockpiling earth to create new grade.	**WAC 173-26-020(22): "Grading"** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
17.	**11.H**	**158. Height** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~**building** means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~	**WAC 173-27-030(9): "Height"** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
18.	**11.P**	**230. Parties of record** means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~	**WAC 173-27-030(12): "Party of record"** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;
19.	**11.R**	**266. Recreational development** means ~~development that include~~ commercial and public facilities designed and used to provide recreational opportunities to the public. ~~but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~ **267. Recreational use** means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.	**WAC 173-26-241(3.i): Recreational development** includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Ecology requires revision for consistency with WAC and RCW 90.58.020(7).

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20.	**11.R**	**270. Residential development** means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.	SMP does not contain a definition for 'dwelling unit'. **WAC 173-26-241(3.j): Residential development** - Single-family residences … Residential development also includes multifamily development and the creation of new residential lots through land division. Ecology requires revision for internal consistency and consistency with WAC.
21.	**11.S**	**307. Shorelines of statewide significance** with respect to Clallam County are identified as follows: a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands. ~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~ c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets. d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide. e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more. f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.	#307.b does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County. **RCW 90.58.030(2.f):** (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows: (A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay Ecology requires revision to correct this error.
22.	**11.S**	**313. Single-family residence** means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). ~~Accessory uses~~ Appurtenances include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	**WAC 173-27-040(2.g): "Single-family residence"** means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

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			Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.
23.	**11.W**	**351. Water-dependent use** means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a ~~preferred~~ priority use of shorelines of the state (RCW 90.58.020).	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
24.	**Missing**	**Exhibit C** - List of SMP Waterbodies…	WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. Typically the list will include all waterbodies covered by the SMP, freshwater and marine. Ecology requires revisions to add this list to the SMP, proposed as a new Exhibit C. The Table of Contents would also need revision to reflect this change. See also Periodic Review Checklist #2007.b This item also identified by S. Gray Feb ’19 email re: PR items.

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The following changes are recommended to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**Cover Page**	Note: This Clallam County Shoreline Master Program (SMP) ~~is intended to~~ update<u>s</u> and replace<u>s</u>: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has <u>completed</u> the process ~~of~~ <u>for a comprehensive</u> update ~~ing~~ <u>and periodic review of</u> the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~ <u>All amendments</u> to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review~~. …	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
CHAPTER 1 INTRODUCTION & OVERVIEW			
2.	**General**	**…**the <u>most current, accurate, complete, available and applicable</u> ~~best available~~ science…	**Global Change** - 'Best available science' (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern". Ecology recommends the County consider scrubbing the document to replace "best available" with the SMA terminology (i.e. "most current, accurate, complete available information"), including the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).
3.	**1.1 Background Information**	Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally <u>approve</u> ~~adopt~~ the SMP on <u>October 30, 2018</u> ~~(Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to~~ <u>After</u> the Department of Ecology ~~for~~ state review <u>and approval, the BOCC adopted the final SMP by ordinance</u> (Ordinance No. [[insert ###-###]]) ~~and subject to additional public review~~. <u>This SMP is effective as of [[*insert date upon ECY final action*]].</u>	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
4.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, <u>including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan</u>	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018.

		was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
5.	**1.5 Shoreline Master Program Goals**	10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.	WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses. Ecology recommends revision to improve accuracy and clarity.
6.	**1.7 Exceptions to Applicability**	1. This Program shall not apply to: a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. 2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process,	WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation. Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners. See also Periodic Review Checklist #2017.c This item also identified by S. Gray Feb '19 email re: PR items.

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		pursuant to chapter 80.50 RCW.	
7.	**1.10 Authority**	**3**. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure: a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC. b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable. c. That the Program reflects any changes in local circumstance, new information or improved data. **4**. The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.	WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including 'changing local circumstance, new information or improved data' and the two presented as written. Ecology recommends text revisions to add the third required category for clarity.
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
8.	**2. Shoreline Environment Designations**	2.1 Basis of the Designations … 4. Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront. 2.4 Natural Designation; 1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark…	**Global Change** - This statement about Figure 2-2 photographs is repeated for each SED at §2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers. Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at: 2.5 Resource Conservancy Designation; 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation And we suggest moving the deleted text to SMP 2.1 as a new #4.
9.	**2.4 Natural Designation**	1. Criteria: …The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics: …	Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).

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10.	**2.5 Resource Conservancy**	**1. Criteria:** … The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located outside a UGA, within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics: a. Typically associated with large, contiguous blocks of forest lands and natural resource areas; b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments; c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices; d. Minimal constraints to overbank flooding and/or channel migration; or e. Forest fragmentation or conversion of forest cover to other land cover types is minimal. f. High recreational value or unique historic or cultural resources. g. LAMIRDs with low-intensity water-dependent uses. **2. Purpose:** The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or low-intensity outdoor recreational use~~.~~ while protecting existing ecological functions and processes.	This 'locally tailored' SED appears to be a primarily timber/forest practices-focused version of the WAC's Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED. **Ch 11 Definition 109. Low intensity land use** means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts. **1. Criteria** – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs. The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency: **a.** Natural resource areas are different than natural areas; **b.** Low density/intensity, water-oriented uses **f.** Recreational , historic, cultural **g.** Low intensity water-dependent uses in LAMIRDs Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS			
11.	**3.2.1 Aquaculture - Policies**	8. The County recognizes that potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and the technology associated with some forms of existing aquaculture is still in its formative stages, and that these factors necessitate some latitude in the development of this use and its potential impacts. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.

Staff Discussion Draft

12.	**3.2.2 Aquaculture Regulations - General**	15. Where aquaculture use and development are authorized to use ~~public~~ county facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Response to Comments (R2C) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
13.	**3.2.2 Aquaculture Regulations - General**	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in R2C Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
14.	**3.2.5 Aquaculture – Application Requirements**	5. An application for commercial geoduck aquaculture shall include: … n. Whether the site contains existing public access to publicly-owned lands and any recommendations from WDNR or other landowning agencies regarding protection of the existing public access; and …	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.iv.L.XII).
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
15.	**7.3 General Critical Areas Regulations**	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. …	For internal consistency this list should also include Terrestrial Habitat Conservation Areas.
16.	**7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards**	**2.** New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. **3.** New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse	Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSA aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

Staff Discussion

		impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. **4.** The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to: …	
17.	**7.14 Regulations – Geologically Hazardous Areas Protection Standards**	**10. Channel Migration Zone Protection Standards:** … **b. CMZ Checklist and Review.** Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: … ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public; iii. Review whether any significant channel movement has occurred between available County aerial ~~orthophoto data layers since Year 2000~~ photo series spanning at least 50 years where available; … **c. CMZ Assessment Report.** If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following: … … ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least 50 years where available; and other available information. …	County suggested revisions to address issues raised by Futurewise comments in R2C Item #100. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
18.	**8.3 Regulations – General Mitigation Requirements**	**3.** The Administrator shall require compensatory mitigation for development proposals that: **a.** Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or **b.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of	County suggested revisions to address issues raised by Futurewise comments in R2C Item #103. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.

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		shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or **c.** Result in measureable ~~damage~~ adverse impacts , loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.	
19.	**10.2.5 Exemptions from SSDP**	**11.** No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d)~~.~~ , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.	**WAC 173-27-040(2.d):** Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency; Ecology recommends revision for clarity & to aid the reader during implementation
CHAPTER 11 DEFINITIONS			
20.	**11**	Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute/rule, the RCW and WAC definitions shall prevail.	Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.
21.	**11.A**	16. **Agricultural land** means those specific land areas on which agriculture activities are conducted ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program~~. 17. **Agricultural products** means to includes, but is not limited to, horticultural, viticultural, … … poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~	As written, the added text is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture: • Regulation #4 addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 addresses upland finfish aquaculture. Ecology recommends text revisions for improved consistency with RCW 90.58.065.

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22.	**11.A**	**25. Aquatic Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ 365-190-130(~~21~~) that occur in the water.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.
23.	**11.C**	**81. Critical freshwater habitats** includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(31~~29~~), have a primary association.	Incorrect WAC citation, should be -020(31)
24.	**11.D**	**89. Development** or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.	See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items
25.	**11.F**	**132. Floodway** means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.	**RCW 90.58.030(2.b): "Floodway" means the area, as identified in a master program, that** either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state; Ecology recommends revision for consistency with SMA. See also Periodic Review Checklist #2007.a
26.	**11.T**	**331. Terrestrial Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC 365 ~~395~~-190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.

Staff Discussion Draft

27.	**Exhibit A. Shoreline Environment Designation (SED) Maps**	**Map 2 -** Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	County suggested revisions to address issues raised by USFWS comments in R2C Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
28.	**Exhibit A. SED Maps**	**Map 2 –** Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS what how this block of USFWS owned land should be referenced on the map.	County suggested revisions to address issues raised by USFWS comments in R2C Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
29.	**Exhibit A. SED Maps**	**Map 7 –** Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	County suggested revisions to address issues raised by USFWS comments in R2C Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
30.	**Exhibit A. SED Maps**	**Map 7 -** Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in R2C Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
31.	**Exhibit B. Shoreline Checklist & Statement of Exemption Form**		This Exhibit B checklist/exemption form is referenced at three locations in the SMP: **8. Mitigation & NNL** Note: … The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met. **8.2 Policies** 4. The County should use a ~~the~~ checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. **10.2.5 Exemptions from SSDP:** **#9.** All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

Staff Discussion

			Will the County final-adopt/codify the user Notes at each Chapter beginning? Does the County intent to final adopt/codify the checklist/exemption form itself? Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Also consider renaming the form for brevity, clarity, and to avoid confusion with two existing submittal Checklist forms required by Ecology.

Staff Discussion Draft

SHB- 2550 Net Ecological gain DH Markup May 12, 2020

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. Inconsistent with proposed text Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360. OK - But which month is correct?
2.	**1.5 SMP Goals**	5. To accommodate and give ~~priority~~ preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020 and WAC 173-26-241(3.j)	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity. OK But I would add the WAC
3.	**2.3 Aquatic Designation**	3. Management Policies i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised), and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of ORMA. The applicability of this provision needs to be clarified to include both shoreline development and activities considered as "new use & development" by the MSP to ensure proper implementation. Ecology requires text revisions for clarity and for improved consistency with the 2018 MSP, and for internal consistency. See also related edits to 1.4 above and 5.6 below. OK

* Conditional Approval like Jefferson?

4.	**3.6.2 Parking - Regulations**	**2.** Parking as a primary use shall be prohibited in all shoreline designations,~~except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~ **4.** Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.	**2.** Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2. **4.** Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy. P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10. **Use/Development/Modification** | **Aquatic – Straits[1]** | **Aquatic – Pacific Ocean[1]** | **Marine Waterfront** | **Shoreline Residential - Intensive** | **Shoreline Residential - Conservancy** | **Resource Conservancy** | **Natural** **Parking: (see Section 3.6)** | | | | | | | | As a primary use | X | X | X/C[11] | X | X | X | X Accessory to a permitted use | X | X | P | P | C | C | X Public disabled parking | X | X | P | P | P | C | C
5.	**4.2.4 Regulations – Piers, Docks, Floats, Non-residential**	1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that: a. The dock/pier/float is required to accommodate a water-dependent use or public access; and b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.	**WAC 173-26-231(3.b) Piers and docks.** New piers and docks shall be allowed only for water-dependent uses or public access.
6.	**5.2.2 Clearing, Grading, Filling –**	**Regulations** 2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, ~~and carried out~~ in a manner that: a. Minimizes land disturbance to the minimum necessary for the intended development; and b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and c. Includes plans to revegetate or otherwise stabilize areas of exposed soil	**WAC 173-26-231(3.c) Fill.** Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

		following construction; and d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place. ;and g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.	We will need an expert for this.
7.	**5.3.2 Public Access – Regulations**	2. Multi-family residential use and sSubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: …	**WAC 173-26-241(3.j.A):** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter OK
8.	Waiting on Ecology for Guidance on this **5.6 Ocean Management** Ask them what the Timing IS	Ecology has not finalized Guidance on This 5.6 Ocean Management … Gafting Issue	The SMP includes a vision statement and management policies regarding the Marine Spatial Plan but also needs provisions to implement the MSP. Add a new section for consistency with **WAC 173-26-360** and ORMA. The SMP needs to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses. Ecology is currently finalizing guidance on approaches to incorporating ORMA and MSP requirements into SMPs and will make this available to the County as soon as it's ready. WHEN?
9.	We will NOT Agree **6.3 General Shoreline Buffer & Vegetation Requirements**	**6.** Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. … Where is the ordinary High Water Mark measurement on Lake Sutherland? **Table 6-1 Shoreline Buffer Widths**	Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35' buffer at Lake Sutherland. NO Ecology has concern that the uniform 35' buffer on Lake Sutherland is not fully supported by the record for the entire lake shoreline. Parcels with existing residential development that propose enlargement would be subject to Chapter 5.1 standards. An additional concern is whether it's appropriate for all

Quinault case
ORMA applies to out-of-water fossil fuel projects
Ecology had interpretation in-water activities

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		<table><tr><th rowspan="2">Shoreline Environment Designation</th><th colspan="3">Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark—OHWM)</th></tr><tr><th>Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line</th><th>Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line</th><th>Major New Development, including all Land Divisions</th></tr><tr><td>Marine Waterfront</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Intensive</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Conservancy</td><td>100 feet</td><td>125 feet</td><td>150 feet</td></tr><tr><td>Resource Conservancy</td><td>150 feet</td><td>150 feet</td><td>150 feet</td></tr><tr><td>Natural</td><td>175 feet</td><td>175 feet</td><td>175 feet</td></tr></table> In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply. Footnote 2. Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.	shorelines of the lake to be designated Shoreline Residential-Intensive when Shoreline Residential-Conservancy may be more appropriate in some locations, based on SMP 2.6 and 2.7 designation criteria and current conditions. Further discussion with the County regarding changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 5.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15. See also Periodic Checklist #2017.g Nonconforming Uses & Development.
10.	**7.6 Regulations - Wetland Protection Standards**	**1.** ~~New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:~~ ~~a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact.~~ ~~b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:~~ ~~i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and~~ ~~ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.~~ ~~c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation~~	As presented, Regulation #1.a – g allow impacts based on wetland category and are not consistent with WAC 173-26-221 Use of scientific and technical information, WAC 173-26-201(2)(c) Protection of ecological functions of the shorelines, and WAC 173-26-221(2.c.i.C) Alterations to wetlands. Wetlands within the shoreline jurisdiction contribute to the shoreline ecological function, as such all wetland (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size. All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision. Even in situations where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions. Ecology requires revision to delete the proposed Regulation #1.a – g and

		~~for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~ ~~d. The use or development is specifically allowed by this Program.~~ ~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~ ~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~ ~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~ The following shoreline use and development activities in or near regulated wetlands shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function: a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater; c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table; d. The driving of pilings; e. The placing of obstructions; f. The construction, reconstruction, demolition, or expansion of any structure; g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or i. Activities reducing the functions of buffers.	replace with inserted text consistent with WAC 173-26-221(2.c.i.A).
11.	**7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas**	**1. Designation:** Class I Terrestrial Habitat Conservation Areas shall include the following: a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens. ~~b. Critical saltwater habitats.~~	As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c). Ecology required revision to correct this error.

12.	**10.1 Administrative Authority and Responsibility**	1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: … … d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, including formal written interpretations in consultation with Ecology per WAC 173-26-140;	**WAC 173-26-140:** As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
13.	**10.2.9 Permit Revisions**	3. "Within the scope and intent of the original permit" means all of the following: a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less; …	This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent. **WAC 173-27-100(2):** "Within the scope and intent of the original permit" means all of the following: (a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; …
14.	**11.A**	**4. Accessory use** means any legally established use ~~or structure which is necessary for the full use and enjoyment of the primary use of the property,~~ that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use. ~~Appurtenant structures~~ **Appurtenance** means ~~a structure that is necessarily~~ connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading.	Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance. Appurtenance is not defined but used in the SMP at: **4.6.5(2.c) New/Expanded Stabilization** that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)' Revision required for internal consistency and consistency with WAC 173-27-040(2.g).
15.	**11.F**	**121. Fill** means the addition of ~~solid or semi-solid material such as~~ soil, sand, rock, gravel, sediment, ~~wood chips, mining overburden,~~ earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.

16.	**11.G**	**144. Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including stripping, cutting, filling, or stockpiling earth to create new grade.	**WAC 173-26-020(22): "Grading"** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land. OK
17.	**11.H**	**158. Height** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~**building** means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~	**WAC 173-27-030(9): "Height"** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
18.	**11.P**	**230. Parties of record** means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~	**WAC 173-27-030(12): "Party of record"** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail; not limited to
19.	**11.R**	**266. Recreational development** means ~~development that include~~ commercial and public facilities designed and used to provide recreational opportunities to the public. ~~but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~ **267. Recreational use** means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.	**WAC 173-26-241(3.i): Recreational development** includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Ecology requires revision for consistency with WAC and RCW 90.58.020(7). Disagree Ecology to broader is too limited

20.	**11.R**	**270. Residential development** means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.	SMP does not contain a definition for 'dwelling unit'. OK **WAC 173-26-241(3.j): Residential development** - Single-family residences ... Residential development also includes multifamily development and the creation of new residential lots through land division. Ecology requires revision for internal consistency and consistency with WAC.
21.	**11.S**	**307. Shorelines of statewide significance** with respect to Clallam County are identified as follows: a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands. ~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~ c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets. d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide. e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more. f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.	#307.b does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County. **RCW 90.58.030(2.f):** (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows: (A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay Ecology requires revision to correct this error. Can't this ever be Amended. Any areas designated under RCW 90.58.030 OK
22.	**11.S**	Let's just adopt the WAC definition in its entirety **313. Single-family residence** means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). ~~Accessory uses~~ Appurtenances include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	**WAC 173-27-040(2.g): "Single-family residence"** means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. OK

~~AA~~ Do we need a New baseline

for NNL since

baseline levels occurred

in 2012 ? 8 years

Ago ??

~~① Chapter 1.12 Limitations and Disclaimer~~
② Chapter 3-1 include notion of stormwater management regulation

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
2.	**1.5 SMP Goals**	5. To accommodate and give ~~priority~~ preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
3.	**2.3 Aquatic Designation**	3. Management Policies i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised), and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of ORMA. The applicability of this provision needs to be clarified to include both shoreline development and activities considered as "new use & development" by the MSP to ensure proper implementation. Ecology requires text revisions for clarity and for improved consistency with the 2018 MSP, and for internal consistency. See also related edits to 1.4 above and 5.6 below.

<table>
<tr>
<td>4.</td>
<td>3.6.2 Parking - Regulations</td>
<td>2. Parking as a primary use shall be prohibited in all shoreline designations, ~~except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~

4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.

This means parking lots (only) that are not accessory to other uses.</td>
<td>2. Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2.

4. Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy.

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10.
<table>
<tr><th>Use/Development/ Modification</th><th>Aquatic – Straits[1]</th><th>Aquatic – Pacific Ocean[1]</th><th>Marine Waterfront</th><th>Shoreline Residential - Intensive</th><th>Shoreline Residential - Conservancy</th><th>Resource Conservancy</th><th>Natural</th></tr>
<tr><td>Parking: (see Section 3.6)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
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<tr><td>Public disabled parking</td><td>X</td><td>X</td><td>P</td><td>P</td><td>P</td><td>C</td><td>C</td></tr>
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<td>5.</td>
<td>4.2.4 Regulations – Piers, Docks, Floats, Non-residential</td>
<td>1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:
a. The dock/pier/float is required to accommodate a water-dependent use or public access; and
b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.</td>
<td>WAC 173-26-231(3.b) Piers and docks. New piers and docks shall be allowed only for water-dependent uses or public access.</td>
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<td>5.2.2 Clearing, Grading, Filling –</td>
<td>Regulations
2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, and carried out in a manner that:
a. Minimizes land disturbance to the minimum necessary for the intended development; and
b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and
c. Includes plans to revegetate or otherwise stabilize areas of exposed soil</td>
<td>WAC 173-26-231(3.c) Fill. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.</td>
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		following construction; and d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place. ;and g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.	
7.	**5.3.2 Public Access – Regulations**	2. Multi-family residential use and sSubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: …	**WAC 173-26-241(3.j.A):** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter
8.	5.6 Ocean Management	5.6 Ocean Management …	The SMP includes a vision statement and management policies regarding the Marine Spatial Plan but also needs provisions to implement the MSP. Add a new section for consistency with WAC 173-26-360 and ORMA. The SMP needs to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses. Ecology is currently finalizing guidance on approaches to incorporating ORMA and MSP requirements into SMPs and will make this available to the County as soon as it's ready.
9.	**6.3 General Shoreline Buffer & Vegetation Requirements**	**6.** Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. … **Table 6-1 Shoreline Buffer Widths**	Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35' buffer at Lake Sutherland. Ecology has concern that the uniform 35' buffer on Lake Sutherland is not fully supported by the record for the entire lake shoreline. Parcels with existing residential development that propose enlargement would be subject to Chapter 5.1 standards. An additional concern is whether it's appropriate for all

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[1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply.

Footnote 2. Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.
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Further discussion with the County regarding changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 6.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15. See also Periodic Checklist #2017.g Nonconforming Uses & Development.</td>
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Wetlands within the shoreline jurisdiction contribute to the shoreline ecological function, as such all wetland (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size.

All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision.

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		~~for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~ ~~d. The use or development is specifically allowed by this Program.~~ ~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~ ~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~ ~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~ The following shoreline use and development activities in or near regulated wetlands shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function: a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater; c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table; d. The driving of pilings; e. The placing of obstructions; f. The construction, reconstruction, demolition, or expansion of any structure; g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or i. Activities reducing the functions of buffers.	replace with inserted text consistent with WAC 173-26-221(2.c.i.A).
11.	**7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas**	**1. Designation:** Class I Terrestrial Habitat Conservation Areas shall include the following: a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens. ~~b. Critical saltwater habitats.~~	As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c). Ecology required revision to correct this error.

12.	**10.1 Administrative Authority and Responsibility**	1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: ... ... d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, ~~including~~ formal written interpretations in consultation with Ecology per WAC 173-26-140;	**WAC 173-26-140:** As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
13.	**10.2.9 Permit Revisions**	3. "Within the scope and intent of the original permit" means all of the following: a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less; ...	This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent. **WAC 173-27-100(2):** "Within the scope and intent of the original permit" means all of the following: (a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; ...
14.	**11.A**	**4. Accessory use** means any legally established use ~~or structure which is necessary for the full use and enjoyment of the primary use of the property,~~ that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use. **Appurtenance** means a structure that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield, and grading.	Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance. Appurtenance is not defined but used in the SMP at: **4.6.5(2.c) New/Expanded Stabilization** that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)' Revision required for internal consistency and consistency with WAC 173-27-040(2.g).
15.	**11.F**	**121. Fill** means the addition of ~~solid or semi-solid material such as~~ soil, sand, rock, gravel, sediment, ~~wood chips, mining overburden,~~ earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.

16.	**11.G**	**144. Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including stripping, cutting, filling, or stockpiling earth to create new grade.	**WAC 173-26-020(22): "Grading"** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
17.	YES **11.H**	**158. Height** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~**building** means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~	**WAC 173-27-030(9): "Height"** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
18.	**11.P** NO Petitions UNLESS address IS provided	**230. Parties of record** means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~	**WAC 173-27-030(12): "Party of record"** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;
19.	**11.R**	**266. Recreational development** means ~~development that include~~ commercial and public facilities designed and used to provide recreational opportunities to the public. ~~but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~ **267. Recreational use** means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.	**WAC 173-26-241(3.i): Recreational development** includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Ecology requires revision for consistency with WAC and RCW 90.58.020(7).

20.	**11.R**	**270. Residential development** means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.	SMP does not contain a definition for 'dwelling unit'. **WAC 173-26-241(3.j): Residential development** - Single-family residences ... Residential development also includes multifamily development and the creation of new residential lots through land division. Ecology requires revision for internal consistency and consistency with WAC.
21.	**11.S**	**307. Shorelines of statewide significance** with respect to Clallam County are identified as follows: a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands. ~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~ c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets. d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide. e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more. f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.	#307.b does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County. **RCW 90.58.030(2.f):** (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows: (A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay Ecology requires revision to correct this error.
22.	**11.S**	**313. Single-family residence** means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). ~~Accessory uses~~ Appurtenances include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	**WAC 173-27-040(2.g): "Single-family residence"** means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

			Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.
23.	**11.W**	**351. Water-dependent use** means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a ~~preferred~~ priority use of shorelines of the state (RCW 90.58.020).	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
24.	**Missing**	**Exhibit C** - List of SMP Waterbodies...	WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. Typically the list will include all waterbodies covered by the SMP, freshwater and marine. Ecology requires revisions to add this list to the SMP, proposed as a new Exhibit C. The Table of Contents would also need revision to reflect this change. See also Periodic Review Checklist #2007.b This item also identified by S. Gray Feb '19 email re: PR items.

The following changes are recommended to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**Cover Page**	Note: This Clallam County Shoreline Master Program (SMP) ~~is intended to~~ update<u>s</u> and replace<u>s</u>: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has <u>completed</u> the process ~~of~~ <u>for a comprehensive</u> updat<u>e</u> ~~ing~~ <u>and periodic review of</u> the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~ <u>All amendments</u> to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review~~. …	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP. OK
CHAPTER 1 INTRODUCTION & OVERVIEW			
2.	**General**	…the <u>most current, accurate, complete, available and applicable</u> ~~best available~~ science…	**Global Change** - 'Best available science' (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern". OK Ecology recommends the County consider scrubbing the document to replace "best available" with the SMA terminology (i.e. "most current, accurate, complete available information"), including the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).
3.	**1.1 Background Information**	Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally <u>approve</u> ~~adopt~~ the SMP on <u>October 30, 2018</u> ~~(Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to~~ <u>After</u> the Department of Ecology ~~for~~ state review <u>and approval, the BOCC adopted the final SMP by ordinance</u> (Ordinance No. ~~[[insert ###-###]]) and subject to additional public review~~. <u>This SMP is effective as of [[*insert date upon ECY final action*]].</u>	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP. OK How if conditional Approval ? Different Process
4.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, <u>including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan</u>	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. OK

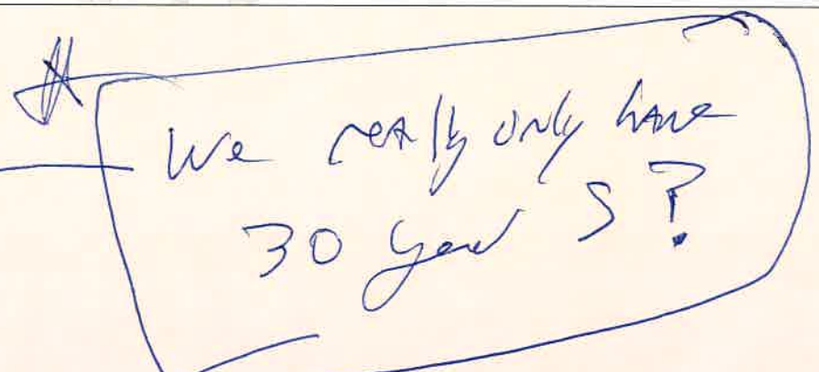
or date BD approves SMP with Ecology's required conditions

		was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360. OK
5.	**1.5 Shoreline Master Program Goals**	10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.	WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses. Ecology recommends revision to improve accuracy and clarity. Confirm that WAC says this
6.	**1.7 Exceptions to Applicability**	1. This Program shall not apply to: a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. 2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process,	WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation. Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners. See also Periodic Review Checklist #2017.c This item also identified by S. Gray Feb '19 email re: PR items. Confirm that WAC says this

		pursuant to chapter 80.50 RCW.	
7.	**1.10 Authority**	**3.** Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure: a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC. b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable. c. That the Program reflects any changes in local circumstance, new information or improved data. **4.** The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.	check – if WAC says this then revise WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including 'changing local circumstance, new information or improved data' and the two presented as written. Ecology recommends text revisions to add the third required category for clarity.
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
8.	**2. Shoreline Environment Designations**	2.1 Basis of the Designations … 4. Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront. 2.4 Natural Designation; 1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark…	**Global Change** - This statement about Figure 2-2 photographs is repeated for each SED at §2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers. Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at: 2.5 Resource Conservancy Designation; OK 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation And we suggest moving the deleted text to SMP 2.1 as a new #4.
9.	**2.4 Natural Designation**	1. Criteria: …The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics: …	review WAC / Mgmt Policies to consider language Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).

10.	**2.5 Resource Conservancy**	**1. Criteria:** … The Resource Conservancy designation is ~~applied to~~ shoreline areas landward of the ordinary high water mark located outside a UGA, within or bordering forest lands of long-term commercial significance ~~designated under~~ the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics: a. Typically associated with large, contiguous blocks of forest lands and natural resource areas; b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments; c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices; d. Minimal constraints to overbank flooding and/or channel migration; or e. Forest fragmentation or conversion of forest cover to other land cover types is minimal. f. High recreational value or unique historic or cultural resources. g. LAMIRDs with low-intensity water-dependent uses. **2. Purpose:** The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or low-intensity ~~outdoor recreational use~~ while protecting existing ecological functions and processes.	This 'locally tailored' SED appears to be a primarily timber/forest practices-focused version of the WAC's Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED. **Ch 11 Definition 109. Low intensity land use** means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts. **1. Criteria** – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs. The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency: **a.** Natural resource areas are different than natural areas; **b.** Low density/intensity, water-oriented uses **f.** Recreational , historic, cultural **g.** Low intensity water-dependent uses in LAMIRDs Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS			
11.	**3.2.1 Aquaculture - Policies**	8. The County recognizes that potential locations for aquaculture ~~are relatively restricted~~ due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and the technology associated with some forms of existing aquaculture is still in its formative stages, ~~and that~~ these factors necessitate some latitude in the development of this use ~~and~~ its potential impacts. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.

12.	**3.2.2 Aquaculture Regulations - General**	15. Where aquaculture use and development are authorized to use ~~public~~ county facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Response to Comments (R2C) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
13.	**3.2.2 Aquaculture Regulations - General**	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in R2C Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
14.	**3.2.5 Aquaculture – Application Requirements**	5. An application for commercial geoduck aquaculture shall include: ... n. Whether the site contains existing public access to publicly-owned lands and any recommendations from WDNR or other landowning agencies regarding protection of the existing public access; and ...	Ecology recommends text revisions for improved consistency with WAC 173-26-~~241(3.b.iv)~~ L.XII).
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
15.	**7.3 General Critical Areas Regulations**	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. ...	For internal consistency this list should also include Terrestrial Habitat Conservation Areas.
16.	**7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards**	**2.** New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. **3.** New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse	Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSA aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

		impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. **4.** The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to: ...	
17.	**7.14 Regulations – Geologically Hazardous Areas Protection Standards**	**10. Channel Migration Zone Protection Standards:** ... **b. CMZ Checklist and Review.** Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: ... ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public; iii. Review whether any significant channel movement has occurred between available County aerial ~~orthophoto data layers since Year 2000~~ photo series spanning at least 50 years where available; ... **c. CMZ Assessment Report.** If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following: ... ... ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least ~~50~~ 30 years where available; and other available information. ...	 County suggested revisions to address issues raised by Futurewise comments in R2C Item #100. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
18.	**8.3 Regulations – General Mitigation Requirements**	**3.** The Administrator shall require compensatory mitigation for development proposals that: **a.** Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or **b.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of	County suggested revisions to address issues raised by Futurewise comments in R2C Item #103. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.

		shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or **c.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.	
19.	**10.2.5 Exemptions from SSDP**	**11.** No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d)~~.~~ , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.	**WAC 173-27-040(2.d):** Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency; Ecology recommends revision for clarity & to aid the reader during implementation
CHAPTER 11 DEFINITIONS			
20.	**11**	Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute/rule, the RCW and WAC definitions shall prevail.	Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.
21.	**11.A**	16. **Agricultural land** means those specific land areas on which agriculture activities are conducted ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.~~ 17. **Agricultural products** means to includes, but is not limited to, horticultural, viticultural, … … poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~	As written, the added text is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture: • Regulation #4 addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 addresses upland finfish aquaculture. Ecology recommends text revisions for improved consistency with RCW 90.58.065.

22.	**11.A**	**25. Aquatic Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ 365 ~~-~~190-130(~~2~~1~~)~~ that occur in the water.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130. OK
23.	**11.C**	**81. Critical freshwater habitats** includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020 (31~~29)~~, have a primary association.	Incorrect WAC citation, should be -020(31) OK
24.	**11.D**	**89. Development** or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.	OK See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items
25.	**11.F**	**132. Floodway** means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. OK	**RCW 90.58.030(2.b): "Floodway" means the area, as identified in a master program, that** either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state; Ecology recommends revision for consistency with SMA. See also Periodic Review Checklist #2007.a
26.	**11.T**	**331. Terrestrial Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC 365 ~~395~~ -190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130. OK

Staff Discussion Draft

27.	**Exhibit A. Shoreline Environment Designation (SED) Maps**	**Map 2 -** Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	County suggested revisions to address issues raised by USFWS comments in R2C Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
28.	**Exhibit A. SED Maps**	**Map 2 –** Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS what how this block of USFWS owned land should be referenced on the map.	County suggested revisions to address issues raised by USFWS comments in R2C Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
29.	**Exhibit A. SED Maps**	**Map 7 –** Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	County suggested revisions to address issues raised by USFWS comments in R2C Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
30.	**Exhibit A. SED Maps**	**Map 7 -** Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in R2C Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
31.	**Exhibit B. Shoreline Checklist & Statement of Exemption Form**	Ecology provides the stream data for streams with over 20 cubic ft per second mean annual flow [Chapter 5 Ecology SMP Handbook pg 5] when did Ecology provide this to Clallam County?	This Exhibit B checklist/exemption form is referenced at three locations in the SMP: **8. Mitigation & NNL** Note: … The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a ~~draft approach and strategy~~ (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met. **8.2 Policies** 4. The County should use a ~~the~~ checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. **10.2.5 Exemptions from SSDP:** **#9.** All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

Staff discussion

		OK	Will the County final-adopt/codify the user Notes at each Chapter beginning? Does the County intent to final adopt/codify the checklist/exemption form itself? Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Also consider renaming the form for brevity, clarity, and to avoid confusion with two existing submittal Checklist forms required by Ecology.

Staff Discussion Draft

The following changes are recommended to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**Cover Page**	Note: This Clallam County Shoreline Master Program (SMP) ~~is intended to~~ updates and replaces: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has completed the process ~~of~~ for a comprehensive update ~~ing~~ and periodic review of the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~ All amendments to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review~~. …	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
CHAPTER 1 INTRODUCTION & OVERVIEW			
2.	**General**	…the most current, accurate, complete, available and applicable ~~best available~~ science…	**Global Change** - 'Best available science' (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern". Ecology recommends the County consider scrubbing the document to replace "best available" with the SMA terminology (i.e. "most current, accurate, complete available information"), including the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).
3.	**1.1 Background Information**	Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally approve ~~adopt~~ the SMP on October 30, 2018 ~~(Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to~~ After the Department of Ecology ~~for~~ state review and approval, the BOCC adopted the final SMP by ordinance (Ordinance No. [[insert ###-###]]) ~~and subject to additional public review~~. This SMP is effective as of [[*insert date upon ECY final action*]].	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
4.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan	As related to the Ocean Resources ~~Management~~ Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018.

		was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
5.	**1.5 Shoreline Master Program Goals**	10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.	WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses. Ecology recommends revision to improve accuracy and clarity.
6.	**1.7 Exceptions to Applicability**	1. This Program shall not apply to: a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. 2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process,	WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation. Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners. See also Periodic Review Checklist #2017.c This item also identified by S. Gray Feb '19 email re: PR items.

		pursuant to chapter 80.50 RCW.	
7.	**1.10 Authority**	**3.** Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure: a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC. b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable. c. That the Program reflects any changes in local circumstance, new information or improved data. **4.** The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.	WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including 'changing local circumstance, new information or improved data' and the two presented as written. Ecology recommends text revisions to add the third required category for clarity.
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
8.	**2. Shoreline Environment Designations**	2.1 Basis of the Designations … 4. Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront. 2.4 Natural Designation; 1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark…	**Global Change** - This statement about Figure 2-2 photographs is repeated for each SED at §2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers. Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at: 2.5 Resource Conservancy Designation; 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation And we suggest moving the deleted text to SMP 2.1 as a new #4.
9.	**2.4 Natural Designation**	1. Criteria: …The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics: …	Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).

10.	**2.5 Resource Conservancy**	**1. Criteria:** … The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located outside a UGA, within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics: a. Typically associated with large, contiguous blocks of forest lands and natural resource areas; b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments; c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices; d. Minimal constraints to overbank flooding and/or channel migration; or e. Forest fragmentation or conversion of forest cover to other land cover types is minimal. f. High recreational value or unique historic or cultural resources. g. LAMIRDs with low-intensity water-dependent uses. **2. Purpose:** The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or low-intensity outdoor recreational use~~.~~ while protecting existing ecological functions and processes.	This 'locally tailored' SED appears to be a primarily timber/forest practices-focused version of the WAC's Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED. **Ch 11 Definition 109. Low intensity land use** means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts. **1. Criteria** – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs. The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency: **a.** Natural resource areas are different than natural areas; **b.** Low density/intensity, water-oriented uses **f.** Recreational , historic, cultural **g.** Low intensity water-dependent uses in LAMIRDs Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS			
11.	**3.2.1 Aquaculture - Policies**	8. The County recognizes that potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and the technology associated with some forms of existing aquaculture is still in its formative stages, and that these factors necessitate some latitude in the development of this use and its potential impacts. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.

12.	**3.2.2 Aquaculture Regulations - General**	15. Where aquaculture use and development are authorized to use ~~public~~ county facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Response to Comments (R2C) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
13.	**3.2.2 Aquaculture Regulations - General**	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in R2C Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
14.	**3.2.5 Aquaculture – Application Requirements**	5. An application for commercial geoduck aquaculture shall include: ... n. Whether the site contains existing public access to publicly-owned lands and any recommendations from WDNR or other landowning agencies regarding protection of the existing public access; and ...	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.iv.L.XII).
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
15.	**7.3 General Critical Areas Regulations**	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. ...	For internal consistency this list should also include Terrestrial Habitat Conservation Areas.
16.	**7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards**	**2.** New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. **3.** New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse	What is TSA Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSA aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

		impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. **4.** The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to: ...	
17.	**7.14 Regulations – Geologically Hazardous Areas Protection Standards**	**10. Channel Migration Zone Protection Standards:** ... **b. CMZ Checklist and Review.** Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: ... ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public; iii. Review whether any significant channel movement has occurred between available County aerial ~~orthophoto data layers since Year 2000~~ photo series spanning at least 30 years where available; (1990-1992) 30 years available on our on-line aerial photos ... **c. CMZ Assessment Report.** If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following: ... ... ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least 30 years where available; and other available information. ...	County suggested revisions to address issues raised by Futurewise comments in R2C Item #100. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
18.	**8.3 Regulations – General Mitigation Requirements**	**3.** The Administrator shall require compensatory mitigation for development proposals that: **a.** Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or **b.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of	County suggested revisions to address issues raised by Futurewise comments in R2C Item #103. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.

		shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or **c.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.	
19.	**10.2.5 Exemptions from SSDP**	**11.** No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d)~~.~~ , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.	**WAC 173-27-040(2.d):** Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency; Ecology recommends revision for clarity & to aid the reader during implementation
CHAPTER 11 DEFINITIONS			
20.	**11**	Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute/rule, the RCW and WAC definitions shall prevail.	Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.
21.	**11.A**	16. **Agricultural land** means those specific land areas on which agriculture activities are conducted ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program~~. 17. **Agricultural products** means to includes, but is not limited to, horticultural, viticultural, … … poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~	As written, the added text is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture: • Regulation #4 addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 addresses upland finfish aquaculture. Ecology recommends text revisions for improved consistency with RCW 90.58.065.

22.	**11.A**	**25. Aquatic Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ 365-190-130(~~21~~) that occur in the water.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.
23.	**11.C**	**81. Critical freshwater habitats** includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(~~3129~~), have a primary association.	Incorrect WAC citation, should be -020(31)
24.	**11.D**	**89. Development** or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.	See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items
25.	**11.F**	**132. Floodway** means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.	**RCW 90.58.030(2.b): "Floodway" means the area, as identified in a master program, that** either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state; Ecology recommends revision for consistency with SMA. See also Periodic Review Checklist #2007.a
26.	**11.T**	**331. Terrestrial Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC 365 ~~395~~-190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.

Staff Discussion Draft

27.	**Exhibit A. Shoreline Environment Designation (SED) Maps**	**Map 2** - Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	County suggested revisions to address issues raised by USFWS comments in R2C Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
28.	**Exhibit A. SED Maps**	**Map 2 –** Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS what how this block of USFWS owned land should be referenced on the map.	County suggested revisions to address issues raised by USFWS comments in R2C Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
29.	**Exhibit A. SED Maps**	**Map 7 –** Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	County suggested revisions to address issues raised by USFWS comments in R2C Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
30.	**Exhibit A. SED Maps**	**Map 7** - Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in R2C Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
31.	**Exhibit B. Shoreline Checklist & Statement of Exemption Form**		This Exhibit B checklist/exemption form is referenced at three locations in the SMP: **8. Mitigation & NNL** Note: … The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met. **8.2 Policies** 4. The County should use a ~~the~~ checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. **10.2.5 Exemptions from SSDP:** **#9.** All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

Staff Discussion

			Will the County final-adopt/codify the user Notes at each Chapter beginning? Does the County intent to final adopt/codify the checklist/exemption form itself? Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Also consider renaming the form for brevity, clarity, and to avoid confusion with two existing submittal Checklist forms required by Ecology.

Staff Discussion Draft

DFT markup May 12, 2020

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Coastal Region • Region 6 • 48 Devonshire Road, Montesano, WA 98563-9618
Telephone: (360) 249-4628 • Fax: (360) 249-1229

April 17, 2020

Michelle McConnell
WA Dept. of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

SUBJECT: WDFW ADDITIONAL CLARIFICATIONS AND TECHNICAL DETAILS TO DEPARTMENT OF ECOLOGY ON PROPOSED CLALLAM COUNTY SHORELINE MASTER PROGRAM COMPREHENSIVE UPDATE

Dear Ms. McConnell,

Thank you for welcoming additional collaboration on the Shoreline Master Program (SMP) Comprehensive Update for Clallam County (the County). The Washington Department of Fish and Wildlife (WDFW) applauds the commitment by the Department of Ecology (Ecology), the County, and stakeholders to craft an updated SMP for the County reflective of our shared responsibility of durable land use planning, for which the perpetuation of natural resources is fundamental.

Indian Creek, as a tributary of the Elwha River, was historically part of a thriving ecosystem that proved to be an ideal habitat for anadromous fish. Construction began on the Elwha Dam in 1910, downstream of the Indian Creek confluence with the Elwha River. The dam failed in 1912 and reconstruction was complete in 1913, blocking migration of salmon upstream and disrupting the flow of sediment and wood downstream. The Elwha River Ecosystem and Fisheries Restoration Act, passed by the U.S. Congress and was signed by President Clinton in 1992, authorizing dam removal to restore the ecosystem. The Elwha Dam removal was complete in 2012 and two years later the Glines Canyon Dam was removed, finalizing the largest dam removal project in U.S. history.

The Elwha River and its tributaries, including Indian Creek downstream of US 101, now flows freely from the headwaters to the Strait of Juan de Fuca. Since the dams were removed, anadromous salmon have been observed spawning above the former dam locations. Indian Creek flows from Lake Sutherland where, for a hundred years, a population of land-locked sockeye transitioned to non-anadromous kokanee. Fisheries biologists anticipate that the kokanee currently living in Lake Sutherland will provide the source for new anadromous sockeye runs.

Is this True?

Lake Sutherland currently provides habitat for native kokanee salmon, a relic population from former anadromous sockeye salmon from the pre-dam era, a unique population of cutthroat trout that spawns near the outlet of the Lake and spawns in the fall (typically cutthroat spawn in the spring). Rainbow Trout stocking by the department ended in approximately 2012 with removal of downstream dams.

161 – 213 ft

The downstream crossing of Indian Creek between Lake Sutherland and the Elwha River, one of two water crossings on Indian Creek on State Route 101 owned by Washington State Department of Transportation (WSDOT) are not always passable for fish. The crossing is one of the most impacting in the state, by priority score, whereas the quantity and quality of habitat above the barrier that fish cannot access is ranked, it is the second highest priority to be replaced. And will be the first priority once Chimacum Creek is completed in 2020. Currently the existing crossing is scheduled to go to ad in 2021 and construction completed by 2023. The new crossing will be a bridge with an approximate 45 to 55-foot channel; that meets all requirements of the hydraulic code and fish passage injunction; to pass all fish at all times and all life stages.

Additional habitat largely unavailable to anadromous fish will soon become available with the correction of the barrier crossing. Habitat for fish resources in the lake include additional rearing for coho and steelhead juveniles in the lake as spawning adult fish use ideal habitats located just downstream of the outlet. Coho and Steelhead fry, will seek out low energy shallow areas where they can grow, avoid predation, and conserve energy. The undeveloped shallow habitat around the lake also provides woody material input, fallen trees, limbs and detritus provide shoreline complexity. This complexity can in turn reduce erosion, provide cover and a growth medium for aquatic insects. Terrestrial insects falling from the riparian around the lake provide prey for small fish, shade the shoreline helping to reduce thermal stressors, and in places improving water quality as stormwater filters through functional riparian areas.

what they WANT

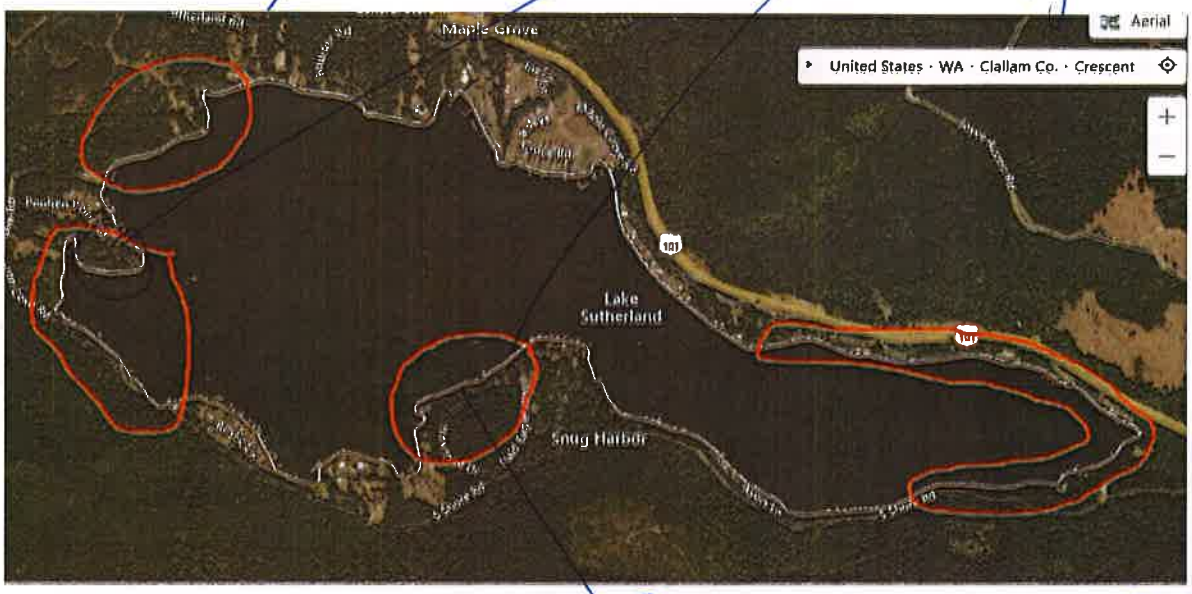
None of the shoreline functions listed above can be achieved without an appropriate vegetated buffer on Lake Sutherland. WDFW maintains that a 35-foot standard buffer width on Lake Sutherland may be insufficient to ensure that new permitted developments on the shoreline will not contribute to a net loss of ecological function necessary for fish. This existing condition set poses a considerable challenge to the recovery of the current resident listed fish species, as well as for the anadromous species that are anticipated to use the nearshore habitat of Lake Sutherland after the Highway 101 culvert downstream is corrected. At present, this fish barrier passage work is projected for 2022; therefore, it is appropriate to address anadromous fish species' habitat needs in Lake Sutherland during this present SMP Comprehensive Update. Areas along the western half of the lake and areas near the outlet of the lake still maintain some resemblances of intact riparian areas and can provide functions as described above for the current and future fish in the lake.

For streams NOT LAKES

While Lake Sutherland does have a substantial amount of existing developed shorelines, it also contains areas less developed, and areas with development and relatively intact riparian areas. The entire lake shoreline is not already intensively developed and is not deserving of a minimum 35 feet buffer. The appropriate Site Potential Tree Height (SPTH) buffer, where the ecological functions of the buffer would provide the most benefit, is 161-213 feet, depending on the location/parcel around the lake. As indicated in circled areas on the figure below, these areas, at a coarse scale, still appear to contain riparian area that is generally protective of the desired ecological functions of the SPTH buffers and would provide the functions and values described above and are more appropriate of a Residential Shoreline-Conservancy Designation similar to the outlet of the lake.

Scientific data to support this?

The standard isn't for "fish" it's a sum total game it doesn't break out different ecological functions



No Net Loss and use of Restoration to achieve NNL.

WDFW is also concerned by the SMP's characterization of restoration as a means of compensating for allowed ecological impacts. Restoration projects, by definition, are intended to result in net ecological lift when compared to the baseline condition. It is inappropriate to rely on restoration to perform the function of compensatory repair; it is not to be used to offset regulatory inabilities to meet no net loss. In addition to eroding the principle of no net loss, this misuse of the restoration tool shifts the responsibility for impact avoidance off of the project proponent causing ecological harm, and onto a surrogate. This raises significant concerns not only from an ecological perspective, but also from the vantage point of financial ethics. For this and other reasons, many restoration funding sources strictly prohibit funding from being used to mitigate impacts from development.

The County appears to be relying on restoration to help achieve no net loss (NNL) of shoreline functions as we have shown below. We firmly hold to the definition of restoration[1] as enhancement for the purpose of generating net ecological gain. In contrast, mitigation standards must be fully sufficient to ensure that each permitted development will not cause a net loss of ecological function of the shoreline, and mitigation is, by definition, a mandatory regulatory requirement, while restoration is inherently voluntary.

1. "Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020 (31))

We agree with and support the County's commitment to the sequential prioritization of impact avoidance, minimization, and compensatory mitigation. However, we hold that any impacts which cannot be avoided entirely be fully compensated to meet the principle of NNL through mitigation exclusively, as the use of restoration to meet this standard undermines both the obligation of mitigation and the efficacy of restoration to achieve the State's salmon recovery goals.

Examples in the SMP where Restoration seems to be used to address No Net Loss (NNL).-
The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved. 3.9.9 #4

No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated. Chapter 8.1

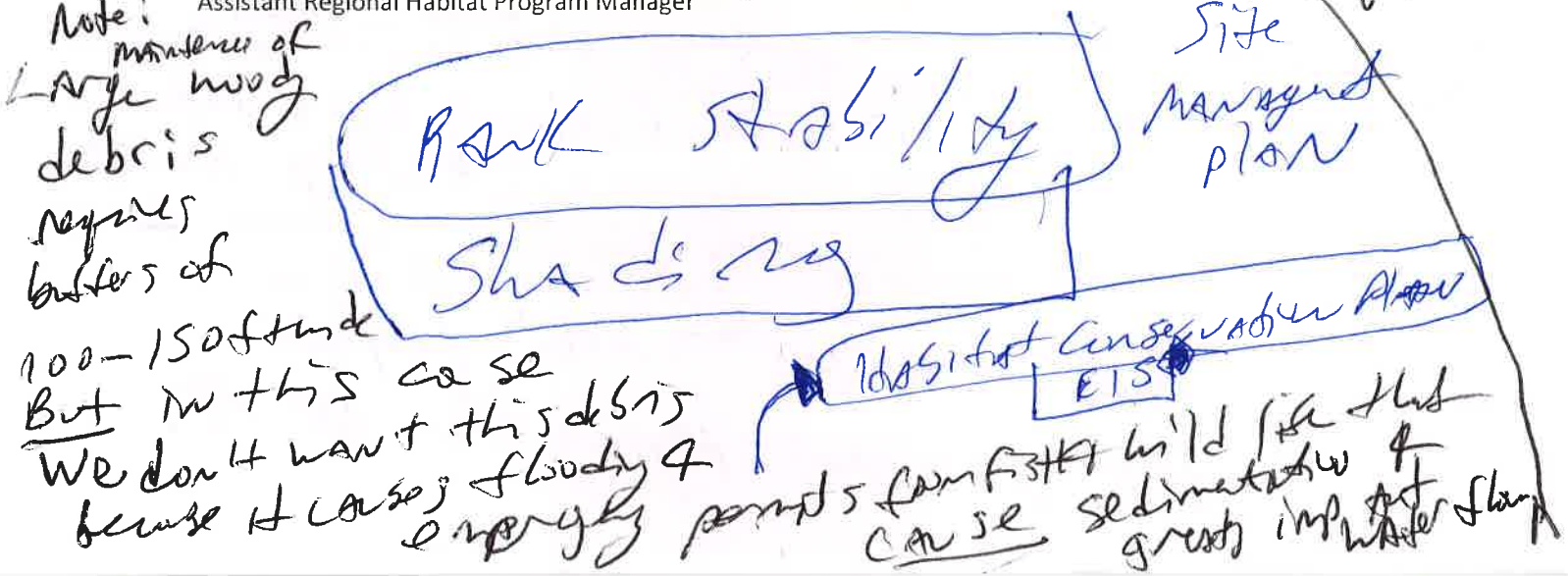
These are just a few locations of many throughout the SMP where we felt it was unclear why restoration had to be used to meet no net loss. We would ask Ecology to make a statement that restoration and impacts from violations are intended to lift above base line conditions and not make up for the loss of function that development impacts cannot fully mitigate.

In closing, WDFW appreciates Ecology's willingness to receive our additional comments outside the public comment period for this SMP Comprehensive Update. The shorelines in Clallam County play a crucial role in providing irreplaceable habitat for fish and wildlife, contributing to recreation, and protecting local communities. We look forward to arriving together at a SMP update for Clallam County that meets the State's shared goals and purpose around riparian conservation and salmon recovery. We offer our comments in a spirit of partnership and collaboration, and hope that through this continued dialogue, we have clearly highlighted our outstanding areas of concern. Our relationship with your agency is very important to us, and in deference to that relationship, I welcome any opportunity to be of assistance or to discuss these comments further. Please feel free to contact me with any questions at 360-874-7258.

Sincerely,

Chris Waldbillig

Chris Waldbillig
Assistant Regional Habitat Program Manager



18 June
3 hours

PUNCH LINE

Required / Recommended / Fish & wildlife letter

Have received Ecology Handbook guide chapter 11 & 4

Looked at the Factual Public Record

Looked at our Experts Analysis

Looked at the legal ~~[illegible]~~ implications of proposing changes [illegible]

— Spoken with the Tribe 8½ years

About ~~[illegible]~~ what can be done to help its salmon restoration project

and we believe that the way forward is not a better change but practical solution that ~~[illegible]~~ will ~~[illegible]~~ solve ~~[illegible]~~ real things go on

Pitch: Law, Facts, and Relevant Science

Focus on

What Does Ecology Instruct The County Ecology Handbook

To Consider? Chapter 11

Buffers

1. must be based on local conditions and we
2. must use the "most current, accurate and complete scientific and technical information available" for the development of the SMP buffer

Draft SMP as currently written states the Residential Development policy as "the goal of accomodating single-family residential development along shorelines should be balanced with the need to protect ecological functions and processes."

Provide facts of Expert Analysis

— Refute Fish & wildlife Letter

What Tribe told me About Interactions with Fish & wildlife

may be mention Interaction with

Signs

Energy Permits

Homeowners ASSN - Trash

Changing would raise the following

Legal Impediments for passage of the SMP

Due Process

Taking Clause under Fifth Amendment

Flooding

No net loss Assess / Help get for next periodic review

meaningful data

			Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.
23.	11.W	**351. Water-dependent use** means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a ~~preferred~~ priority use of shorelines of the state (RCW 90.58.020).	OK Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
24.	Missing	Let's TALK About What Ecology Actually Wants Exhibit C - List of SMP Waterbodies... Example from other County? Who should do this? Who has expertise to do this? Lakes 20 Ac or large Stream 20 CFS	WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. Typically the list will include all waterbodies covered by the SMP, freshwater and marine. Ecology requires revisions to add this list to the SMP, proposed as a new Exhibit C. The Table of Contents would also need revision to reflect this change. See also Periodic Review Checklist #2007.b This item also identified by S. Gray Feb '19 email re: PR items.

New maps

Periodic Review checklist must be met

MAPS

River Miles / Resignation

Timing

To TAKE

STREAMS? Not just creeks?

This is A large time-consumes undertaking

Staff Discussion Draft

From: Ballard, Greg
To: "peltonwoodin@hotmail.com"
Subject: 61 E. Bluff Drive
Date: Tuesday, May 07, 2019 12:56:34 PM
Attachments: 61 E bluff dr.pdf
Useful Shoreline Related Links 2018.doc
1. Consultantlist2018.pdf

Hi Scott nice talking with you.

Sorry for the confusion I was thinking about a different area when we were talking.

The first attachment is the Critical Area Map (to scale)

geotech CRI2008-00122

2nd attachment is useful shoreline & landslide hazard links (link 9 to coastal atlas map oblique's)

2016 Oblique

Based on looking at the parcels and the permit history, I would not recommend any vegetation placed on the face of the vertical bluff.

If you wanted to proposed it, you would have to have it addressed in a Geotechnical Report regarding vegetation management.

We would then review the Geotech with a $150 processing fee to see if we agree with the findings and recommendations of the report.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From:	Ballard, Greg
To:	"jm.berkey@comcast.net"
Subject:	191 Three Crabs Rd (APN 033130-310204)
Date:	Tuesday, November 26, 2019 10:21:45 AM
Attachments:	Useful Shoreline Related Links 2018.doc 1. Consultantlist2018.pdf VAR_APP_BUFFER_AVG.pdf

---

Nice talking with you.

Parcel & permit info
APN 033130310204

Check out link 9 to see your shoreline over time in the 1st attachment.
2016 Oblique.jpg

The link below is for 67 3 Crabs (5 parcels to west) that reduced buffer from 75 to 59.25 from wetland lagoon
Buffer Ave VAR2019-00005

The second attachment is our approved wetland consultant list (that do wetland buffer averaging)

3rd attachment is our Buffer averaging application (would have to have landowner sign, & would have to have wetland consultant answer wetland buffer averaging if not addressed in the Westech wetland report prepared for your perspective parcel).

Let me know if you have any other questions.

Thanks

Greg Ballard
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Email: gballard@co.clallam.wa.us

From:	Ballard, Greg
To:	"cbermudes@sadavis.com"
Subject:	1004 Roberson Road (APN 043005-149030)
Date:	Wednesday, October 10, 2018 2:00:48 PM
Attachments:	10 ft contour Roberson.pdf 2015 Aerial Roberson.pdf 2000 Aerial.pdf 1. Consultantlist2018.pdf Bluff Erosion.pdf Roberson Coastal Zone slope Stability Map.pdf Useful Shoreline Related Links 2018.doc

---

Nice talking with you

The parcel fronts on the Strait of Juan de Fuca and is designated landslide hazard.

I am not an engineer but based on looking at aerial photos it looks like the bluff might be eroding at ~1 ft a year, which is pretty fast for our area.

You should have a geotechnical report if you want to know for sure.

info on APN 043005149030

You can see the oblique (45 degree angle over time at the link below or at Link 9 on last attachment)
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08320.jpg

Thanks

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Subject:	1004 Roberson Road (APN 043005-149030)
Date:	Wednesday, October 10, 2018 2:00:48 PM
Attachments:	10 ft contour Roberson.pdf 2015 Aerial Roberson.pdf 2000 Aerial.pdf 1. Consultantlist2018.pdf Bluff Erosion.pdf Roberson Coastal Zone slope Stability Map.pdf Useful Shoreline Related Links 2018.doc

---

Nice talking with you

The parcel fronts on the Strait of Juan de Fuca and is designated landslide hazard.

I am not an engineer but based on looking at aerial photos it looks like the bluff might be eroding at ~1 ft a year, which is pretty fast for our area.

You should have a geotechnical report if you want to know for sure.

info on APN 043005149030

You can see the oblique (45 degree angle over time at the link below or at Link 9 on last attachment)
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08320.jpg

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
To: Uecker, Meggan
Subject: Clallam Bay/Sekiu General Waste Water Facilities Plan
Date: Monday, October 22, 2018 4:15:30 PM
Attachments: E&OGA Environmental checklist.doc

Hi Meggan, I have your SEPA Checklist.

Please provide a copy or link to the draft plan & all relevant documents because it should be available for review with the threshold.

Section D of SEPA checklist should be expanded upon (see attached example of non-project action for ag in critical areas).

Thanks

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From:	Gray, Steve
To:	"McConnell, Michelle (ECY)"
Cc:	LoPiccolo, Kevin; Winborn, Mary Ellen
Subject:	Clallam Co. Submittal of Response to Public Comments Received by Ecology
Date:	Monday, June 10, 2019 3:21:45 PM
Attachments:	Clallam_ResponsetoComments.doc Clallam_ResponsetoComments.pdf
Importance:	High

Hi Michelle,

The BOCC work session went well today. Attached is the County response to the public comment summary prepared by Ecology. I attached both WORD and .PDF formats. There were no changes made to the draft County response that was considered by the County Commissioners today that you received last-week.

Based on your earlier email today, it sounds like we should anticipate an Ecology decision on the County's SMP Update more on the order of 60 to 90 days versus 30 days due to Ecology's already very high work load. I gave the County Commissioners a heads-up to that effect today at the work session.

Please confirm receipt.

Thanks, Steve

Steve Gray
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Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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360-417-2520; sgray@co.clallam.wa.us

From: Gray, Steve
To: Jodoin, Starla
Subject: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State
Date: Friday, November 09, 2018 10:52:37 AM
Importance: High

Hi Starla,

Please send the following notice to the SMP email list. Use the same Subject header as in this email.

Please check that all hyperlinks are working before sending to email list.

Thanks, Steve

Interested Parties:

You are receiving this notice because you are on the Clallam County Shoreline Master Program (SMP) Update email notification list.

COUNTY-APPROVED SMP UPDATE: On October 30, 2018 the Board of County Commissioners adopted a Resolution to approve an updated Clallam County Shoreline Master Program (SMP) for submittal to the Washington State Department of Ecology for state review and approval.

Resolution 91 (October 30, 2018)

Clallam County Approved SMP (October 30, 2018)

NEXT STEPS—STATE REVIEW AND APPROVAL PROCESS: Under the state Shoreline Management Act, RCW 90.58, the County and Ecology share joint authority and responsibility for the update and administration of the SMP. Pursuant to RCW 90.58.090, updates to the County's SMP require approval by Ecology to be effective.

The Ecology review and approval process follows RCW 90.58.090 and WAC 173-26-120 and will include opportunities for public comment. Information on the state review process on the County-approved SMP will be provided once available from Ecology.

For more information on the County's SMP Update: Clallam County SMP Update Home Page

Steve Gray, Planning Manager
Clallam County Department of Community Development

From: Gray, Steve
To: Jodoin, Starla
Subject: Draft SMP Resolution
Date: Wednesday, October 24, 2018 3:22:12 PM
Attachments: DraftBOCC_SMPResolution.docx

Attached is the file to put in the hyperlink.

Thanks, Steve

From: Ballard, Greg
To: Lear, Cathy
Subject: flood analysis from SHR 2018-04
Date: Friday, October 19, 2018 12:18:00 PM
Attachments: Staff rpt SHR2018-04 Dungeness Levee Setback Final.doc

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Section A(10)F of Staff Report

Frequently Flooded Areas

Section 27.12.515(3)(a) CCC states "Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in more than a one-foot increase in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance."

Shannon & Wilson provided an e-mail of the flood analysis for this proposal on July 10, 2018 (Exhibit 29). This e-mail stated "The project has 138,000cy of cut (excavation of levee, channels, floodplain, roads and other fill) from within floodway and floodplain. The project has 392,000cy of fill (levee, road, trails and parking) that are along the eastern floodplain margin, where fill is allowed. The increase in fill to cut results from a longer levee and road system, and moving the Towne [R]oad out of the floodplain up onto the top of levee, and the fact that the new levee alignment is along lower ground areas than the existing levee thereby making it taller, as measured from existing ground to top of levee (note the existing to proposed top of levee elevations are similar, the adjacent ground surfaces for the proposed levee are lower making the levee taller). A formal floodway is not depicted on the FIRM Panel 530021 0365D, but floodway widths are listed in the flood study report and the existing levee and part of Towne Road (to be removed) lie within the floodway. The proposed project will like mostly outside the floodway with the exception of the connections at to the existing/remaining levees.
Removing existing levee fill results in decreases in Base flood elevations (BFEs) lower by 1.82 feet, 3.87 feet, 2.09 feet, and 0.17 feet at River Sta 6, 7 8, 9, with a minor rise of 0.02ft at Sta 5, per the effective model (1D) results along the mainstem Dungeness River. Flood elevations in the floodplain waterward of the new levee will increase in restored floodplain areas.

A minor rise is allowed in the floodway (mainstem river) by FEMA per the 2007, FEMA Memo on fish habitat enhancement (Exhibit 31). We have previously spoken with Ted Perkins, FEMA Region 10 about the variance and he indicated that a rise less than 0.05ft is acceptable.

The second aspect of the no-rise analysis uses a more robust 2D model. This model shows a rise of up to 0.4ft at the downstream River's End area. 2D models are not commonly used for rise analysis for various technical reasons, and FEMA relies on the steady state 1D modeling results for these purposes for evaluating No Rise conditions.

The rise observed in the 2D model occurs for multiple reasons. The first reason is in areas

downstream of the project site along River's End, where the County has been purchasing flood easements, there is more flood flow retained by the levee in the Dungeness River that would otherwise overtop the levee and flood the Meadowbrook Creek, Dungeness (community) and 3-Crabs areas. The project will alleviate flooding in the Meadowbrook Creek, Dungeness (community) and 3-Crabs areas. The second reason for rise upstream of the project is a function of newer modeling updates, hydrology, topography. The third reason for rise is a localized hydraulic effect at the project southwestern boundary at the Dairy to allow floodwater back into the Dungeness River floodplain. The Dairy is not allowed to develop their property in the northeastern corner of the property (where the deeper rise occurs) due to conservation language on their deed. This rise has been discussed with the Dairy and they are amenable to the project with the 75ft bridge option, to which the County has agreed.

Both the 1D and 2D modeling show that the land disturbing activities will result in minor rises less than the allowed one-foot increase in flood levels during the occurrence of the base flood discharge (CCC 27.12.515.3.a). However, for new Roads and Bridges – County Code indicates encroachments including fill are not allowed to increase base flood levels (CCC 27.12.414.7.f). This second code standard may require a variance by the County.

Overall, the project will reduce downstream flood risks along Meadowbrook, Dungeness (Community) and 3-Crabs, while removing the Towne Road from the floodplain, and improve critical (ESA listed) salmon and other fish and wildlife habitat, with minor rises expected at the Dairy and River Run areas."

Staff Comment: The applicant provided a No Rise Certification in Section 7 of the Hydraulic Analysis prepared by West Consulting (Exhibit 28) that demonstrates that the proposal will not result in a 1-foot rise at any point during the base flood discharge. This means that the floodplain cannot increase 1 foot. There can be no rise at all in the floodway per State law except a limited rise is acceptable for fish enhancement proposals (Exhibit 31). The analysis by Shannon & Wilson also included a map that showed ground depth for the pre- and post-project conditions under 100 year and high flows (Exhibit 33). This proposal meets Clallam County Flood Requirements.

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From:	Ballard, Greg
To:	"davidrunstrom@gmail.com"
Subject:	FW: 284 Schoolhouse Point Road (APN 032902-140160)
Date:	Thursday, December 13, 2018 11:06:27 AM
Attachments:	WAC 173-27-040 GB.pdf Useful Shoreline Related Links 2018.doc NOA SHR 2012-08 Schmidt Dock.pdf SHREXEMP_APP.pdf SHR 2014-07 SMP EXEMPT BUOY Sch house pt.pdf DECISION SHR 2014-05 RODGER"S BUOY.pdf

---

fyi

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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, May 29, 2018 3:38 PM
To: 'davidrunstrom@gmail.com'
Subject: 284 Schoolhouse Point Road (APN 032902-140160)

Hi David nice talking with you

Parcel Info 032902140160

In general you can make minor repairs (i.e. replace a board or two) without a shoreline permit.

Repairs & Re-construction would generally require a Shoreline Exemption Permit.

Developments that don't meet the criteria of WAC 173-27-040 (1st attachment require a Shoreline Substantial, CUP or Variance permit).

The second attachment is useful shoreline links

Item 9 gets you to the coastal zone atlas map that has 45 degree angle photos of the last 40 years (see link below).

2016 Photo

The 3rd attachment is a sample of a recent pier, ramp & float in Sequim Bay.

Please contact me if you have any questions.

Thanks

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From:	Ballard, Greg
To:	Kucipeck, Deborah
Cc:	"Jody McLean"
Subject:	FW: 363 Discovery View Drive TX #023022500790
Date:	Friday, September 20, 2019 4:24:03 PM
Attachments:	Useful Shoreline Related Links 2018.doc

Deb, this is near the RV pads we examined in Diamond Point.

Jody may come in to ask questions.

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From: Ballard, Greg
Sent: Friday, September 20, 2019 2:55 PM
To: 'Jody McLean'
Subject: RE: 363 Discovery View Drive TX #023022500790

Hi Jody,

I'll be on vacation from September 30th through Oct 7th.

There is usually someone who can answer questions from 8 to 4:30 each day.

Attached is some useful info on shoreline and slope stability.

recent BPT for parcel 7 to north 023015500050

Thanks

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From: Jody McLean [mailto:jodymclean12@yahoo.com]
Sent: Friday, September 20, 2019 1:43 PM
To: Ballard, Greg
Subject: Re: 363 Discovery View Drive TX #023022500790 (External Email: USE Caution)

Hi Greg
I was wondering if the owner and myself could meet with you some time between

9/30th and Oct. 3rd. any time on those days works for us,if you have a few minutes in your schedule. We wanted to discuss the possibilities of development on this lot and its impact with the Shoreline plan.

thank you

Jody McLean, Broker
Windermere-Sequim/East
842 E. Washington Street
Sequim, WA. 98382
sequimproperties.com
360-808-6212

From:	Ballard, Greg
To:	"stevenbean1948@gmail.com"
Subject:	FW: 442 Buckloop pruning
Date:	Friday, January 24, 2020 11:49:34 AM
Attachments:	Useful Shoreline Related Links 2018.doc image001.png

Hi Steven, we had an installed as designed report from the consultant that prepared the HMP & finaled the BPT for the residence.

I may check out the site next time I am out in the field & have provided the person interested in the property with the history and requirements of the BPT.

Thanks

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From: Ballard, Greg
Sent: Friday, January 17, 2020 11:56 AM
To: 'kcoleman8553@gmail.com'
Subject: RE: 442 Buckloop pruning

See attached shoreline, geology and other useful links (link 9 on attachment has coastal atlas maps 45 degree angel photos over time).

2016 oblique of your area
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08500.jpg

Plant sale taking order till Jan 27th (they have it every year)
https://clallamcd.org/plant-sale

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From: Ballard, Greg
Sent: Friday, January 17, 2020 11:37 AM
To: 'kcoleman8553@gmail.com'
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From: John Bornsworth [mailto:john@peninsulaeg.com]
Sent: Friday, October 18, 2019 2:17 PM
To: Ballard, Greg
Cc: Liz Donadio
Subject: Re: 442 Buckloop pruning (External Email: USE Caution) (External Email: USE Caution)

Greg, yes I've visited the site. Our staff planted it last Spring. It should be good unless of course it's been modified henceforth. From what my staff mentioned the silt fence appeared to be closer to the shoreline than it should be.

Cheers,

John Bornsworth | Senior Urban Forester

-- Sent from my smart phone. Please excuse any misspellings.

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Friday, October 18, 2019 10:32:51 AM
To: John Bornsworth <john@peninsulaeg.com>
Cc: Liz Donadio <liz@peninsulaeg.com>
Subject: RE: 442 Buckloop pruning (External Email: USE Caution)

Hi John, did you visit the Meier site & verify that the provisions of your HMP had been implemented?

The president of the homeowner association indicated that the vegetation had not been planted & I will be conduction a site visit today after work.

If he removed them after the finalizing of the building permit for the house we will take enforcement actions against him.

Thanks

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From: John Bornsworth [mailto:john@peninsulaeg.com]
Sent: Tuesday, September 24, 2019 9:28 AM
To: Ballard, Greg
Cc: Liz Donadio
Subject: 442 Buckloop pruning (External Email: USE Caution)

Greg, our client Don Meier at 442 Buckloop in the Panorama development wants to prune and remove a few shoreline trees. We've performed some shoreline pruning out here in the Panorama area before, and we've consulted for Don Meier on a habitat management plan and replanting his shoreline area in 2018. There are two hazard trees, then two suppressed trees down the slope I'd like removed, then we'd like to perform canopy raising (skirting), canopy reductions on some willow/alder, and windowing. See attached plan requesting approval.

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To:	"mark@sustrue.com"
Subject:	FW: 1004 Roberson Road (APN 043005-149030)
Date:	Tuesday, May 21, 2019 12:13:13 PM
Attachments:	10 ft contour Roberson.pdf 2015 Aerial Roberson.pdf 2000 Aerial.pdf 1. Consultantlist2018.pdf Bluff Erosion.pdf Roberson Coastal Zone slope Stability Map.pdf Useful Shoreline Related Links 2018.doc

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From: Ballard, Greg
Sent: Wednesday, October 10, 2018 2:01 PM
To: 'cbermudes@sadavis.com'
Subject: 1004 Roberson Road (APN 043005-149030)

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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Wednesday, October 10, 2018 2:01 PM
To: 'cbermudes@sadavis.com'
Subject: 1004 Roberson Road (APN 043005-149030)

Nice talking with you

The parcel fronts on the Strait of Juan de Fuca and is designated landslide hazard.

I am not an engineer but based on looking at aerial photos it looks like the bluff might be eroding at ~1 ft a year, which is pretty fast for our area.

You should have a geotechnical report if you want to know for sure.

info on APN 043005149030

You can see the oblique (45 degree angle over time at the link below or at Link 9 on last attachment)
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08320.jpg

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443

Email: gballard@co.clallam.wa.us

From:	Ballard, Greg
To:	"segei@lunsfordrealestate.com"
Subject:	FW: Building permit at 344 Kallman Rd.
Date:	Wednesday, October 17, 2018 2:26:50 PM
Attachments:	Kallman Road.pdf DCD approve Geotech to replace home.pdf Rix Chn Meander Sept 24 2018.pdf

---

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Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, October 16, 2018 1:07 PM
To: 'Veronica Das'
Cc: 'sergei@lunsfordrasestate.com'
Subject: RE: Building permit at 344 Kallman Rd.

Attached is some information provided previously about the above referenced parcel.

The see CRI2018-09 at link below for info on Channel Meander Hazard Report Process for a parcel approximately 0.25 miles to the south on 51 Hollow Road (attached).

The parcel at Kallman Road is more of a concern than the Hollow Rd since it is closer to the bend of the Bogachiel River to the northwest.

DCD would require a Channel Meander/Migration Report prior to authorizing any residence on this parcel.

If DCD agreed with the Channel Meander Hazard Report, you would also have to meet the flood requirements and 50 ft shoreline setback.

Please be aware that the Clallam County Shoreline Master Plan (SMP) has been approved by the Planning Commission (PC) in September 2007 and has been before the Board of County Commission since being approved by the PC. After the BOCC approves the plan it would be sent to the WA State Department of Ecology for their approval.

This parcel would be subject to the SMP requirements that are in place when a building permit is submitted & deemed complete.

If you have questions about the SMP Update please contact Steve Gray, Planning Manager at (360) 417-2520 who has been shepherding the SMP Update through the process.

Info related to building permit on Hollow Road is available at the link below.
CRI2018-00009

Documents related to this case:
A1. DCD approval of Geotech Rpt to replace existing home (DCD APPROVE GEOTECH TO REPLACE HOME)
B1 Zenovic Channel Migration Rpt Dated September 24, 2018 (RIX CHN MEANDER SEPT 24 2018)
C1. DCD request for add. info on CMZ (RIX 2018-09)
C2. Channel Migration Maps (CMZ MAPS)
C3. Channel Migration Assessment from SMP Update (CHANNEL MIGRATION ASSMNT)
C4. DCD Photos of Site (51 HOLLOW RD)

Let me know if you have any questions about our Current Shoreline & Critical Area Codes.

Thanks

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-----Original Message-----
From: Gray, Steve
Sent: Tuesday, October 16, 2018 9:02 AM
To: 'Veronica Das'
Cc: Ballard, Greg
Subject: RE: Building permit at 344 Kallman Rd. (External Email: USE Caution)

Hi Zafar,

I have asked Greg Ballard, Senior Planner, who is our lead planner on shoreline/critical area permitting to look into your question about this property.

He should get back to you soon.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager

Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

-----Original Message-----
From: Veronica Das [mailto:zafardas@hotmail.com]
Sent: Monday, October 15, 2018 10:47 AM
To: Gray, Steve
Subject: Building permit at 344 Kallman Rd. (External Email: USE Caution)

Hi Steve,
My name is Zafar and I am interested in buying the above mentioned property but I was told by Sergei Holmquist that I can not build on the lot. There is a trailer parked on the property.

Can you please tell me if it is possible to get a permit to build a 1400 square foot house on this lot.
Thank you.

Zafar Das

Sent from my iPhone

From:	Ballard, Greg
To:	"Sergei Holmquist"
Subject:	FW: Building permit at 344 Kallman Rd.
Date:	Wednesday, October 17, 2018 2:29:29 PM
Attachments:	Kallman Road.pdf DCD approve Geotech to replace home.pdf Rix Chn Meander Sept 24 2018.pdf

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Sent from my iPhone

From:	Gray, Steve
To:	Winborn, Mary Ellen
Subject:	FW: Clallam County SMP 2020 Periodic Review (External Email: USE Caution)
Date:	Monday, February 25, 2019 12:39:59 PM
Attachments:	image003.png AttB-RequiredChanges.docx AttC-RecChanges.docx

F.Y.I. See email train below regarding Ecology review of our current SMP submittal and also periodic review.

-Steve

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Thursday, February 21, 2019 12:08 PM
To: Gray, Steve
Subject: RE: Clallam County SMP 2020 Periodic Review (External Email: USE Caution)

Steve, thanks for today's chat – I think we're on track.

See attached for examples of conditional approval Attachment B Required Changes and Attachment C Recommended Changes.

More soon,



~Michelle

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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From: McConnell, Michelle (ECY)
Sent: Wednesday, February 20, 2019 9:44 AM
To: 'Gray, Steve' <SGray@co.clallam.wa.us>
Subject: RE: Clallam County SMP 2020 Periodic Review

Hi Steve,

Yes, our intent is to wrap-in the periodic review during this process on the Oct '18 locally-adopted SMP.

We anticipate including language to clarify this in our ECY decision documents, such as Attachment A Findings & Conclusions, and either/both Attachment B Required Changes and/or Attachment C Recommended Changes. Our pending review of the locally-approved SMP will determine if/which of Attachments B/C will be needed (neither if we think we can do 'approved as submitted'!). Thanks for your input on the PR Checklist items, that will help us on our end! Also, once we get to that point, we would look to coordinate closely with you as the County notices the BoCC's final public hearing

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Sent: Tuesday, February 12, 2019 4:49 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
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The SMP periodic review at a minimum requires review amendments to the SMA or State Guidelines. Ecology has a SMP Periodic Review Checklist related to SMA and State Guideline amendments between 2007-2017. You noted last-September that you did not need us to fill out that checklist as part of our local SMP submission materials. If helpful, I did take a look at the periodic review checklist and related guidance in relation to our submitted SMP. I found that most of the SMA and SMP Guidelines amendments are either incorporated and/or addressed (e.g., WAC reference) in the SMP, or are recommended to consider but not required. Based on the periodic checklist, I did identify the following three minor revision areas that we may need to address:

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reference WAC 173-27-044 explicitly under Section 1.6 or 1.7.

- **2007 b. List and map of streams and lakes.** Exhibit A to the SMP includes a map of streams and lakes. However, our submitted SMP does not incorporate a list of streams and lakes.

The periodic review minimum scope also requires review any relevant changes to our comprehensive plan and development regulations to determine consistency with the SMP. The County has not adopted any relevant amendments to our comprehensive plan and development regulations since submittal of the October 2018 locally-approved SMP Update.

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360-417-2520; sgray@co.clallam.wa.us

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Cc: Winborn, Mary Ellen; Sill, Richard
Subject: FW: comments & summary (External Email: USE Caution)
Date: Thursday, March 14, 2019 5:07:09 PM
Attachments: image002.png
image001.png
13. WDFW_022819ec1510.pdf
1. USFWS_012819ec1117.pdf
2. Schromen-Wawrin_L_012819ec1312.pdf
3. Robinson_N_022619ec1126.pdf
4. TaylorShellfishComments_022619em1121.pdf
5. FuturewiseEtAl_022619ec1642.pdf
6. CookeAquaculturePacific_022719ec1056.pdf
7. Cahill_S_022719ltr.pdf
8. JamestownS"KlallamTribe_022819ec0923.pdf
9. FriendsoftheEarthUS_022819ec1143.pdf
10. Futurewise2_022819ec1326.pdf
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Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Thursday, March 14, 2019 8:53 AM
To: Gray, Steve
Subject: comments & summary (External Email: USE Caution)

1 of 2

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From:	Jodoin, Starla
To:	LoPiccolo, Kevin
Subject:	FW: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State
Date:	Wednesday, June 05, 2019 2:51:22 PM

Starla Jodoin

Clallam County

Community Development

223 E. 4th St.

Port Angeles, WA 98362

Ph: 360-417-2496

From: zSMP
Sent: Friday, November 09, 2018 11:17 AM
Subject: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State

Interested Parties:

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Resolution 91 (October 30, 2018)

Clallam County Approved SMP (October 30, 2018)

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Steve Gray, Planning Manager

From: Ballard, Greg
To: Theismann, Chad
Cc: "Wiedemeier, Douglas (DFW)"
Subject: FW: Forms for WDFW project
Date: Tuesday, May 21, 2019 3:35:58 PM

Hi Chad, we received the WDFW Hurd Creek Hatchery.

Below is the fees required for the proposal.

I guess WDFW needs an invoice.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Fees would be

$1,500 Zoning CUP
$1,500 Critical Area Variance
$800 Public Hearing Fee
$125 Public Notice
$75 Review BiOp Report

$4,000

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223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Friday, March 29, 2019 9:44 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Greg-

Thanks for the quick response!

Hurd Creek Hatchery Relocation:

- More than 200 feet from Dungeness River (greater than 300)
- Within 150 feet of Hurd Creek (less than 100)
- Minimal in-water work

Hurd Creek Pipe Removal:

- Within 200 feet of the Dungeness River (greater than 100)
- Within 150 feet of Hurd Creek (less than 50)
- No in-water work

I'll be in contact if I have questions.

Thanks!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Friday, March 29, 2019 8:40 AM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>
Subject: FW: Forms for WDFW project (External Email: USE Caution)

If within 200 feet of Dungeness River it would be a Shoreline Substantial Development permit.

If relocated hatchery is within 150 of Hurd Creek it would require a Critical Area Variance.

For sure it would be a Zoning CUP.

Would require a Habitat Assessment to address the BiOp (add $75 review fee).

Fee would be $2,300 for Zoning CUP plus $125 for notice, plus $75 for review of report.

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If just abandoning pipe it would be a certificate of compliance ($300 fee).

Please provide a copy of the SEPA threshold determination with applications.

This is a quick list of possible permits.

Please contact me if you have any questions.

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From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

Hi Douglas, please provide more information to us and we can provide a more detailed response.

Below is some general info that may be applicable to your proposal.

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Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning
May need a Zoning Variance in the Rural Low Zone (R5).

SEPA
Would need SEPA done (WDFW would be lead). You would route and provide us a copy of the Threshold Determination.

Fees
See attached fee ordinance

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Please provide a copy of the SEPA threshold determination with applications.

This is a quick list of possible permits.

Please contact me if you have any questions.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

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-

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If the hatchery was located within the 100 year floodplain it would be subject a Habitat Assessment to the NMFS Biological Opinion regarding impact of development on ESA Species and their habitat (including compensatory storage – (no rise in flood elevation).
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https://www.fema.gov/media-library-data/1521082188266-40651225e6d536a82c5b995a9d4723d2/Floodplain-Habitat-Assessment-Worksheet_v1_6_Revised_508.pdf
Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning

May need a Zoning Variance in the Rural Low Zone (R5).

SEPA

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Fees

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Sent: Thursday, February 07, 2019 9:01 AM
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Subject: FW: Forms for WDFW project (External Email: USE Caution)

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Sent: Wednesday, February 06, 2019 1:08 PM
To: zDCDplan
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Feel free to contact me if you need more information, and I am willing to come to PA in person if necessary.

Thank you!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg
To: Theismann, Chad
Cc: "Wiedemeier, Douglas (DFW)"
Subject: FW: Forms for WDFW project
Date: Tuesday, May 21, 2019 3:35:58 PM

Hi Chad, we received the WDFW Hurd Creek Hatchery.

Below is the fees required for the proposal.

I guess WDFW needs an invoice.

Thanks

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Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Fees would be

$1,500 Zoning CUP
$1,500 Critical Area Variance
$800 Public Hearing Fee
$125 Public Notice
$75 Review BiOp Report

$4,000

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From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Friday, March 29, 2019 9:44 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Greg-

Thanks for the quick response!

Hurd Creek Hatchery Relocation:

- More than 200 feet from Dungeness River (greater than 300)
- Within 150 feet of Hurd Creek (less than 100)
- Minimal in-water work

Hurd Creek Pipe Removal:

- Within 200 feet of the Dungeness River (greater than 100)
- Within 150 feet of Hurd Creek (less than 50)
- No in-water work

I'll be in contact if I have questions.

Thanks!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Friday, March 29, 2019 8:40 AM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>
Subject: FW: Forms for WDFW project (External Email: USE Caution)

If within 200 feet of Dungeness River it would be a Shoreline Substantial Development permit.

If relocated hatchery is within 150 of Hurd Creek it would require a Critical Area Variance.

For sure it would be a Zoning CUP.

Would require a Habitat Assessment to address the BiOp (add $75 review fee).

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From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

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Sample of HA for Rakowski parcel to south SHR2016-00010

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From: Ballard, Greg
To: Kucipeck, Deborah
Subject: FW: Forms for WDFW project
Date: Friday, February 15, 2019 8:31:09 AM

---

fyi

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Sent: Friday, February 15, 2019 8:19 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

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As for the expansion question. Sheet 4 of the plans shows what is to be demolished and what gets moved. Sheet 5 shows the new layout. So there may be a couple additional above ground ponds, but they are portable.

If that is not enough, please let me know.

I have been in discussions with Pam S. at the Corps, and will run the project by her. She is undecided on whether a Corps permit will be required.

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From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Thursday, February 14, 2019 2:49 PM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>

Subject: RE: Forms for WDFW project (External Email: USE Caution)

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Puget_Sound_R10_Habitat_Assess_guide.pdf
FEMA BiOp Worksheet

Thanks

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360-902-8422

From:	Ballard, Greg
To:	Fleming, Holden
Subject:	FW: Info on bluffs near 35 E. Bluff Drive
Date:	Friday, June 19, 2020 10:45:13 AM
Attachments:	Useful Shoreline Related Links 2020.doc 2017 aerial W bluff.pdf 35 E. Bluff Drive2017 aerial.pdf 1990 E. Bluff.pdf Slope Stability 35 E. Bluff.pdf 1 2020 Consultantlist.pdf

---

fyi

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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 19, 2020 9:24 AM
To: 'scott602020@gmail.com'
Subject: FW: Info on bluffs near 35 E. Bluff Drive

Nice talking with you.

Zoning
Link to Accessory Housing (ADU)
A travel trailer is not a residence nor qualifies as a ADU
See section on 33.50.030(2) CCC above that Travel trailers cannot be ADU
See Section 33.50.040(3) CCC that residence or ADU require 120

Attached is some general info on bluffs and shorelines in the Bluff Drive area.

Info on the parcel is available at the link below
APN 053010550106

There is generally a 50 ft buffer to a landslide hazard area per Section 27.12.415(1)(a) CCC

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Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:11 PM
To: 'jjdwa@hotmail.com'
Subject: FW: Info on bluffs near 35 E. Bluff Drive

Hi Jay nice talking with you.

Here is an e-mail I sent to another interested buyer a few weeks ago near E bluff Drive.

-

-

DRAFT 2018 SMP Update & new Critical Area Requirement in Shoreline Jurisdiction
The SMP is being updated and a few months the new 2018 SMP may be adopted.

Although this is not in force now it might be in a few months.

DCD are not experts in implementing this draft 2018 SMP since it is not adopted by The WA State Department of Ecology (reviewing our 2018 SMP).

The 2018 SMP has new landslide hazard setbacks also. This area has exceptional feeder bluffs (see map below)

The proposed designation is Shoreline Residential Conservancy
http://www.clallam.net/LandUse/documents/SMP_Map_book_12D_2.pdf

A link to the 2018 SMP is below
http://www.clallam.net/LandUse/documents/FinalBOCC_SMP_2018.pdf

See Table 6-1 for residential conservancy setback
Based on the depth of lot under 200 feet there would be a 100 ft setback from top of bluff.

Table 6-2 shows a 150 ft setback for an exceptional feeder bluff.

See Section 7.12 to 7.14 of the 2018 SMP for more info on landslide hazard standards.

Lots of info.

Let me know if you have any questions
The 2018 SMP has this area as Shoreline residential Conservancy & Exceptional feeder bluff.
http://www.clallam.net/LandUse/documents/SMP_Map_book_10D_2.pdf

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From: Ballard, Greg
Sent: Wednesday, May 13, 2020 7:21 PM
To: 'rdrunner13@comcast.net'
Subject: Info on bluffs near 35 E. Bluff Drive

Hi Linda here is general info on E. Bluff Drive near 35 E. Bluff Drive.

The bluff is ~190 to 200 feet in height and erodes at a pretty fast rate.

The bluff is landslide hazard that has a 50 foot buffer for the critical area code and a 100 foot setback for the building code (section 21.01.100 CCC –see below).

21.01.100 Setbacks from bluff, banks and cuts. SHARE

Setbacks from bluffs, banks and cuts shall be approved by the Building Official. Minimum setbacks from bluffs, banks and cuts declared unstable by published Soils Conservation Service Slide Hazard Area Studies, or by the 1978 Coastal Zone Atlas of Washington shall be the height of the bluff, bank or cut, not to exceed 100 feet, or as recommended by an approved soils engineer. Setbacks shall be measured from the rim or top of the bluff, bank or cut.

You can also see in the Coastal Zone Atlas Map (4th attachment) this area is Red unstable recent slides.

A geotechnical Report would be required to reduce these setbacks and would be difficult to obtain any reductions.

The area on 35 E. Bluff Drive lost approximately 20 feet from 1990 to 2017 (~8 inches a year)

The county placed thousands of C.Y. of material to fix the drainage and erosion
053010550132

Info on 31 E. Bluff Drive (failing Septic)
053010550138

Info on 35 E. Bluff Drive
053010550140
Looks like septic expired

You can see 35 E. Bluff Drive (Blue house that is 2 to left of the gully the county installed drainage and placed rock in around 2019 in links below)

2016
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08294.jpg

2006
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Email: gballard@co.clallam.wa.us

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To:	Fleming, Holden
Subject:	FW: Info on bluffs near 35 E. Bluff Drive
Date:	Friday, June 19, 2020 10:45:13 AM
Attachments:	Useful Shoreline Related Links 2020.doc 2017 aerial W bluff.pdf 35 E. Bluff Drive2017 aerial.pdf 1990 E. Bluff.pdf Slope Stability 35 E. Bluff.pdf 1 2020 Consultantlist.pdf

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fyi

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From:	Ballard, Greg
To:	"gupatrick.waples@gmail.com"
Subject:	FW: Ken Bauer Building Project (External Email: USE Caution)
Date:	Friday, May 08, 2020 6:20:31 PM
Attachments:	3 DCD Fees 5-1-18.pdf Bauer 1 inch is 200 ft.pdf bauer RV Park 2020.doc

Hi Ken, sorry for not getting back to you earlier about your RV Park.

We addressed this in 2012 pre-app (4th attachment), but I have eliminated the Bed & Breakfast component and addressed the 2018 SMP that the County has adopted but it hasn't been approved by the WA State Department of Ecology. This should happen in the next few months.

Below is the 3rd Word Document (in case you can't open.

DATE: May 8, 2020

TO: Kenneth Bauer

FROM: Greg Ballard, Senior Planner

RE: RV Park on a 6.7 acres located at 9881 W Highway 112 (APN 133208-140050 & APN 133209-230050)

The following is a quick review of the applicable requirement for your proposal. This review addresses shorelines, critical areas, zoning, subdivision and SEPA Requirements.

Our Critical Area and Shoreline regulations give us authority to review any land disturbing activity and development proposed within 200 feet of shoreline and critical areas.

Shorelines

If complete applications are submitted before the adoption of the 2018 SMP is adopted by the WA State Department of Ecology it would be subject to the existing 1976 SMP (see below)

The Shoreline Jurisdiction is 200 feet from the Ordinary High Water Mark (OHWM). The OHWM is usually located a few feet landward of the Mean Higher High Water (MHHW). The northern portion of this parcels has frontage of the Strait of Juan De Fuca, designated Rural By the Clallam County Shoreline Master Plan (SMP). This parcel is also located within 200 feet of the Sekiu River designated Urban by the SMP. The proposed lodge would be 39 feet 6 inches in height. Section 35.01.040(5)(b) states that no structure shall be over 35 feet in height.

This proposal does not meet the criteria for developments exempt from substantial development permit requirement found in WAC 173-27-040. Therefore, a Shoreline

Substantial Development Permit would be required.

RV Park: Section 5.20(C)(d) states that accessory uses facilities which are not shore dependent such as parking lots, access roads, restroom & service buildings shall be located outside shoreline jurisdiction (i.e. 200 feet from OHWM). The recreational vehicle sites are required to be located at least 100 feet from the OHWM.

2018 SMP Update to be adopted in the next few months.
If complete application are submitted after the adoption of the 2018 SMP Update, this proposal would be subject to the following:

The proposed would be located in the Residential Conservancy designation (see link below)
http://www.clallam.net/LandUse/documents/SMP_Map_book_25D_2.pdf

The 2018 SMP
http://www.clallam.net/LandUse/documents/FinalBOCC_SMP_2018.pdf

There is a 150 setback for Residential Conservancy for Major Development (including Binding Site Plans). See 6-1 of the draft 2018 SMP at link above.

An RV Park may be subject to the Recreational 3.7

Critical Areas (The Certificate of Compliance CRI 2011-46 issued 10/25//11for assessment of 3 bedroom residential septic system (SEP 2011-133 issued 11/1/11) met the definition of minor development per Section 27.12.900(39) CCC. Based on the size of structures, required binding site plan, and required Zoning CUP this proposal is considered Major Development per Section 27.12.900(35)(a),(b),(d), & (e).

Streams: The Shoreline areas (Sekiu River & Strait of Juan de Fuca) are Type 1 streams and are subject to the Aquatic Habitat Conservation Areas protection standards found in Section 27.12.315 CCC. Per Table 6 there is a 150 setback for Major Development (this entire proposal).

100 year Flood Plain: The northern portion of this site is designated Special Flood Hazard Area (i.e. 100 year floodplain). If this proposal is proposed within the Special Flood Hazard Area it is subject to the protection standards found in Section 27.12.515 CCC.

Eagle Habitat: Although eagles are no longer regulated by WA State or Clallam County, they are still regulated by U.S. Fish & Wildlife. You should check whether you need a permit from U.S. Fish & Wildlife at the link below.

https://www.fws.gov/pacific/eagle/

Stormwater: - This is also a requirement in the Aquatic (Streams) & Wildlife Habitat Conservation Areas (Eagle Habitat) Section 27.12.315(8) & 320(3) that an

engineered drainage, erosion, & sediment control plan be submitted and approved by the Clallam County Public Works Department prior to any land disturbing activity occurring within areas designated Aquatic & Wildlife Habitat Conservation Areas. Please be aware that you may wish have the engineer prepare the engineered drainage, erosion, and sediment control plan to address the future development of the parcel.

Zoning Parcel 133208-140050 is zoned Rural 20 & Parcel 133209-230050 is Zoned Rural Neighborhood Conservation. The definitions of zoning terms are found below. RV Parks require a Zoning Conditional Use Permit.

Zoning Definitions are found in Section 33.03.010 CCC:
(13) "Bed and breakfast inns" means a single-family dwelling on property occupied by the owner or manager which is constructed or converted partially or entirely into an overnight, short-term boarding house which does not detract from the residential appearance of the structure, and has five (5) or fewer rooms for overnight accommodations.

81) "RV park" means a campground for day use and overnight accommodations by motor homes, travel trailers, truck campers and camping trailers.

Setbacks.

(a) Front yard – forty-five (45) feet from a local access street, fifty (50) feet from an arterial street, sixty (60) feet from a highway.

(b) Side yard – ten (10) feet (forty (40) feet from the centerline of the right-of-way of a side street).

(c) Rear yard – fifteen (15) feet (forty (40) feet from the centerline of the right-of-way of a rear street).

Subdivision: An RV Park requires a Binding Site Plan, which is a land division. The requirements for a RV Park are listed below,

Definitions: Section 29.03.100

(5) "Binding site plan" means a drawing to a scale specified in this title which:

(a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by this title;

(b) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by Clallam County; and

(c) Contains provisions making any development conform with the site plan. A binding site plan create lots for the purpose of lease or rent, not for sale or transfer.

(26) Land Division. For the purpose of this title, a “land division” shall include any application for division of land which is subject to this title, including a subdivision, planned unit development, binding site plan, short subdivision, or a large lot division.

(41)“Recreational vehicle park (camper vehicle park)” means a plat of ground divided into lots or sites under the ownership or management of one person, firm, or corporation for use by camper vehicles.

29.35.100 Additional standards for RV parks.

(1) General Requirements. A camper vehicle park shall be adapted to individual site conditions and the plat should use terrain, existing trees, shrubs and rock formations with a minimum of disturbance of the land.

Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants.

(2) Density Requirements. The density shall not exceed twenty-five (25) camper vehicle spaces per acre of gross site area, except that the density may be reduced if any of the following conditions exist:

(a) A septic tank and drainfield sewage disposal system is proposed for use and field inspection of soil conditions, groundwater conditions, relation to surface waters, proximity to groundwater supplies, and soils evaluations indicate that the higher density could result in a public health hazard.

(b) Any other situation where the physical characteristics or locational characteristics of the site would indicate that the higher density could adversely affect the public health, safety and general welfare.

(3) Dimensional Standards.

(a) All camper vehicle sites shall be located at least twenty-five (25) feet from any park boundary line abutting upon a public street or highway.

(b) All camper vehicle sites shall be located at least four (4) feet from any park boundary that does not abut upon a public street or highway.

(c) Camper vehicle sites shall be a minimum of seventeen (17) feet wide.

(4) Required Recreation Area. In all camper vehicle parks, there shall be at least one recreation area other than streets and utility areas which shall be easily accessible from all camper vehicle spaces. The size of such recreation area shall be not less than eight (8) percent of the gross site area or 2,500 square feet, whichever is greater.

(5) Water Supply. Water supply shall comply with State and County health regulations, and Uniform Building Code regulations, as they apply.

(6) Sewage Disposal Requirements.

(a) A restroom facility shall be constructed in compliance with the Uniform Building Code, as it applies, and shall be provided at one or more locations in the camper vehicle park, and shall be located within 500 feet of any camper vehicle site not provided with an individual sewer connection.

(b) Sewage Disposal Systems. Sewage disposal systems shall be in compliance with State and County health regulations, as they apply.

(c) Dump Station. Each camper vehicle park shall be provided with an approved dump station in the ratio of one for every 100 camper vehicle spaces or fractional part thereof.

SEPA: This proposal would be subject to the State Environmental Policy Act and would require a SEPA Checklist to be filled out.

Miscellaneous: The above referenced permits are Type III permits that require a public hearing before the Clallam County Hearing Examiner. You have the option to have all these matters reviewed through a consolidate hearing. There is a $125 required for notification requirements for a public hearing (can provide notice of all proposals within a single notice for the $125 fee in addition to other fees outlined above). Please contact me for more information regarding the applications, review criteria & fees.

Fees:

$1,000 -	Shoreline Substantial Development Permit (if value under $20,000 – see fee schedule if more than $20,000).
$1,500	Zoning CUP
$2,000	Binding Site Plan
$800	Public Hearing fee for Hearing Examiner
$400	SEPA
$125	Notice
$5,825	TOTAL

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Hi Greg,

After trying to send through gmail I realize that the issue is the size of the original email was too big to be accepted by your servers. I've removed the .jpg of the proposed site map and added it to the .pdf file to save some space.

Again, thank you for your time!

P.

---------- Forwarded message ---------
From: **Patrick J. Waples** <gupatrick.waples@gmail.com>
Date: Tue, Apr 14, 2020 at 2:24 PM
Subject: Ken Bauer Building Project
To: <gballard@co.clallam.wa.us>

Greg,

My grandfather, Ken Bauer asked me to send this out to you, but we've had some issues with Outlook and had an email to you hanging out in the outbox now for about a week.

Thank you for getting back to us, and we apologize for the delays!

I've attached both his written application request and a site map in the form of a .pdf, and a .jpg but I can make changes to either as needed to any format you need.

Furthermore, although not specifically labeled as such, the purple outlines represent an extended driveway connecting to the old drive already extending through the property.

We appreciate your time and help in reviewing this.

Please let me know if you have any questions, or need any additional information from us.

v/R,

P.

From: Ballard, Greg
To: "sbutler@mrsc.org"
Subject: FW: Mini-Survey regarding bulkheads
Date: Tuesday, April 02, 2019 12:09:41 PM
Attachments: WAC 173-27-040.pdf
Useful Shoreline Related Links 2018.doc

Hi Steve, I do most of shoreline permitting here in Clallam County for the last 12 years. My comments are in blue.

I recently received an information request from a local government that is dealing with a specific "bulkhead repair vs. replacement" issue. The planner is looking for answers to the following questions related to a damaged bulkhead, the existence of which is in question:

1. If a property owner insists that there is or has been a bulkhead, but the planner cannot find evidence of a current or past bulkhead, how would you proceed?

Check our central files to see if Shoreline Permit has been issued since our SMP was adopted in 1977. See if photographs of site through assessors or from landowner.

If no Shoreline Permits (not many issued during early adoption), Review the Dept. Ecology Coastal Zone Atlas photos and see when it is visible (1977, 1990, 2005, 2012, 2016 see link below)
https://fortress.wa.gov/ecy/shorephotoviewer/

2. If there is evidence that there was a bulkhead sometime in the past, what type of time frames (e.g., six or twelve months) from when the bulkhead was last evident would you take into consideration?

WAC 173-27-080(3)(c)
If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless reestablishment of the use is authorized through a conditional use permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (2)(e) of this section shall be considered a conforming use for purposes of this section.

3. If your jurisdiction uses a valuation-based determination, how do you determine the value of the damage to the bulkhead?

If legally constructed valuation does not matter under WAC 173-27-040(2)(b) & states Reasonable Period (probably maximum of 2-3 years unless significant impact to shoreline)

Would allow repair and reconstruction even if not consistent with new bulkhead standards.

If new bulkhead not subject to valuation per WAC 173-27-040(2)(c) but would make them prove it is necessary per our Critical Areas Code

If trying to protect home or required appurtenance (like well, septic, etc - not land) or bio-engineering per WAC 173-27-040(2)(c) could be a shoreline exemption per SMP.

If trying to protect land only then would treat a shoreline protection which would not be exempt from a Substantial development permit.

4. Do you have any other thoughts or suggestions?

Ironically repair and reconstruction does not require as much review under National Marine Services Biological Opinion as a redesigned bulkhead that has less impacts (i.e. replacing vertical wood piled bulkhead with rock one laid back at 2 (horizontal):1 (vertical) slope with voids and planting areas.

Floodplain-Habitat-Assessment-Worksheet_v1_6_Revised_508.pdf

Seem like exemption for normal repair and maintenance should allow more environmentally friendly designs (see WDFW docs from our Shoreline and bluffs links passed out to landowners)

I would appreciate it if you would send me your responses by Monday, April 8, 4:00 p.m., if possible. Thank you in advance for your assistance!

Steve

Steve Butler, FAICP
Planning & Policy Manager
206.625.1300 x132 | MRSC.org | Local Government Success

Let me know if you have any questions.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
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Email: gballard@co.clallam.wa.us

From:	Ballard, Greg
To:	"kailan.mackereth@pnnl.gov"
Subject:	FW: Nice talking with you
Date:	Monday, November 05, 2018 11:29:55 AM
Attachments:	SHR_SUBDEV_APP.pdf SHORELINE_MASTER_PROGRAM.pdf SHR2015-23 MSL#2.doc Hearing Examiner Schedule.pdf Hoko Hatch Staff Rpt final.doc NOA Hoko.pdf

---

fyi

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223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Wednesday, October 31, 2018 11:43 AM
To: 'Sather, Nichole K'
Subject: Nice talking with you

Fees
$1,800 Substantial Development
$800 Hearing Examiner Fee
$100 Publish in Paper
$25 mailing cost for public notice
($150 for review of report)

Let me know what Hearing Examiner date & time work for you (30 day notice)

5.21 of SMP see (SHR 2015-23).

Last example is a sample of a staff report for a Substantial Development permit for an electric fence for fish hatchery.

Thanks

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To:	"Kris.Hand@pnnl.gov"
Subject:	FW: Nice talking with you
Date:	Friday, November 16, 2018 1:08:01 PM
Attachments:	SHR_SUBDEV_APP.pdf SHORELINE_MASTER_PROGRAM.pdf SHR2015-23 MSL#2.doc Hearing Examiner Schedule.pdf Hoko Hatch Staff Rpt final.doc NOA Hoko.pdf 2018 fees.pdf

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Hopefully addresses you question about fees (last attachment is our fee schedule).

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From: Ballard, Greg
To: McFall, Barbara
Cc: Fleming, Holden; Harvey, Diane; Warren, Annette
Subject: FW: Oyster Shack
Date: Friday, June 19, 2020 10:50:01 AM

Doesn't look like we can authorize the use of this converted oyster shack for recreational use located waterward of the OHWM.

Greg Ballard
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Email: gballard@co.clallam.wa.us

From: Rothwell, Rebecca (ECY) [mailto:rebs461@ECY.WA.GOV]
Sent: Thursday, June 18, 2020 12:10 PM
To: Ballard, Greg
Subject: RE: Oyster Shack

Hi Greg,

If this is viewed as a recreational use, it doesn't look like it would be allowed in the Conservancy SED, per 5.20.C.2.b: "Recreational development not requiring structures or extensive topographical alteration is permitted, subject to the policies, general regulations and special regulations." The converse of this statement would be that if the recreational development requires a structure, it would not be allowed. Also, to your point, under 5.20.C.3.a, this is within an estuary, and recreational structures are not allowed in estuaries.

If it were to be viewed as an accessory structure to a residential use (it doesn't meet the definition of normal appurtenance), it would need a conditional use permit as an unidentified use. I don't think it would meet the CUP criteria.

The question will remain—what can they do with this building? It appears to be an existing non-conforming use. Do you know when it was built? If it was built prior to the SMA, it wouldn't have needed permits. If that's the case, we would look at 3.03.8:

Shoreline uses that were in existence prior to the Shoreline Management Act of 1971, but are not now in conformance with the Act will be permitted to continue. However, no additions or rebuilding of structures will be allowed. When these non-conforming uses are concluded, the structures should be removed and the shoreline allowed to restore itself to its natural state.

It looks like the building has already been renovated. Was this done with or without a shoreline permit or exemption?

Rebecca Rothwell

Wetlands and Shorelands Technical and Regulatory Lead

WA Department of Ecology | Southwest Regional Office | 360-407-7273
300 Desmond Drive SE, Lacey, WA 98503 | PO Box 47775 Olympia, WA 98504-7775
This communication is a public record and may be subject to disclosure per RCW 42.56.

Ecology's offices are closed until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available on our website. We remain committed to service, so don't hesitate to reach out to us.

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Wednesday, June 17, 2020 2:07 PM
To: Rothwell, Rebecca (ECY) <rebs461@ECY.WA.GOV>
Subject: RE: Oyster Shack

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Rebecca, we have a proposal to repair an old oyster shack located waterward of the OHWM to recreational use.

They need a change of use permit from our building division.

Parcel info
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Assessor's info
https://websrv22.clallam.net/propertyaccess/Property.aspx?cid=0&year=2019&prop_id=44119

2000 oblique
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2000/fullsize/0205311241_164_lg.jpg

The Recreational section of our SMP is in Section 5.20(3)(a) of the SMP.

It would seem that this use would be located within an estuary & subtidal since within Dungeness Bay and should not be allowed (since no structures allowed).

Let me know what you think.

Thanks

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Email: gballard@co.clallam.wa.us

From: McFall, Barbara
Sent: Wednesday, June 17, 2020 1:02 PM
To: Ballard, Greg
Subject: FW: Oyster Shack

Hi Greg

These guys have a little shack on the beach that has been there forever. People are afraid they are making it into a cabin rental but that is not the case. I didn't talk to the owner, I talked to one of the family friends that was doing some work on the place. If anything, it would be recreational use, but mainly just storage for their toys that they take out and use when they hit the water or the beach. Property owner has big strip of property of top where residential takes place. Apparently owns a large strip of the shoreline as well.

They want to strengthen the pilings, fix some leaks, I think maybe put some siding on to make it more weather proof, I am not sure but it appeared to be significant to need a permit especially with the pilings.

Can you please call Debbie and answer her questions regarding critical area, building etc. I gave the guy basic info. and advised him to call planning or building. I think she asked for me because I left my business card. Here is the address and parcel number. Please let me know if you will be calling her so I know we are covered.

CMP2020-00093
Address is just Cline Spit
Parcel #04-31-26-42-0380

From: Harvey, Diane
Sent: Wednesday, June 17, 2020 11:30 AM
To: McFall, Barbara
Subject: FW: Oyster Shack

Barb, please see below and speak to Ms. Cottrell.

Also, I have something for you to sign. Will you be in the office sometime this week?

Thanks,

D.

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Major, Jesse
Sent: Thursday, June 11, 2020 4:27 PM
To: McFall, Barbara; Ballard, Greg
Cc: Harvey, Diane; Reynolds, Laura
Subject: Oyster Shack

Barb and Greg,

I received a call from Debbie Cottrell. She would like a call back with information about what permits are required for the Cline Spit oyster shack. She can be reached at 206-819-9837

-Jesse

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Clallam County Department of Community Development
360-417-2000 ext. 3729

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-Jesse

Jesse Major
Code Enforcement Field Officer
Clallam County Department of Community Development
360-417-2000 ext. 3729

From:	Ballard, Greg
To:	Dave Shreffler (lostmtnloft@olympus.net)
Subject:	FW: parcel 043125-230075
Date:	Friday, January 24, 2020 10:07:55 AM
Attachments:	WAC 173-27-040.pdf Useful Shoreline Related Links 2018.doc 4 Season SHR2014-04Combined.pdf Danielle Zitomer.vcf

---

fyi

Greg Ballard
Senior Planner
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223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, January 21, 2020 3:54 PM
To: 'j.b.cuny@att.net'
Subject: parcel 043125-230075

Nice talking with you. See you on Thursday Jan 23rd at 9 a.m. at DCD office at Suite 5 of Clallam County Courthouse.

APN 043125230075

To repair parking and shoulder area to a similar condition
SHR2015-00011

Shoreline Exemptions (see 1st attachment)
WAC 173-27-040(2b) is normal repair and maintenance.

WAC 173-27-040(2)(c) is for a bulkhead to protect a house. The last paragraph has a beach nourishment/bio-engineered.

The 2nd attachment has useful shoreline links (Item # 2 in link 7 has WDFW Marine Guidelines, & Item #2 of Link 9 has shoreline photos).

The contact from Fish and Wildlife for Hydraulic Project Approval (HPA) and emergency HPA is below



Thanks

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, January 21, 2020 3:54 PM
To: 'j.b.cuny@att.net'
Subject: parcel 043125-230075

Nice talking with you. See you on Thursday Jan 23rd at 9 a.m. at DCD office at Suite 5 of Clallam County Courthouse.

APN 043125230075

To repair parking and shoulder area to a similar condition
SHR2015-00011

Shoreline Exemptions (see 1st attachment)
WAC 173-27-040(2b) is normal repair and maintenance.

WAC 173-27-040(2)(c) is for a bulkhead to protect a house. The last paragraph has a beach nourishment/bio-engineered.

The 2nd attachment has useful shoreline links (Item # 2 in link 7 has WDFW Marine Guidelines, & Item #2 of Link 9 has shoreline photos).

The contact from Fish and Wildlife for Hydraulic Project Approval (HPA) and emergency HPA is below



Thanks

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From:	Ballard, Greg
To:	"wjmontoya@embarqmail.com"
Subject:	FW: sample of bio-engineered projects
Date:	Friday, April 19, 2019 11:29:08 AM
Attachments:	SHREXEMP_APP.pdf 4 Season SHR2014-04Combined.pdf CCC 27.12.315(12).pdf Useful Shoreline Related Links 2018.doc

The repair or reconstruction of a bulkhead requires a Shoreline Exemption with a $500 processing fee (1st attachment).

If the landowners wanted to do a bio-engineered projects (see examples in the area) it would be the same fee.

See 2nd attachment and links below for samples of bio-engineered projects.

These projects are better for the environment and create a much nicer beach (Seashore Lane is an example of one).

Because all shorelines are Type 1 Aquatic Habitat Conservation Areas all shore protection projects should meet the Critical Area Code Section 27.12.315(12) CCC. This is where the need for the shoreline protection is outlined and also why bio-engineered/soft bank projects are not feasible.

You can see an oblique (45 degree angle) photo of the area at the link below or at link 9 on the 3rd attachment.
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08416.jpg

If you want to discuss this more please contact me.

Thanks

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From: Ballard, Greg
Sent: Thursday, December 13, 2018 4:35 PM
To: Dressel, Joel
Subject: sample of bio-engineered projects

Bio Engineered on 3 Crabs SHR2014-00004

Bio Engineered Jamestown SHR2017-00003

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Fees for DCD would be $500 shoreline exemption plus $400 for SEPA if over 100 c.y of material or located water ward of OHWM

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From:	Ballard, Greg
To:	"walter@wlselden.com"
Subject:	FW: sample of bio-engineered projects
Date:	Thursday, March 07, 2019 12:04:49 PM
Attachments:	4 Season SHR2014-04Combined.pdf Useful Shoreline Related Links 2018.doc 1. Consultantlist2018.pdf

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From:	LoPiccolo, Kevin
To:	Gray, Steve
Subject:	FW: SMP (External Email: USE Caution)
Date:	Thursday, January 23, 2020 10:25:29 AM
Attachments:	image001.png 19-21EAGL Application Instructions.pdf

Steve,

Email that Michelle sent me.

Kevin

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Friday, January 10, 2020 10:29 AM
To: LoPiccolo, Kevin
Subject: RE: SMP (External Email: USE Caution)

Hi Kevin,
So sorry for my delayed response - here's where things are:

- **State consistency review** is not stagnant, but delayed by my other workload (e.g. the one SMP 'in line' ahead of you keeps getting squirrely as I'm trying to wrap it up!);
- Added delay but for the greater good: as a sort of 'sub set' to providing you our draft proposed changes (required & recommended) for staff-level review before we issue our conditional approval decision, we're doing some focused review on the **WDFW comments** regarding buffer widths. We concur with the County's response to comments, and are doing some 'sister agency' coordination on how we intend to address their concerns; you will see the result of this in the draft changes I (eventually) send to you;

Separate but related: County can complete the **EAGL grant Application** anytime; submittal is due by June 30 but sooner is strongly advised to avoid last minute crunch!

If you want to at least *get started* on the application process (hint, hint!), the County can:

1. Get your SAW and EAGL registrations squared away;
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Be sure to save each form as you go. Then once we've got a better idea on our Decision process, adding PR component, and have talked through your overall project strategy, you can go back in later to complete the remaining forms for:

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With 'draft forms' in EAGL we can tweak any final details (e.g. Task 6, budget break-out by Task and Category, and project timeline) just before submittal.
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I'm happy to discuss any of this further by phone, as needed.

Hope you enjoyed some nice holiday time & the new year is off to a great start for you,



~ Michelle McConnell

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: LoPiccolo, Kevin <klopiccolo@co.clallam.wa.us>
Sent: Wednesday, January 8, 2020 9:42 AM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: SMP

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Hello Michelle,

Any news on Clallam County SMP?

Thank you.

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With 'draft forms' in EAGL we can tweak any final details (e.g. Task 6, budget break-out by Task and Category, and project timeline) just before submittal.
Prior coordination before Application submittal helps avoid the need for Modifications Required.

I'm happy to discuss any of this further by phone, as needed.

Hope you enjoyed some nice holiday time & the new year is off to a great start for you,



~ Michelle McConnell

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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From: LoPiccolo, Kevin <klopiccolo@co.clallam.wa.us>
Sent: Wednesday, January 8, 2020 9:42 AM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: SMP

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hello Michelle,

Any news on Clallam County SMP?

Thank you.

Kevin

Kevin LoPiccolo
Principal Planner
Clallam County Department of Community Development
223 East 4th Street, Suite 5

Port Angeles, WA 98362
Tel: (360) 417-2322
klopiccolo@co.clallam.wa.us

From:	LoPiccolo, Kevin
To:	Gray, Steve
Subject:	FW: SMP (External Email: USE Caution)
Date:	Thursday, January 23, 2020 10:25:29 AM
Attachments:	image001.png 19-21EAGL Application Instructions.pdf

Steve,

Email that Michelle sent me.

Kevin

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Friday, January 10, 2020 10:29 AM
To: LoPiccolo, Kevin
Subject: RE: SMP (External Email: USE Caution)

Hi Kevin,
So sorry for my delayed response - here's where things are:

- **State consistency review** is not stagnant, but delayed by my other workload (e.g. the one SMP 'in line' ahead of you keeps getting squirrely as I'm trying to wrap it up!);
- Added delay but for the greater good: as a sort of 'sub set' to providing you our draft proposed changes (required & recommended) for staff-level review before we issue our conditional approval decision, we're doing some focused review on the **WDFW comments** regarding buffer widths. We concur with the County's response to comments, and are doing some 'sister agency' coordination on how we intend to address their concerns; you will see the result of this in the draft changes I (eventually) send to you;

Separate but related: County can complete the **EAGL grant Application** anytime; submittal is due by June 30 but sooner is strongly advised to avoid last minute crunch!

If you want to at least *get started* on the application process (hint, hint!), the County can:

1. Get your SAW and EAGL registrations squared away;
2. Figure out who of your staff will serve which roles, both in EAGL (Organization Members – Authorized Official) and for the grant agreement (Project Manager, Authorized Signatory, Billing Contact), see attached EAGL Role Matrix; and
3. Initiate the Application by completing the first four forms:
   - General Information;
   - Project Characterization;
   - Mapping Information;
   - Recipient Contacts

To do so, follow the step-by-step instructions on pages 8 – 13 of the **SMP PR Grants Application Instructions** (attached for convenience).

Be sure to save each form as you go. Then once we've got a better idea on our Decision process, adding PR component, and have talked through your overall project strategy, you can go back in later to complete the remaining forms for:

- Tasks 1 – 5 (possible Additional Task 6),
- SOW Summary,
- Budget Task, and
- Deliverables Due Date

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Cc:	Winborn, Mary Ellen; David Alvarez; Gores, Alanna; Sill, Richard
Subject:	FW: SMP comment summary (External Email: USE Caution)
Date:	Tuesday, April 23, 2019 12:02:58 PM
Attachments:	image003.png ClallamComment-Summary041019.doc

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To:	Gonzalez, Kelly
Subject:	FW: SMP final redline (External Email: USE Caution)
Date:	Wednesday, January 30, 2019 11:49:01 AM
Attachments:	FinalBOCCDraftSMP(shows revisions).pdf image002.png

Kelly,

Here is the email(s)containing the responsive document to Mr. Rossotto first records request.
-Steve

From: Gray, Steve
Sent: Monday, January 28, 2019 4:56 PM
To: 'Michael Rossotto'
Subject: RE: SMP final redline (External Email: USE Caution)

Hi Michael,

Attached is the document you are requesting.

Please make sure to send your comments directly to Ecology and not the County. Ecology's public comment period on our locally-approved, SMP is from January 14 – Feb. 28, 2019. Following the close of the comment period Ecology will provide the County the comments they received.

I assume your received notice from Ecology, but just in case here is a link to the Ecology site for review of our locally-approved SMP: Ecology Web Page on Clallam County SMP Update

Regards, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: Michael Rossotto [mailto:michael.rossotto@quileutetribe.com]
Sent: Monday, January 28, 2019 3:51 PM
To: Gray, Steve
Subject: SMP final redline (External Email: USE Caution)

Hi Steve –

Is there a redline version of the final SMP sent to Ecology that would show all of the changes made to the September 2017 version that the Planning Commission submitted to the BOCC? I know you prepared several chapter redlines, and those were extremely helpful in tracking and understanding the revisions. I think staff may have made a few final changes at or after the last BOCC work session I observed. It would be extremely helpful to me in advising the Quileute Tribal Council to have a final redline showing all changes from the 2017 Planning Commission document Quileute submitted

comments on and what the County has now actually submitted to Ecology.

I've looked around the County's website, and don't see a final redline. If it's there, a link will do. If you've got one but it's not on the website, I would certainly appreciate you emailing it to me.

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From: Peach, Bill
To: Gores, Alanna
Cc: Gray, Steve
Subject: Fwd: comments & summary (External Email: USE Caution)
Date: Friday, March 15, 2019 10:57:54 AM
Attachments: 13. WDFW_022819ec1510.pdf
ATT30781267.htm
1. USFWS_012819ec1117.pdf
ATT30781268.htm
2. Schromen-Wawrin_L_012819ec1312.pdf
ATT30781269.htm
3. Robinson_N_022619ec1126.pdf
ATT30781270.htm
4. TaylorShellfishComments_022619em1121.pdf
ATT30781271.htm
5. FuturewiseEtAl_022619ec1642.pdf
ATT30781272.htm
6. CookeAquaculturePacific_022719ec1056.pdf
ATT30781273.htm
7. Cahill_S_022719ltr.pdf
ATT30781274.htm
8. JamestownS"KlallamTribe_022819ec0923.pdf
ATT30781275.htm
9. FriendsoftheEarthUS_022819ec1143.pdf
ATT30781276.htm
10. Futurewise2_022819ec1326.pdf
ATT30781277.htm
11. QuileuteTribe_022819ec1339.pdf
ATT30781278.htm
12. MakahTribe_022819ec1502.pdf
ATT30781279.htm

Please print the attached documents for me and check with Steve Gray to confirm all of the Quileute comments are in the package you drop on my desk.

Thanks

Sent from my iPhone

Begin forwarded message:

From: "Gray, Steve" <SGray@co.clallam.wa.us>
To: "Ozias, Mark" <mozias@co.clallam.wa.us>, "Peach, Bill" <bpeach@co.clallam.wa.us>, "Johnson, Randy" <rjohnson@co.clallam.wa.us>
Cc: "Winborn, Mary Ellen" <mwinborn@co.clallam.wa.us>, "Sill, Richard" <RSill@co.clallam.wa.us>
Subject: FW: comments & summary (External Email: USE Caution)

Commissioners,

I am forwarding you an email and attachments received from Ecology today. The attachments include the 13 comment submittals that Ecology received during their 45-day public comment period that ended on February 28, 2019 on our locally-approved, Shoreline Master Program (SMP) update—*See Ecology's email below for a summary of who submitted comments.*

The Futurewise and the Quileute Tribe comments included a number of documents (e.g., studies) attached to their letters that are not included due to size and email limitations. Ecology is working on getting internet links and/or scanned files of these supporting documents to the County.

Ecology is preparing a comment summary matrix based on the 13 comment submittals, and once completed will submit it with a request for the County to review and respond. Per WAC 173-26-120, the County has 45-days to respond to the request once received, but can request additional time. Following a County response, Ecology will complete their review of our SMP and prepare findings/conclusions to support their decision to either approve our SMP update as submitted or recommend specific required changes necessary to comply with the state Shoreline Management Act, RCW 90.58, and applicable State SMP Update Rules/Guidelines (WAC 173-26, WAC 173-27). Ecology may also provide recommended changes based on their review.

NO ACTION IS REQUIRED BY THE COMMISSIONERS AT THIS TIME—I am forwarding these 13 comment submittals received by Ecology in advance to allow you an early review opportunity.

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Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Thursday, March 14, 2019 8:53 AM
To: Gray, Steve
Subject: comments & summary (External Email: USE Caution)

1 of 2

Hello Steve,

Per the WAC 173-26-120 process, I am working to prepare a comment summary matrix to aid the County's review of & response to the issues raised; it's not yet complete and I will get that to you as soon as I can. In total, 13 comment submittals were received, including a few that are quite lengthy, with many attached reference documents, that require additional review time. Staff workload is also high right now adding to the delay.

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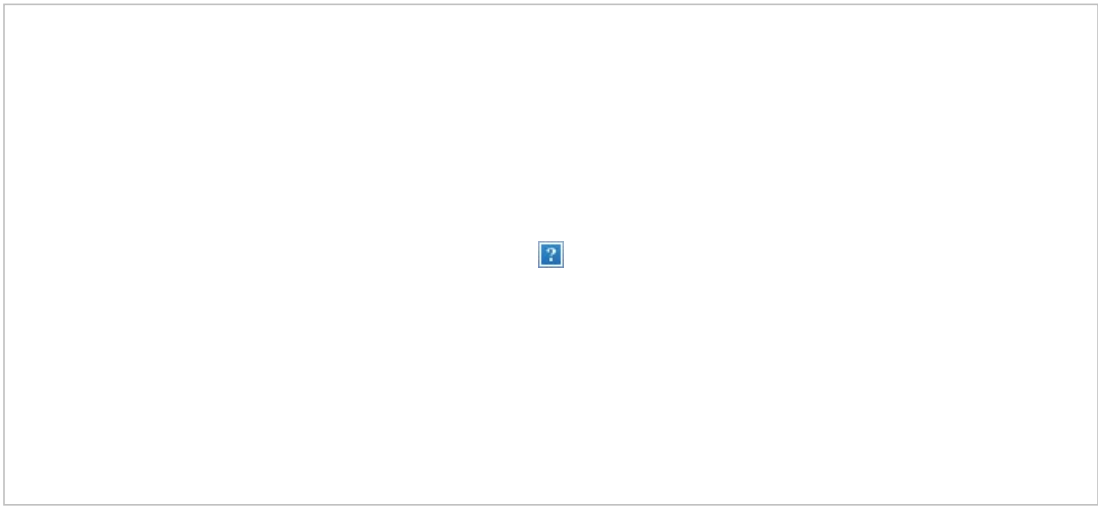

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Also, there are 4 pages of attachments included in the Futurewise et al. PDF, but the other 32 documents were submitted as hard-copy only – did they happen to send you those documents as well? If no, we'll work to scan all of it and provide to you digitally.

Please let me know if you have questions.

Best regards,

Michelle McConnell
Regional Shoreline Planner

WA Department of Ecology | Southwest & Olympic Region | Shorelands & Environmental Assistance (SEA) Program
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503
360.407.6349 | michelle.mcconnell@ecy.wa.gov

Conserve our natural resources – print only as needed!

NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

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4. TaylorShellfishComments_022619em1121.pdf
ATT30781271.htm
5. FuturewiseEtAl_022619ec1642.pdf
ATT30781272.htm
6. CookeAquaculturePacific_022719ec1056.pdf
ATT30781273.htm
7. Cahill_S_022719ltr.pdf
ATT30781274.htm
8. JamestownS"KlallamTribe_022819ec0923.pdf
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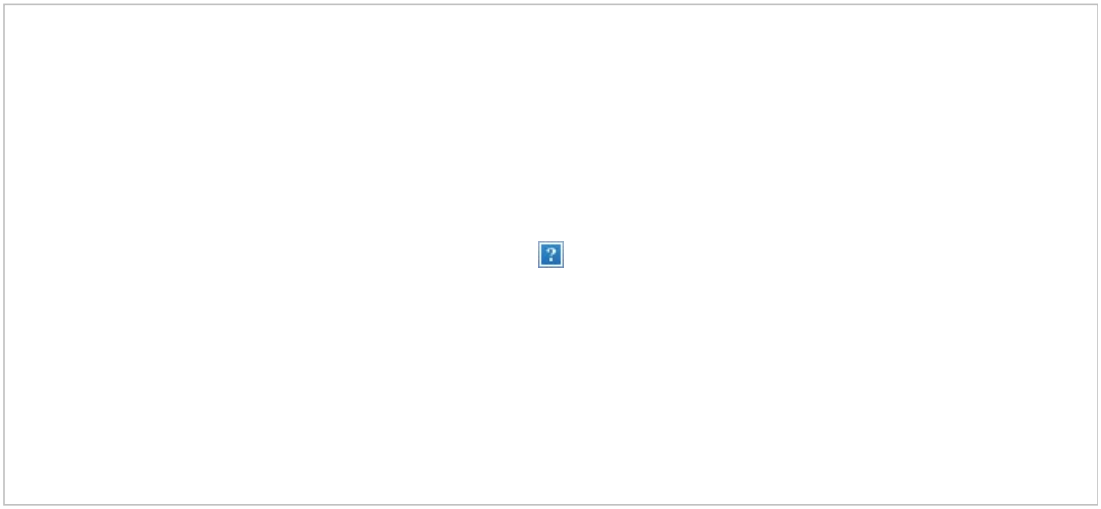

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From:	Alicia Olivas
To:	Alex Conley; Ali Fitzgerald; Alicia Olivas; Amy Hatch-Winecka; Ashley Von Essen (vonessen.ashley@nisqually-nsn.gov); Aundrea McBride; Becky Peterson; Byron Rot; Baumann, Cheryl; Dave McClure; Dawn Pucci; Denise Smee; Doug Osterman; Evan Bauder; Franklin Hanson; Gina Gray; Glaub, Gretchen; Jacob Anderson; Jason Mulvihill-Kuntz; Jeannie Abbott (GSRO); John Foltz (john@snakeriverboard.org); Kathleen Peters; Kelley Turner; Kirsten Harma; Kirvie Mesebeluu-Yobech; Kit Crump; Krider, Chantell (RCO); Kris Buelow; Lisa Spurrier; Lisa Wilson; Matt Goehring; Melody Tereski; Mike Lithgow; Mike Nordin; Moore, Amber (PSP); Morgan Ruff; Pat Stevenson; Pete Teigen; Richard Brocksmith; Sam Whitridge; Scott Brewer; Steve Manlow; Susan O"Neil; Suter, Stephanie (PSP); Suzanna Smith; Tom Kollasch; Tricia Snyder; Wilkinson, Jason; William (Bill) Armstrong
Subject:	Fwd: SRKW: June 3 TF meeting summary + news clips + more (External Email: USE Caution)
Date:	Thursday, June 20, 2019 12:53:48 PM
Attachments:	WhaleTrailDedication-OrcaMonth 061219.docx SRKW Task Force Meeting Summary 06.03.19_v2.docx

---

WSC Members and Interested Parties,

I am forwarding the meeting summary from the Orca Task Force meeting held on June 3rd and the link for the slides presented at the meeting. I participated in the Prey Availability Working Group meeting in May in which we discussed climate change impacts and a report card of sorts on the implementation of the Orca Task Force Year 1 Recommendations which were presented at a high level at this Task Force meeting. Next steps include discussions on the impacts of population growth.

Alicia

Alicia Olivas
Lead Entity Program Coordinator
Hood Canal Coordinating Council
office (360) 626-1633 cell (360) 271-4722
http://www.hccc.wa.gov

Please note: All e-mails sent to this address may be subject to Public Disclosure under Chapter 42.56 RCW. Messages may be viewed by parties other than the intended recipient.

---------- Forwarded message ---------
From: **Gretchen Muller** <gretchen@cascadiaconsulting.com>
Date: Wed, Jun 19, 2019 at 4:29 PM
Subject: SRKW: June 3 TF meeting summary + news clips + more
To: Gretchen Muller <gretchen@cascadiaconsulting.com>
Cc: Angela Pietschmann <angela@cascadiaconsulting.com>, Becker, Penny A (DFW) <Penny.Becker@dfw.wa.gov>

Dear SRKW Task Force,

Please see below for information on the following: (1) June 3 Task Force meeting summary, (2) link to public comments, (3) Life After Task Force survey update, (4) the latest news clips, and (5) upcoming event – this Friday.

1. June 3 Task Force Meeting Summary

Attached please find the meeting notes from the June 3 Task Force meeting. **Please send me any edits/comments by Wednesday, June 26 COB.**

2. Public Comments

All public comments received are in this folder: https://pspwa.box.com/s/vdg8outmj17ccras2oj70yd43s75rve1. We are continuing to upload the most recent ones.

(3) Life After Task Force Survey

We are currently drafting a Life After Task Force survey that will include each of the four potential options identified to date. We will send the link to the survey in July so stay tuned.

(4) News Clips

June 10 – June 14, 2019

SALMON

Chinook habitat restoration on Stillaguamish River to start in July (King 5 News)

PUD: Fishing, mining are preventing winter steelhead recovery (Everett Herald)

PUD: Early fishing season placed spawning steelhead in jeopardy (Q13 Fox)

Snohomish River estuary project shows why salmon recovery takes so long (KING 5)

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What are that new baby orca's chances of surviving? (KUOW)

ACTIONS & EFFORTS

Canada bans the captivity and breeding of orcas and dolphins (King 5 News)

Canada passes bill to protect whales and dolphins from the cruelty of captivity (earth.com)

Streamside buffers could help efforts to save Washington orcas (KING 5)

Canada's "Free Willy" bill bans keeping dolphins and orcas in captivity (Rochesterfirst.com)

Seattle mayor files protest against proposed US Navy's air, water training exercises (KOMO News)

Citing possible harm to orcas, Seattle Mayor Durkan protests U.S. Navy training exercises (The Seattle Times)

(5) Upcoming Event – this Friday – you're invited!

All Task Force, Steering Committee, and Working Group members to join us for a Whale Trail sign dedication and Orca Month celebration at Richmond Beach Saltwater Park this Friday, June 21, 1 to 3 PM in Shoreline. Co-hosted by The Whale Trail, WEC, and the City of Shoreline. Hope to see you there!

Event Details:

Who: The Whale Trail, City of Shoreline, Washington Environmental Council

What: A Whale Trail sign dedication and Orca Celebration; free community event and celebration with kids' activities, and refreshments.

When: 1- 3 p.m., Thursday, June 21

Where: Richmond Beach Saltwater Park, Shoreline. The exact location is the picnic shelter on the beach.

Attendees:

- Ken Workman, Duwamish Tribe and great, great, great, great grandson of Chief Seattle
- Mayor Will Hall of Shoreline, member of Governor Inslee's Orca Recovery Task Force
- Representative Cindy Ryu
- Senator Jesse Salomon
- Lynne Barre, Marine Mammal Authorization Program, National Oceanic and Atmospheric Administration (NOAA)
- Steve Bear, Law Enforcement Chief, Washington Department of Fish and Wildlife (WDFW)
- Donna Sandstrom, Executive Director, The Whale Trail, member of Governor Inslee's

Orca Recovery Task Force
- Rein Attemann, Puget Sound Campaign Manager, Washington Environmental Council

Best,

Gretchen

Gretchen Muller, Senior Associate

Cascadia Consulting Group

206.449.1115

gretchen@cascadiaconsulting.com

www.cascadiaconsulting.com

Follow us: LinkedIn | Facebook | Twitter

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To:	Alex Conley; Ali Fitzgerald; Alicia Olivas; Amy Hatch-Winecka; Ashley Von Essen (vonessen.ashley@nisqually-nsn.gov); Aundrea McBride; Becky Peterson; Byron Rot; Baumann, Cheryl; Dave McClure; Dawn Pucci; Denise Smee; Doug Osterman; Evan Bauder; Franklin Hanson; Gina Gray; Glaub, Gretchen; Jacob Anderson; Jason Mulvihill-Kuntz; Jeannie Abbott (GSRO); John Foltz (john@snakeriverboard.org); Kathleen Peters; Kelley Turner; Kirsten Harma; Kirvie Mesebeluu-Yobech; Kit Crump; Krider, Chantell (RCO); Kris Buelow; Lisa Spurrier; Lisa Wilson; Matt Goehring; Melody Tereski; Mike Lithgow; Mike Nordin; Moore, Amber (PSP); Morgan Ruff; Pat Stevenson; Pete Teigen; Richard Brocksmith; Sam Whitridge; Scott Brewer; Steve Manlow; Susan O"Neil; Suter, Stephanie (PSP); Suzanna Smith; Tom Kollasch; Tricia Snyder; Wilkinson, Jason; William (Bill) Armstrong
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Gretchen

Gretchen Muller, Senior Associate

Cascadia Consulting Group

206.449.1115

gretchen@cascadiaconsulting.com

www.cascadiaconsulting.com

Follow us: LinkedIn | Facebook | Twitter

From: Kucipeck, Deborah
To: Gray, Steve
Date: Thursday, May 09, 2019 10:18:01 AM
Attachments: SHR2019-00002 Bailey.doc

From: LoPiccolo, Kevin
To: Jodoin, Starla
Date: Wednesday, June 05, 2019 3:12:00 PM
Attachments: Interested Parties SMP.docx

Kevin LoPiccolo
Principal Planner
Clallam County Department of Community Development
223 East 4th Street, Suite 5
Port Angeles, WA 98362
Tel: (360) 417-2322
klopiccolo@co.clallam.wa.us

From: Ballard, Greg
To: LoPiccolo, Kevin
Date: Wednesday, October 10, 2018 11:45:37 AM
Attachments: DNS Hoko Hatchery final.doc
JST Sewer MDNS.doc

From 1st Doc

SEPA Threshold Determination: Clallam County is the lead agency and has issued a Determination of Non-Significance (DNS) on April 23, 2018 (under WAC 197-11-340(2)) for this proposal. This decision was made after review of a completed environmental checklist and other information on file with the lead agency and existing regulations applicable to the proposal. The fourteen-day comment period for the threshold determination ends on **May 7, 2018.** This decision was made after review of a completed environmental checklist and other information on file with the lead agency and existing regulations applicable to the proposal. This information is available to the public upon request during normal business hours *(and can be found on the Clallam County Online Permit website at www.clallam.net/Permits)*.

From 2nd doc

Comment and Appeal Period: This may be the only opportunity to comment on the environmental impacts of the proposal. Unless the Responsible Official withdraws the threshold determination pursuant to WAC 197-11-340(3)(a), the threshold determination shall be final at the end of the comment period. Agencies and interested parties will be notified if the threshold determination is withdrawn. Within 14 days of the Administrator's decision on the underlying Certificate of Compliance permit, the permit decision and the final threshold determination may appealed to the Hearing Examiner (per Section 26.10.640(1) CCC). Contact the Planning Division for SEPA appeal procedures.

This decision was made after review of a completed environmental checklist, DCD SEPA Memo dated August 10, 2018, and other information on file with the lead agency and existing regulations applicable to the proposal. This information is available to the public upon request during normal business hours *(and can be found on the Clallam County Online Permit website at www.clallam.net/Permits)*.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: LoPiccolo, Kevin
To: Jodoin, Starla
Date: Wednesday, June 05, 2019 3:12:00 PM
Attachments: Interested Parties SMP.docx

Kevin LoPiccolo
Principal Planner
Clallam County Department of Community Development
223 East 4th Street, Suite 5
Port Angeles, WA 98362
Tel: (360) 417-2322
klopiccolo@co.clallam.wa.us

From: Kucipeck, Deborah
To: Gray, Steve
Date: Thursday, May 09, 2019 10:18:01 AM
Attachments: SHR2019-00002 Bailey.doc

From: Kucipeck, Deborah
To: Gray, Steve
Date: Thursday, May 09, 2019 10:18:01 AM
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klopiccolo@co.clallam.wa.us

From: Ballard, Greg
To: LoPiccolo, Kevin
Date: Wednesday, October 10, 2018 11:45:37 AM
Attachments: DNS Hoko Hatchery final.doc
JST Sewer MDNS.doc

From 1st Doc

SEPA Threshold Determination: Clallam County is the lead agency and has issued a Determination of Non-Significance (DNS) on April 23, 2018 (under WAC 197-11-340(2)) for this proposal. This decision was made after review of a completed environmental checklist and other information on file with the lead agency and existing regulations applicable to the proposal. The fourteen-day comment period for the threshold determination ends on **May 7, 2018.** This decision was made after review of a completed environmental checklist and other information on file with the lead agency and existing regulations applicable to the proposal. This information is available to the public upon request during normal business hours *(and can be found on the Clallam County Online Permit website at www.clallam.net/Permits)*.

From 2nd doc

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Principal Planner
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223 East 4th Street, Suite 5
Port Angeles, WA 98362
Tel: (360) 417-2322
klopiccolo@co.clallam.wa.us

From:	Ballard, Greg
To:	"Sather, Nichole K"
Subject:	Nice talking with you
Date:	Wednesday, October 31, 2018 11:42:58 AM
Attachments:	SHR_SUBDEV_APP.pdf SHORELINE_MASTER_PROGRAM.pdf SHR2015-23 MSL#2.doc Hearing Examiner Schedule.pdf Hoko Hatch Staff Rpt final.doc NOA Hoko.pdf

---

Fees
$1,800 Substantial Development
$800 Hearing Examiner Fee
$100 Publish in Paper
$25 mailing cost for public notice
($150 for review of report)

Let me know what Hearing Examiner date & time work for you (30 day notice)

5.21 of SMP see (SHR 2015-23).

Last example is a sample of a staff report for a Substantial Development permit for an electric fence for fish hatchery.

Thanks

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Clark, Donella
To: "Tracy"
Subject: PAKALA
Date: Wednesday, February 13, 2019 4:55:08 PM
Attachments: Exhibit Log_LDV2018-00035.doc
LDV2018-00035_staffreport.doc

Here is the staff report and exhibit log for you to review. I won't be in until tomorrow afternoon.

Donella K Clark, Senior Planner
Clallam County Department of Community Development
(360) 417-2594
223 E 4th St, Suite 5
Port Angeles, WA 98362

From: Ballard, Greg
To: "martha wise"
Subject: RE: 3 crabs (External Email: USE Caution)
Date: Thursday, October 24, 2019 10:34:54 AM
Attachments: Hankins Staff report.doc
NOA VAR 2016-03.pdf
Wise Legend.pdf
Wise.pdf

Basically if the house and appurtenances are located within 50 feet of the buffer it's a Reasonable Use Variance. Should be similar to the Hankins case with wetlands on 2 sides of upland (non-wetland issue) DCD staff report addressed all criteria.

The 10 percent impervious surface (footprint does not count 2nd flood) between minor and major buffers in wetlands is not that big an issue in the analysis.

You could ask Loggy to be your agent like Hankins did (see Notice of Application 2nd attachment) .

VAR2016-00003

Table 5. Wetland Buffers (Section 27.12.215(1)(a) CCC)

	Major New Development	Minor New Development
Class I	200 feet	100 feet
Class II	150 feet	75 feet
Class III	75 feet	50 feet
Class IV	50 feet	25 feet

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Clallam County Department of Community Development
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: martha wise [mailto:marthawwise@gmail.com]
Sent: Thursday, October 24, 2019 9:49 AM
To: Ballard, Greg
Subject: 3 crabs (External Email: USE Caution)

Hello Greg.

I hope this email finds you well. Thank you for the resources you gave me regarding why the other variance on 3 crabs was declined for a septic tank. I spoke with very helpful people who gave me confidence that our lot may have possibilities to get approved for septic. We

received our report from David Loggy. It looks better than could have been hoped for. No sign of any wetland on our piece of property. I attached his report.

I am writing today to ask if you can let me know the next step. There is wetland on the neighboring properties. and, if I learned from your teaching, the whole area is considered wetland. I gather, I will still need one of the two variances. Please tell me if this information is correct. In Class I wetlands, "minor new development" needs to be 100 feet from wetlands. The term minor means less than 10% water impermeable surface. The regular variance gives you ability to apply for a building permit for such a structure 50 feet from the wetland. The Reasonable Use Exception Variance allows for such a structure 10 feet from the wetland.

I have three questions assuming the information above is correct. (It is from my memory of our conversation, so I could be off.) First, I am having a challenge visualizing what a "less than 10% water impermeable surface" structure looks like in liveable size. The land is 0.30 of an acre. Per David Loggy's report, that is 13,068 square feet. 10% of that is 1307 square feet. Does that mean that a home with a footprint of 1307 square feet can be built? And, does that mean that it could have multiple floors because they are all under the same water-impermeable surface?

Next, I am having a challenge visualizing where 50-feet-from and 10-feet-from the wetlands, would put a structure on our longer, thinner, lot and if a structure of the above-listed size can fit in those parameters. There is also a septic tank on the neighboring property quite close to our line which would have to be accounted for. I figure that if a structure is less than 10 percent of the property, it really should be able to fit in many places, but I want to make sure that my reasoning is sound. We do not yet know what we might want or could afford on the property, but we want to give it the best chance possible to have something useful if we do decide to build. The example of a variance application you recommended I look at, has neat maps. I had some thought that those would come from David Loggy, but they do not do they? Where does that part of the application come from?

Third, in our longer thinner property, can both the house and the septic be accommodated within the parameters?

It seems like I need to get an understanding of the above items in order to decide what variance I need to begin. It feels overwhelming to understand, but I bet you see a clear path because you know all the ins and outs so well. I wish I was in PA right now. It is easier to just ask questions in person.

We are pleased that David Loggy could fit us into his busy schedule so quickly and are looking forward to conquering this next step as soon as possible. I also recall the estimate of the cost that you gave me for filing for the variance. We have been saving our pennies.

Thank you so much for all your time helping me with this. I feel lucky that you were available to talk that first day in your office.

Cheers,

Martha Wise and Keith Barker
775-315-5764
1525 Evan Street
Carson City, NV 89701

From: Kucipeck, Deborah
To: "Pamela Dixon"
Subject: RE: 186 Buds Way (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Date: Monday, January 07, 2019 9:35:00 AM
Attachments: tmw_cmd.doc

I'm attaching the staff report pertaining to the land division from 2006 which separated your parcel and the one to the west. Originally they were one 9.51 acre parcel. Yours is Lot 2. It says that access is proposed via Nisbet Road. Just thought you might like to see how the parcels were created.

From: Pamela Dixon [mailto:prdak@yahoo.com]
Sent: Monday, January 07, 2019 9:22 AM
To: Kucipeck, Deborah
Subject: Re: 186 Buds Way (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Woohoo!!!
Thanks !! that has made my day!!!
You have a good one also!!

Sent from Yahoo Mail for iPhone

On Monday, January 7, 2019, 9:19 AM, Kucipeck, Deborah <dkucipeck@co.clallam.wa.us> wrote:

> You shouldn't have to do anything, the PUD can just access from your new driveway as long as everything is accessible.
>
> Your parcel extends right up to the right of way to Nisbet Road, so you will not need permission or agreement from anyone.
>
> ---
>
> **From:** Pamela Dixon [mailto:prdak@yahoo.com]
> **Sent:** Monday, January 07, 2019 9:12 AM
> **To:** Kucipeck, Deborah
> **Subject:** Re: 186 Buds Way (External Email: USE Caution) (External Email: USE Caution)
>
> Thanks Deb!!!
>
> So I won't need any easement agreements from anyone?
>
> The only other concern is all the utilities are near the Buds way entrance to property. Perhaps that's why they had an agreement? Will I need to do anything about the utilities or just have them come the new way to service them or read meters?
>
> Thanks

Pam

Sent from Yahoo Mail for iPhone

On Monday, January 7, 2019, 8:58 AM, Kucipeck, Deborah <dkucipeck@co.clallam.wa.us> wrote:

> Good morning Pamela,
>
> There should be no problem using the long, 30 ft. wide strip as your driveway/access. It's part of your parcel so you will not need permission from anyone. I'm not sure why the address is Bud's way. I think it was something along the lines of a handshake agreement a long time ago. I cannot find any evidence that the easement from properties to the north are even for 186 Buds Way, so that would not be legal access anyhow. The plat shows a 60 ft. right of way extending south through 223 Nisbet Rd. (your neighbor to the west). That may be the dirt road you are talking about? Nisbet has a 30 ft. right of way on both sides. We show the 30 ft. wide section of your parcel abutting that right of way. Getting the address changed to Nisbet Rd. is an easy thing to do. Our building department does that. You can call Toni Goralski at 360-417-2595.
>
> If you still have questions you can call me. Our hours are 8 – 4:30 M – F. I'm usually at my desk, however, I may be at the counter helping someone so leave a message and I will call you right back.
>
> Have a great day.
>
> Deb
>
> **Deborah Kucipeck, Planner**
>
> Clallam County Dept. of Community Development
>
> 223 E. 4th Street, Suite 5
>
> Port Angeles, WA 98362
>
> Phone (360) 417-2563

From: Pamela Dixon [mailto:prdak@yahoo.com]
Sent: Saturday, January 05, 2019 10:01 AM
To: Kucipeck, Deborah
Subject: Re: 186 Buds Way (External Email: USE Caution)

Good Morning Deborah!

I know it's the weekend and you're probably off for the weekend.

I just have a few questions about this property I was asking you about last month. 186 Buds Way in Sequim.

We are pretty close to closing and have come up with an issue.It seems as there may be an issue with the entrance to the property from Buds Way with adjoining landowners.

I am wondering since this seems to be a flag lot can I put to use that 30ft wide strip as my driveway and main entrance instead of Buds Way? I really don't want or need any issues with neighbors I don't even know yet... I am trying to make this an easy transaction/ transition for everyone.

I am trying to see why the address is for Buds way and not Nesbit since the property for a driveway is off of Nesbit Rd? Will I need permission from any land owners to use the other entrance? I do notice there's a small gravel road between Nesbit and the flag lot.

I would like to speak to you about this and if it's not something we can do on the phone can I meet with you as soon as possible?

Thanks

I apologize for all the crazy questions..

Pamela Dixon

Sent from Yahoo Mail for iPhone

On Friday, December 7, 2018, 12:12 PM, Kucipeck, Deborah <dkucipeck@co.clallam.wa.us> wrote:

Good afternoon Pamela,
As we discussed on the phone, I am attaching the standards for Accessory Dwelling Units (ADUs) along with a list of County approved consultants.
Westech prepared the previous wetland report in March, 2006. Wetland reports are only valid for a period of five years, so prior to any new development on the parcel, the County will require that you have a consultant determine if there has been a change since that report was prepared. You may first want to ask the property owners if they have had a report done recently. Just because we don't have a current report on file does not mean that they didn't have one done. We don't always get copies of such reports.
Aside from that requirement, your parcel does qualify for a detached ADU. Keep in mind that the building department will most likely require a septic inspection upon receipt of a new building application.
Please let me know if you have any more questions.
Thank you and have a great weekend.

Deborah Kucipeck, Planner
Clallam County Dept. of Community Development
223 E. 4th Street, Suite 5
Port Angeles, WA 98362
Phone (360) 417-2563

<<Chapter 33 ADU.docx>>
<<Consultantlist2018.docx>>

From:	Ballard, Greg
To:	"Veronica Das"
Cc:	"sergei@lunsfordrasestate.com"
Subject:	RE: Building permit at 344 Kallman Rd.
Date:	Tuesday, October 16, 2018 1:07:29 PM
Attachments:	Kallman Road.pdf DCD approve Geotech to replace home.pdf Rix Chn Meander Sept 24 2018.pdf

---

Attached is some information provided previously about the above referenced parcel.

The see CRI2018-09 at link below for info on Channel Meander Hazard Report Process for a parcel approximately 0.25 miles to the south on 51 Hollow Road (attached).

The parcel at Kallman Road is more of a concern than the Hollow Rd since it is closer to the bend of the Bogachiel River to the northwest.

DCD would require a Channel Meander/Migration Report prior to authorizing any residence on this parcel.

If DCD agreed with the Channel Meander Hazard Report, you would also have to meet the flood requirements and 50 ft shoreline setback.

Please be aware that the Clallam County Shoreline Master Plan (SMP) has been approved by the Planning Commission (PC) in September 2007 and has been before the Board of County Commission since being approved by the PC. After the BOCC approves the plan it would be sent to the WA State Department of Ecology for their approval.

This parcel would be subject to the SMP requirements that are in place when a building permit is submitted & deemed complete.

If you have questions about the SMP Update please contact Steve Gray, Planning Manager at (360) 417-2520 who has been shepherding the SMP Update through the process.

Info related to building permit on Hollow Road is available at the link below.
CRI2018-00009

Documents related to this case:
A1. DCD approval of Geotech Rpt to replace existing home (DCD APPROVE GEOTECH TO REPLACE HOME)
B1 Zenovic Channel Migration Rpt Dated September 24, 2018 (RIX CHN MEANDER SEPT 24 2018)
C1. DCD request for add. info on CMZ (RIX 2018-09)
C2. Channel Migration Maps (CMZ MAPS)
C3. Channel Migration Assessment from SMP Update (CHANNEL MIGRATION ASSMNT)
C4. DCD Photos of Site (51 HOLLOW RD)

Let me know if you have any questions about our Current Shoreline & Critical Area Codes.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

-----Original Message-----
From: Gray, Steve
Sent: Tuesday, October 16, 2018 9:02 AM
To: 'Veronica Das'
Cc: Ballard, Greg
Subject: RE: Building permit at 344 Kallman Rd. (External Email: USE Caution)

Hi Zafar,

I have asked Greg Ballard, Senior Planner, who is our lead planner on shoreline/critical area permitting to look into your question about this property.

He should get back to you soon.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

-----Original Message-----
From: Veronica Das [mailto:zafardas@hotmail.com]
Sent: Monday, October 15, 2018 10:47 AM
To: Gray, Steve
Subject: Building permit at 344 Kallman Rd. (External Email: USE Caution)

Hi Steve,
My name is Zafar and I am interested in buying the above mentioned property but I was told by Sergei Holmquist that I can not build on the lot. There is a trailer parked on the property.

Can you please tell me if it is possible to get a permit to build a 1400 square foot house on this lot. Thank you.

Zafar Das

Sent from my iPhone

From:	McConnell, Michelle (ECY)
To:	Gray, Steve
Subject:	RE: Clallam County SMP 2020 Periodic Review (External Email: USE Caution)
Date:	Thursday, February 21, 2019 12:08:25 PM
Attachments:	image003.png AttB-RequiredChanges.docx AttC-RecChanges.docx

Steve, thanks for today's chat – I think we're on track.

See attached for examples of conditional approval Attachment B Required Changes and Attachment C Recommended Changes.

More soon,



~Michelle

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: McConnell, Michelle (ECY)
Sent: Wednesday, February 20, 2019 9:44 AM
To: 'Gray, Steve' <SGray@co.clallam.wa.us>
Subject: RE: Clallam County SMP 2020 Periodic Review

Hi Steve,

Yes, our intent is to wrap-in the periodic review during this process on the Oct '18 locally-adopted SMP.

We anticipate including language to clarify this in our ECY decision documents, such as Attachment A Findings & Conclusions, and either/both Attachment B Required Changes and/or Attachment C Recommended Changes. Our pending review of the locally-approved SMP will determine if/which of Attachments B/C will be needed (neither if we think we can do 'approved as submitted'!). Thanks for your input on the PR Checklist items, that will help us on our end! Also, once we get to that point, we would look to coordinate closely with you as the County notices the BoCC's final public hearing and action to adopt by ordinance; there is specific wording to make sure is included.

For next steps once our comment period ends (2/28), we'll prepare a summary matrix of comments received and provide that with the comment letters to the County/you, requesting County's response to the issues raised. Once we get your response to comments back we'll begin our SMP review for consistency.

Let me know if you have further questions,

~Michelle

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: Gray, Steve [mailto:SGray@co.clallam.wa.us]
Sent: Tuesday, February 12, 2019 4:49 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: Clallam County SMP 2020 Periodic Review

Hi Michelle,

Hope all is well with you!

I was asked to check in to confirm that Ecology's review of our SMP update will also include a review for compliance with the SMP Periodic Review due in mid-2020. That was my understanding based on our previous conversation back in September.

The SMP periodic review at a minimum requires review amendments to the SMA or State Guidelines. Ecology has a SMP Periodic Review Checklist related to SMA and State Guideline amendments between 2007-2017. You noted last-September that you did not need us to fill out that checklist as part of our local SMP submission materials. If helpful, I did take a look at the periodic review checklist and related guidance in relation to our submitted SMP. I found that most of the SMA and SMP Guidelines amendments are either incorporated and/or addressed (e.g., WAC reference) in the SMP, or are recommended to consider but not required. Based on the periodic checklist, I did identify the following three minor revision areas that we may need to address:

- ***2017 b. Definition of Development.*** Appears we would need to add to our definition of "Development" under Chapter 11 the following: "….Development does not include dismantling or removing structures if there is no other associated development or redevelopment."
- ***2017 c. Exceptions to local review under the SMA.*** The Ecology guidance does not require these exceptions under WAC 173-27-044 , but recommend maintaining a section in the SMP addressing these exceptions. Section 1.6.1 of our submitted SMP does have language "except when specifically exempted by statute." However, if needed, we could add or reference WAC 173-27-044 explicitly under Section 1.6 or 1.7.
- **2007 b. List and map of streams and lakes.** Exhibit A to the SMP includes a map of streams and lakes. However, our submitted SMP does not incorporate a list of streams and lakes.

The periodic review minimum scope also requires review any relevant changes to our comprehensive plan and development regulations to determine consistency with the SMP. The County has not adopted any relevant amendments to our comprehensive plan and development regulations since submittal of the October 2018 locally-approved SMP Update.

I would appreciate hearing back that Ecology review will include addressing the 2020 Periodic Review minimum requirements based on what we submitted to-date.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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Sent: Tuesday, February 12, 2019 4:49 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
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- ***2017 b. Definition of Development.*** Appears we would need to add to our definition of "Development" under Chapter 11 the following: "….Development does not include dismantling or removing structures if there is no other associated development or redevelopment."
- ***2017 c. Exceptions to local review under the SMA.*** The Ecology guidance does not require these exceptions under WAC 173-27-044 , but recommend maintaining a section in the SMP addressing these exceptions. Section 1.6.1 of our submitted SMP does have language "except when specifically exempted by statute." However, if needed, we could add or reference WAC 173-27-044 explicitly under Section 1.6 or 1.7.
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The periodic review minimum scope also requires review any relevant changes to our comprehensive plan and development regulations to determine consistency with the SMP. The County has not adopted any relevant amendments to our comprehensive plan and development regulations since submittal of the October 2018 locally-approved SMP Update.

I would appreciate hearing back that Ecology review will include addressing the 2020 Periodic Review minimum requirements based on what we submitted to-date.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: Gray, Steve
To: Peach, Bill; Gores, Alanna
Subject: RE: comments & summary (External Email: USE Caution)
Date: Friday, March 15, 2019 11:41:43 AM

Hi Bill and Loni,

The letter the Quileute tribe submitted to Ecology is included in the email that I forwarded. However, we have not yet received from Ecology the four supporting documents cited in the Tribes letter, which are referenced as "enclosures" on the last page of the letter. They were too large to email.

-Steve

From: Peach, Bill
Sent: Friday, March 15, 2019 10:56 AM
To: Gores, Alanna
Cc: Gray, Steve
Subject: Fwd: comments & summary (External Email: USE Caution)

Please print the attached documents for me and check with Steve Gray to confirm all of the Quileute comments are in the package you drop on my desk.

Thanks

Sent from my iPhone

Begin forwarded message:

> **From:** "Gray, Steve" <SGray@co.clallam.wa.us>
> **To:** "Ozias, Mark" <mozias@co.clallam.wa.us>, "Peach, Bill" <bpeach@co.clallam.wa.us>, "Johnson, Randy" <rjohnson@co.clallam.wa.us>
> **Cc:** "Winborn, Mary Ellen" <mwinborn@co.clallam.wa.us>, "Sill, Richard" <RSill@co.clallam.wa.us>
> **Subject: FW: comments & summary (External Email: USE Caution)**
>
> Commissioners,
>
> I am forwarding you an email and attachments received from Ecology today. The attachments include the 13 comment submittals that Ecology received during their 45-day public comment period that ended on February 28, 2019 on our locally-approved, Shoreline Master Program (SMP) update—*See Ecology's email below for a summary of who submitted comments.*
>
> The Futurewise and the Quileute Tribe comments included a number of documents (e.g., studies) attached to their letters that are not included due to size and email limitations. Ecology is working on getting internet links and/or scanned files of these supporting documents to the County.
>
> Ecology is preparing a comment summary matrix based on the 13 comment submittals, and once completed will submit it with a request for the County to review and respond. Per WAC 173-26-120, the County has 45-days to respond to the request once received, but can request additional time. Following a County response, Ecology will complete their review of our SMP and prepare findings/conclusions to support their decision to either approve our SMP update as submitted or recommend specific required changes necessary to comply with the state Shoreline Management Act, RCW 90.58, and applicable State SMP Update Rules/Guidelines (WAC 173-26, WAC 173-27). Ecology may also provide recommended changes based on their review.
>
> ***NO ACTION IS REQUIRED BY THE COMMISSIONERS AT THIS TIME—I am forwarding these 13 comment submittals received by Ecology in advance to allow you an early review opportunity.***
>
> -Steve
>
> Steve Gray

Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

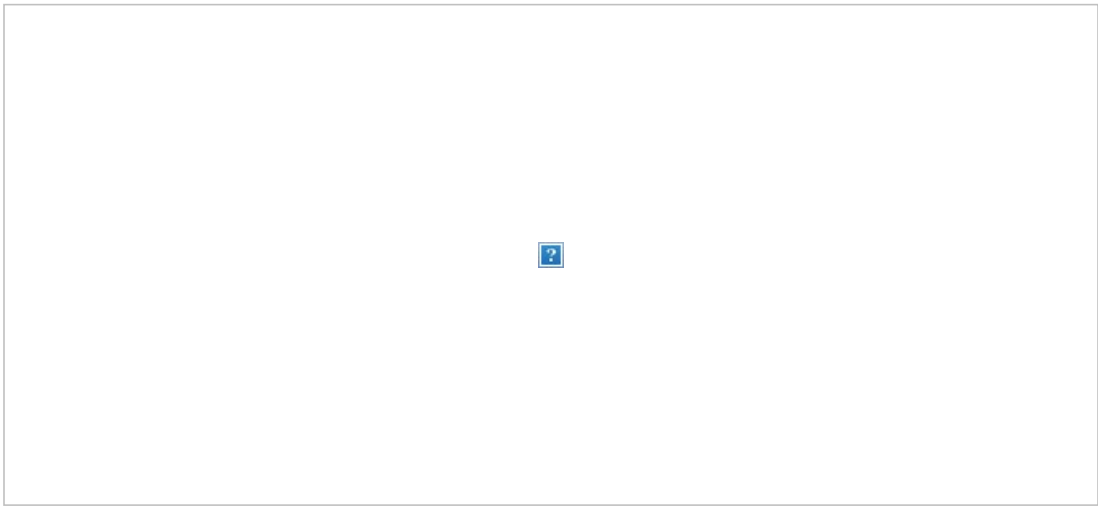
From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Thursday, March 14, 2019 8:53 AM
To: Gray, Steve
Subject: comments & summary (External Email: USE Caution)

1 of 2

Hello Steve,

Per the WAC 173-26-120 process, I am working to prepare a comment summary matrix to aid the County's review of & response to the issues raised; it's not yet complete and I will get that to you as soon as I can. In total, 13 comment submittals were received, including a few that are quite lengthy, with many attached reference documents, that require additional review time. Staff workload is also high right now adding to the delay.

Attached please find the comment submittals, also summarized here:



Due to file size limitations, I'll send you the 5 Quileute Tribe attachments separately in the next email.

Also, there are 4 pages of attachments included in the Futurewise et al. PDF, but the other 32 documents were submitted as hard-copy only – did they happen to send you those documents as well? If no, we'll work to scan all of it and provide to you digitally.

Please let me know if you have questions.

Best regards,

Michelle McConnell
Regional Shoreline Planner

WA Department of Ecology | Southwest & Olympic Region | Shorelands & Environmental Assistance (SEA) Program
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503
360.407.6349 | michelle.mcconnell@ecy.wa.gov

Conserve our natural resources – print only as needed!
NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: Gray, Steve
To: Peach, Bill; Gores, Alanna
Subject: RE: comments & summary (External Email: USE Caution)
Date: Friday, March 15, 2019 11:41:43 AM

Hi Bill and Loni,

The letter the Quileute tribe submitted to Ecology is included in the email that I forwarded. However, we have not yet received from Ecology the four supporting documents cited in the Tribes letter, which are referenced as "enclosures" on the last page of the letter. They were too large to email.

-Steve

From: Peach, Bill
Sent: Friday, March 15, 2019 10:56 AM
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Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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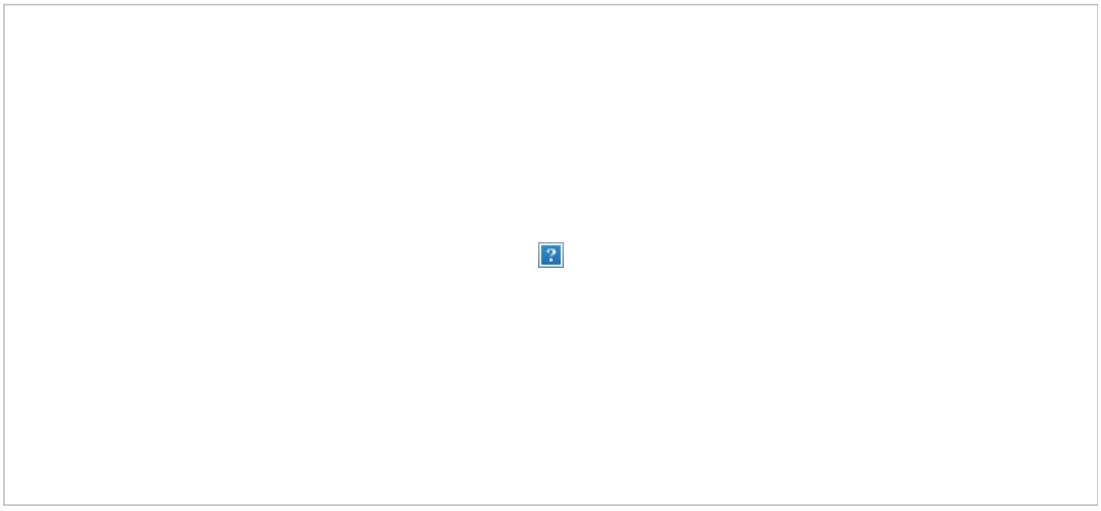

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From:	zSMP
To:	"Ed Bowen"; zSMP
Cc:	Winborn, Mary Ellen; Peach, Bill
Subject:	RE: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State (External Email: USE Caution)
Date:	Tuesday, November 13, 2018 9:33:29 AM

Hi Ed,

The County's SMP email notification list was provided as part of our submittal information to Ecology. It is my understanding that they will use this list to as part of their notice for the state-review public comment period.

We will use our SMP email notification list and the SMP web page to provide notice of the state process once a schedule is available from Ecology.

Regards, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: Ed Bowen [mailto:rockypt@olypen.com]
Sent: Friday, November 09, 2018 3:14 PM
To: zSMP
Cc: Winborn, Mary Ellen; Peach, Bill
Subject: RE: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State (External Email: USE Caution)

Given the likelihood that Dept. of Ecology will not reach out to those interested in the Clallam County SMP Update to engage those folks in the Ecology portion of the process ("Given" because the department did not bother to even show up at the BOCC passing of this resolution and adoption to see who those folks might be), I believe it is imperative of the county to use this zSMP process to keep we the people, the affected people, informed of the Ecology process, timelines,… conversations and discussions held with the BOCC or county staff, and to continue to emphasis the importance and necessity of the agency to engage the public and those affected people in the agency's portion of the process.

I would suggest that such zSMP distribution list be provided to Ecology for them to invite the people to participate and provide an initial list of contact; especially since Ecology did a very terrible job of presenting itself in the discussion around WRIA 20. They might claim to have shown up but if or where they did they completely acted in a questionable/disenfranchised manner to not participate or assist the citizenry to come to solutions. It can be referenced they did everything they could to discount the citizen's input or request because the

thoughts and questions presented apparently didn't meet the agency's predetermined internal desires and goals.

Ed Bowen

From: zSMP [mailto:smp@co.clallam.wa.us]
Sent: Friday, November 09, 2018 11:16 AM
Subject: County Commissioners Approve Update to Shoreline Master Program (SMP) to Submit to State

Interested Parties:

You are receiving this notice because you are on the Clallam County Shoreline Master Program (SMP) Update email notification list.

County-Approved SMP Update: On October 30, 2018 the Board of County Commissioners adopted a Resolution to approve an updated Clallam County Shoreline Master Program (SMP) for submittal to the Washington State Department of Ecology for state review and approval.

Resolution 91 (October 30, 2018)

Clallam County Approved SMP (October 30, 2018)

Next Steps—State review and approval process: Under the state Shoreline Management Act, RCW 90.58, the County and Ecology share joint authority and responsibility for the update and administration of the SMP. Pursuant to RCW 90.58.090, updates to the County's SMP require approval by Ecology to be effective.

The Ecology review and approval process follows RCW 90.58.090 and WAC 173-26-120 and will include opportunities for public comment. Information on the state review process on the County-approved SMP will be provided once available from Ecology.

For more information on the County's SMP Update: Clallam County SMP Update Home Page

Steve Gray, Planning Manager

Clallam County Department of Community Development

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Steve Gray, Planning Manager

Clallam County Department of Community Development

From: Kucipeck, Deborah
To: Furford, Nan
Cc: Feller, Adar; "info@soilsapplication.com"
Subject: RE: Critical Area Review
Date: Monday, October 29, 2018 1:42:49 PM

Good afternoon Nan,

Planning has reviewed the septic permit (SEP2018-00306), APN 043005-110200, for consistency with the Clallam County Critical Areas Code. According to Critical Areas Map, the subject parcel shows landslide and erosion hazards in addition to abutting the Strait of Juan de Fuca, which is a Type 1 water and subject to the County's Shoreline Master Program (SMP).

Landslide hazards require a 50 foot buffer from the top, toe, and all edges per Section 27.12.415 CCC. In addition, no clearing , grading or other alteration of vegetation within this buffer is allowed, except as authorized by the Code.

This section of the Strait of Juan de Fuca is designated "Conservancy" by the SMP. The Conservancy setback is 75' from the OHWM. The Strait is also considered critical habitat for threatened salmonid species. Aquatic and Wildlife Habitat Conservation Area standards apply to this proposal; however these standards will be met through the setback that will be required for the proposed single family dwelling. According to the Department of Ecology's Coastal Atlas Map, this bluff is considered an unstable marine bluff, therefore, the building department will require a 100' setback from the top edge of the bluff for any structures.

According to the site plan submitted, the proposed location for the septic system meets all the required setbacks. Planning has no objection to the issuance of this permit (SEP2018-00306).

Thank you.

Deborah Kucipeck, Planner

Clallam County Dept. of Community Development

223 E. 4th Street, Suite 5

Port Angeles, WA 98362

Phone (360) 417-2563

From: Furford, Nan
Sent: Friday, October 26, 2018 2:34 PM
To: Kucipeck, Deborah
Cc: Feller, Adar; info@soilsapplication.com

Subject: Critical Area Review

Deb,

Please see the attached for critical area review:

SEP2018-00306 / St. Peter / 788 Roberson / 043005110200

Thank you!

<< File: SEP2018-00306_001.pdf >>

Nan Furford, Administrative Specialist II

Clallam County Health & Human Services – Environmental Health

Mailing: 111 E. 3rd Street, Port Angeles, WA 98362

Physical: 223 E. 4th Street, Port Angeles, WA 98362

Phone: 360-417-2506 · Fax: 360-417-2313

Email: nfurford@co.clallam.wa.us

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Phone: 360-417-2506 · Fax: 360-417-2313

Email: nfurford@co.clallam.wa.us

From:	Ballard, Greg
To:	"Carla Sebastian"
Subject:	RE: Diamond Point Parcel #023016149120 - Geo-Tech Current?? (External Email: USE Caution)
Date:	Tuesday, March 26, 2019 8:35:36 AM
Attachments:	Useful Shoreline Related Links 2018.doc 1. Consultantlist2018.pdf

Hi Carla, since the report is nearly 20 years and the bluff is unstable (clay soils and seeps) we would require an updated Geotechnical Report.

2016 Ecology Oblique (link 9 on attached – along with other useful shoreline & bluff info)
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08520.jpg

We would also require an engineered drainage plan.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Carla Sebastian [mailto:Carla@estesbuilders.com]
Sent: Monday, March 25, 2019 5:03 PM
To: Ballard, Greg
Subject: Diamond Point Parcel #023016149120 - Geo-Tech Current?? (External Email: USE Caution)

Hello Greg,

We have a potential client looking at purchasing parcel #023016149120, and are in a 30-day feasibility with their realtor. We need to find out if the attached geo-tech is still valid or would need an updated review or new one completed. Are there any other issues you see with this site as far as buildability?? I appreciate your assistance on this!

Thank you!

Carla Sebastian
Permit Tech
Estes Builders, LLC
(360) 683-8756
carla@estesbuilders.com

490 Happy homeowners and counting! See our latest work.

From: Michelle Hough <michelle@estesbuilders.com>
Sent: Monday, March 25, 2019 1:44 PM

To: Carla Sebastian <Carla@estesbuilders.com>
Subject: Hughes at Diamond Point

Hi! I met with a couple who were walk in's last week and they have an accepted offer with a 30-day feasibility at a Diamond Point lot. I am working with their realtor to help them understand if they can comfortably build on this lot. I found these documents from 2000 on Clallam's site. Can you look over and tell me if there looks to be anything that stands out? Looks like geo tech services were done in 2000. Do the surveys expire?

Michelle Hough
Custom Home Advisor
Estes Builders
C: 360.670.7253 | O: 360.683.8756
michelle@estesbuilders.com

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Michelle Hough
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michelle@estesbuilders.com

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From:	Breitbach, Tami
To:	"David@soundlawcenter.com"
Subject:	RE: FEB. 21ST HEARING EXAMINER AGENDA (External Email: USE Caution)
Date:	Tuesday, February 19, 2019 7:49:03 AM
Attachments:	Exhibit Log_LDV2018-00035.doc LDV2018-00035_staffreport.doc

---

David - Here are those documents. Thank you! - Tami

-----Original Message-----
From: David E. Ortman [mailto:david@soundlawcenter.com]
Sent: Monday, February 18, 2019 3:18 PM
To: Breitbach, Tami
Subject: Re: FEB. 21ST HEARING EXAMINER AGENDA (External Email: USE Caution)
Importance: High

TO: Tami Breitbach, Clallam County

RE: Procedural Matters

We received the file packets for Thursday's hearing today. Mr. Ballard
also emailed the staff report and exhibit list for the SSDP PNNL hearing
last week. I can not locate the emailed staff report and exhibit list for
the Pakala Subdivision application. Could you please resend? Thank you.

David E. Ortman
Attorney-at-Law
Sound Law Center
4500 Ninth Avenue NE, Suite 300
Seattle, WA 98105
(206) 233-1908

On Thu, February 14, 2019 8:38 am, Breitbach, Tami wrote:
> <<AGENDA.docx>>
> Attached is the agenda for the February 21st docket. Copies of the
> records will be forwarded to Sound Law Center today via FedEx overnight,
> and I will forward the electronic exhibit logs and staff reports once I
> have them.
>
> Thank you,
>
>
> Tami Breitbach
> Administrative Specialist II
> Clallam County
> Department of Community Development
> 223 East Fourth Street, Suite 5
> Port Angeles, WA 98362
> (360) 417-2277
>
>
>
>

--

From: Ballard, Greg
To: Theismann, Chad
Cc: "Wiedemeier, Douglas (DFW)"
Subject: RE: Forms for WDFW project
Date: Wednesday, May 22, 2019 11:03:55 AM
Attachments: image002.png

Hi Doug, we received you application. I briefly reviewed the application and did not see a mitigation plan.

The criteria for a Critical Area Variance (27.12.725(7) CCC requires a mitigation plan to be submitted prior to us processing the application.

27.12.725 Criteria of approval for a variance.

Before any variance is granted, it shall be shown by the applicant that the following criteria have been met:

(1) Failure to grant the variance would result in an extraordinary hardship to the applicant.

(2) The extraordinary hardship to the applicant is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and is not, for example, from deed restrictions or the applicant's own actions.

(3) The variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant and no other practicable or reasonable alternative exists (see Definitions).

(4) The granting of the variance will not be materially detrimental to the critical area, public health, safety, welfare, use or interest; or injurious to the property or improvements in the vicinity.

(5) The granting of the variance is the minimum necessary to afford relief to accommodate a use allowed under the Comprehensive Plan, CCC Title 31, Zoning Code, CCC Title 33, Shoreline Management Code, Chapter 35.01 CCC, the Shoreline Master Program or other applicable provisions of the Clallam County Code.

(6) The granting of the variance will not materially compromise the goals and policies of the Comprehensive Plan, CCC Title 31, or be inconsistent with County land use codes or inconsistent with the spirit and intent of this chapter.

(7) A mitigation plan pursuant to this chapter has been submitted and is approved by the review authority for the proposed variance request.

The AHCA Protection standards in Section 27.12.315(1)(c)

(c) Aquatic habitat conservation areas and associated buffers that have been altered and have lost ecological functions and values are encouraged to be restored in order to replace these lost functions. Clallam County shall provide information or technical expertise, where possible, in facilitating restoration activities, including referring interested property owners to various restoration information, efforts and funds. Prior to issuance of a development permit that is proposed adjacent to degraded critical areas or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an appropriate, approved legal device such as a conservation easement that is granted to a conservation program or restoration effort, or by legal, written agreement with restoration agencies or groups.

I am mostly looking for all the area where hatchery is removed & no longer utilized or in degraded AHCA buffers be replanted with native trees and shrubs. It would be nice to have a map that shows the restoration areas since much of the existing hatchery will be removed.

Any biologist could write up the mitigation plan.

27.12.835 Mitigation plan – Applicability.

SHARE

(1) Applicability. Submittal and approval of a mitigation plan shall be required for the following permits or activities:

(a) Variances, reasonable use exceptions and enforcement orders;

(b) Any alteration within 200 feet of a Class I wildlife habitat conservation area, or within a designated critical habitat associated with an threatened or endangered species under ESA;

(c) Development within a landslide hazard area or within 200 feet of a landslide hazard area where the Administrator or Clallam County Building Official determines through a site inspection that required buffers and/or building setbacks, respectively, may not be sufficient to protect public health, safety, and welfare;

(d) Mitigation plans required by the Administrator as part of the certificate of compliance application pursuant to this chapter;

(e) Environmental impacts identified by the Administrator from development proposals located within Class II wildlife habitat conservation areas. This

requirement shall not apply to development which is categorically exempt under WAC 197-11-305.

(f) Certain activities located within a critical aquifer recharge area as specified in Part Six of this chapter.

(2) Permit Conditions. Any mitigation plan prepared pursuant to this section and approved by the review authority shall become part of the certificate of compliance, variance, or reasonable use exception approval.

(3) Waiver. The review authority may waive all or portions of the mitigation plan if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.

27.12.850 Aquatic and wildlife habitat conservation areas – Special requirements.

SHARE

(1) Mitigation plans for impacts to wildlife habitat conservation areas shall be prepared by a biologist with professional experience in mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, may serve as guidance for preparing mitigation plans to protect wildlife habitat conservation areas.

(2) Possible mitigation measures to be included in the report, or required by the Review Authority, could include, but are not limited to:

(a) Establishment of buffer zones;

(b) Preservation or restoration of critically important plants and trees, or other affected areas;

(c) Limitation of access to habitat areas;

(d) Seasonal restriction of construction activities; and

(e) Establishing phased development requirements and/or a timetable for periodic review of the plan.

27.12.840 Mitigation plan – General requirements.

(1) The applicant shall identify and describe why those regulated uses and activities are not and cannot be consistent with the provisions of this chapter and shall describe how impacts shall be mitigated.

(2) The applicant shall mitigate impacts to critical areas by doing one or more of the actions listed below in order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve impacts to critical areas or buffer impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished in one of the following methods, or through other methods as deemed appropriate: selecting a reasonable alternative that avoids most critical area impacts; applying reasonable mitigation measures, such as drainage and erosion control, preservation of critically important plants and trees, limitation of access to critical areas, seasonal restrictions on construction activities, phased development, and/or establishment of buffers.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment for unavoidable impacts. This may be done by reestablishing critical area functions and buffers on-site which have been lost by alterations or activities.

(d) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments for unavoidable impacts. This may be done by intentionally creating critical area functions and buffer at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts.

(3) The review authority shall determine whether identified impacts can be first avoided

and secondly minimized. For any impacts to critical areas that are determined to be unavoidable and necessary, the review authority shall determine whether such impact should be rectified or compensated. The review authority shall affirm that no net loss of wetland or critical habitat results.

(4) Critical area impacts can be mitigated if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of the property.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, May 21, 2019 3:36 PM
To: Theismann, Chad
Cc: 'Wiedemeier, Douglas (DFW)'
Subject: FW: Forms for WDFW project

Hi Chad, we received the WDFW Hurd Creek Hatchery.

Below is the fees required for the proposal.

I guess WDFW needs an invoice.

Thanks

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From: Ballard, Greg
Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Fees would be

$1,500 Zoning CUP
$1,500 Critical Area Variance
$800 Public Hearing Fee
$125 Public Notice
$75 Review BiOp Report

$4,000

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From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Friday, March 29, 2019 9:44 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Greg-

Thanks for the quick response!

Hurd Creek Hatchery Relocation:

- More than 200 feet from Dungeness River (greater than 300)
- Within 150 feet of Hurd Creek (less than 100)
- Minimal in-water work

Hurd Creek Pipe Removal:

- Within 200 feet of the Dungeness River (greater than 100)
- Within 150 feet of Hurd Creek (less than 50)
- No in-water work

I'll be in contact if I have questions.

Thanks!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg <gballard@co.clallam.wa.us>

Sent: Friday, March 29, 2019 8:40 AM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>
Subject: FW: Forms for WDFW project (External Email: USE Caution)

If within 200 feet of Dungeness River it would be a Shoreline Substantial Development permit.

If relocated hatchery is within 150 of Hurd Creek it would require a Critical Area Variance.

For sure it would be a Zoning CUP.

Would require a Habitat Assessment to address the BiOp (add $75 review fee).

Fee would be $2,300 for Zoning CUP plus $125 for notice, plus $75 for review of report.

****

If just abandoning pipe it would be a certificate of compliance ($300 fee).

Please provide a copy of the SEPA threshold determination with applications.

This is a quick list of possible permits.

Please contact me if you have any questions.

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
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From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

Hi Douglas, please provide more information to us and we can provide a more detailed response.

Below is some general info that may be applicable to your proposal.

Existing SMP
The existing Shoreline Master Plan (SMP) is attached.

This proposal would be considered aquaculture 5.02 under the current SMP.

If the hatchery moved within 200 feet of Dungeness River it would require a Shoreline Substantial Development Permit under the existing SMP.

Would submit our Shoreline Application along with JARPA

Proposed SMP

Clallam County has approved an update to the SMP that is currently being reviewed by the WA State Department of Ecology.
Info on this process and proposed SMP is at the link below.
http://www.clallam.net/LandUse/smp.html

Depending on when you submit your application you would be subject to the SMP that has been adopted and approved by Ecology.

Critical Areas
If the proposal was located within 150 feet of Hurd Creek or Dungeness River it would likely require a Critical Area Variance.

If the hatchery was located within the 100 year floodplain it would be subject a Habitat Assessment to the NMFS Biological Opinion regarding impact of development on ESA Species and their habitat (including compensatory storage – (no rise in flood elevation).
https://www.fema.gov/media-library/assets/documents/85343
https://www.fema.gov/media-library-data/1521082188266-40651225e6d536a82c5b995a9d4723d2/Floodplain-Habitat-Assessment-Worksheet_v1_6_Revised_508.pdf
Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning

May need a Zoning Variance in the Rural Low Zone (R5).

SEPA

Would need SEPA done (WDFW would be lead). You would route and provide us a copy of the Threshold Determination.

Fees

See attached fee ordinance

Thanks

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From: Theismann, Chad
Sent: Thursday, February 07, 2019 9:01 AM
To: Ballard, Greg
Subject: FW: Forms for WDFW project (External Email: USE Caution)

This looks to be in your wheelhouse, came into DCDPlan inbox yesterday afternoon at 1:08. Thanks

Chad Theismann, Planner
Clallam County Dept. of Community Development
223 East 4th Street, Suite 5
Port Angeles, WA 98362
Phone 360-417-2420 Fax 360-417-2443
ctheismann@co.clallam.wa.us

From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Wednesday, February 06, 2019 1:08 PM
To: zDCDplan
Subject: Forms for WDFW project (External Email: USE Caution)

Hello-

I am a permitting biologist for WDFW, and I will be obtaining the environmental permits for the relocation of the Hurd Creek hatchery, near Sequim. I cannot readily find county forms to address critical areas, SMA, and shorelines. I am nearing completion of the JARPA, and have plans available. Should we obtain all the permits in time, we would like to start work this fall.

Feel free to contact me if you need more information, and I am willing to come to PA in person if necessary.

Thank you!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg
To: Theismann, Chad
Cc: "Wiedemeier, Douglas (DFW)"
Subject: RE: Forms for WDFW project
Date: Wednesday, May 22, 2019 11:03:55 AM
Attachments: image002.png

Hi Doug, we received you application. I briefly reviewed the application and did not see a mitigation plan.

The criteria for a Critical Area Variance (27.12.725(7) CCC requires a mitigation plan to be submitted prior to us processing the application.

27.12.725 Criteria of approval for a variance.

Before any variance is granted, it shall be shown by the applicant that the following criteria have been met:

(1) Failure to grant the variance would result in an extraordinary hardship to the applicant.

(2) The extraordinary hardship to the applicant is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and is not, for example, from deed restrictions or the applicant's own actions.

(3) The variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant and no other practicable or reasonable alternative exists (see Definitions).

(4) The granting of the variance will not be materially detrimental to the critical area, public health, safety, welfare, use or interest; or injurious to the property or improvements in the vicinity.

(5) The granting of the variance is the minimum necessary to afford relief to accommodate a use allowed under the Comprehensive Plan, CCC Title 31, Zoning Code, CCC Title 33, Shoreline Management Code, Chapter 35.01 CCC, the Shoreline Master Program or other applicable provisions of the Clallam County Code.

(6) The granting of the variance will not materially compromise the goals and policies of the Comprehensive Plan, CCC Title 31, or be inconsistent with County land use codes or inconsistent with the spirit and intent of this chapter.

(7) A mitigation plan pursuant to this chapter has been submitted and is approved by the review authority for the proposed variance request.

The AHCA Protection standards in Section 27.12.315(1)(c)

(c) Aquatic habitat conservation areas and associated buffers that have been altered and have lost ecological functions and values are encouraged to be restored in order to replace these lost functions. Clallam County shall provide information or technical expertise, where possible, in facilitating restoration activities, including referring interested property owners to various restoration information, efforts and funds. Prior to issuance of a development permit that is proposed adjacent to degraded critical areas or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an appropriate, approved legal device such as a conservation easement that is granted to a conservation program or restoration effort, or by legal, written agreement with restoration agencies or groups.

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27.12.835 Mitigation plan – Applicability.

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requirement shall not apply to development which is categorically exempt under WAC 197-11-305.

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(2) Permit Conditions. Any mitigation plan prepared pursuant to this section and approved by the review authority shall become part of the certificate of compliance, variance, or reasonable use exception approval.

(3) Waiver. The review authority may waive all or portions of the mitigation plan if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.

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Sent: Tuesday, May 21, 2019 3:36 PM
To: Theismann, Chad
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Subject: FW: Forms for WDFW project

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Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Fees would be

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This is a quick list of possible permits.

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From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

Hi Douglas, please provide more information to us and we can provide a more detailed response.

Below is some general info that may be applicable to your proposal.

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Would submit our Shoreline Application along with JARPA

Proposed SMP

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Depending on when you submit your application you would be subject to the SMP that has been adopted and approved by Ecology.

Critical Areas
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Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning

May need a Zoning Variance in the Rural Low Zone (R5).

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Fees

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From:	Ballard, Greg
To:	"Douglas.Wiedemeier@dfw.wa.gov"
Cc:	Theismann, Chad
Subject:	RE: Forms for WDFW project (External Email: USE Caution)
Date:	Thursday, February 07, 2019 10:11:59 AM
Attachments:	SHORELINE_MASTER_PROGRAM.pdf Hurd Creek.pdf SHR_SUBDEV_APP.pdf VAR_APP_CA.pdf CUP_APP.pdf ECL_APP.pdf 2018 fees.pdf

---

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Sent: Wednesday, February 06, 2019 1:08 PM
To: zDCDplan
Subject: Forms for WDFW project (External Email: USE Caution)

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Thank you!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg
To: "Douglas.Wiedemeier@dfw.wa.gov"
Subject: RE: Forms for WDFW project (External Email: USE Caution)
Date: Thursday, February 14, 2019 2:48:31 PM

Hi Doug, thanks for the SEPA for Hurd Creek

Could you provide a summary of the existing and proposed facilities at the Hurd Creek hatchery so we can determine whether the relocated structures would be an expansion and may require a Zoning CUP permit?

Also if proposal is located within the 100 year floodplain it would be subject to the NMFS BiOp & would require a Habitat Assessment to address the impact of development in the floodplain on ESA species and their habitat (see links below)

Puget_Sound_R10_Habitat_Assess_guide.pdf
FEMA BiOp Worksheet

Thanks

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

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Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

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Fees

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To:	"Zitomer, Danielle R (DFW)"
Subject:	RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Date:	Wednesday, February 13, 2019 8:36:04 AM

I was just trying to get everyone in contact with each other & letting the hatchery know about the situation since they lost ~300 feet over the past few years.

Thanks

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From: Zitomer, Danielle R (DFW) [mailto:Danielle.Zitomer@dfw.wa.gov]
Sent: Friday, February 08, 2019 12:23 PM
To: Wiedemeier, Douglas (DFW); Ballard, Greg
Cc: Simmons, Katrina E (DFW); Waldbillig, Chris M (DFW)
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Good afternoon,

Thank you for your email.

Greg, you are correct that an HPA will be required for the repositioning of any large woody material in the channel. Please pass my information along to any property owner who contacts you regarding this type of work. If they cannot reach me for any reason and are experiencing a hydraulic emergency, they can contact our 24 hour Emergency HPA Hotline at (360) 902-2537.

If you were to get a phone number, email address, or street address from the individual you spoke to, please pass that information along to me so that I can reach them. I spoke with Deborah Kucipeck regarding this situation yesterday, but she was not able to locate any contact information for the caller, nor did she find any parcels matching the approximate site locations for that individual.

For any HPA, including emergencies, I am required to have an applicant that I issue the permit to. Unfortunately, I cannot issue an HPA broadly for a location or an event without an actual applicant.

Thank you again for reaching out with this information. Please do not hesitate to contact me directly if you have any additional questions or if there is any assistance I can provide.

Sincerely,

Danielle Zitomer

Habitat Biologist
WDFW Habitat Program
332 E 5th St #210
Port Angeles WA 98362
360-764-0866
danielle.zitomer@dfw.wa.gov

From: Wiedemeier, Douglas (DFW)
Sent: Friday, February 8, 2019 7:15 AM
To: Ballard, Greg <gballard@co.clallam.wa.us>
Cc: Zitomer, Danielle R (DFW) <Danielle.Zitomer@dfw.wa.gov>; Simmons, Katrina E (DFW) <Katrina.Simmons@dfw.wa.gov>; Waldbillig, Chris M (DFW) <Chris.Waldbillig@dfw.wa.gov>
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Thanks Greg!

I will let Danielle handle this one, as she is the local Habitat biologist.

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This is near where the 350 ft of bank was lost a few years ago near Hurd Creek Hatchery.

May need emergency HPA

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Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning
May need a Zoning Variance in the Rural Low Zone (R5).

SEPA
Would need SEPA done (WDFW would be lead). You would route and provide us a copy of the Threshold Determination.

Fees
See attached fee ordinance

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Theismann, Chad
Sent: Thursday, February 07, 2019 9:01 AM
To: Ballard, Greg
Subject: FW: Forms for WDFW project (External Email: USE Caution)

This looks to be in your wheelhouse, came into DCDPlan inbox yesterday afternoon at 1:08. Thanks

Chad Theismann, Planner
Clallam County Dept. of Community Development
223 East 4th Street, Suite 5
Port Angeles, WA 98362
Phone 360-417-2420 Fax 360-417-2443
ctheismann@co.clallam.wa.us

From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Wednesday, February 06, 2019 1:08 PM
To: zDCDplan
Subject: Forms for WDFW project (External Email: USE Caution)

Hello-

I am a permitting biologist for WDFW, and I will be obtaining the environmental permits for the relocation of the Hurd Creek hatchery, near Sequim. I cannot readily find county forms to address critical areas, SMA, and shorelines. I am nearing completion of the JARPA, and have plans available. Should we obtain all the permits in time, we would like to start work this fall.

Feel free to contact me if you need more information, and I am willing to come to PA in person if necessary.

Thank you!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg
To: "Wiedemeier, Douglas (DFW)"
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)
Date: Friday, March 29, 2019 4:02:13 PM

Fees would be

$1,500 Zoning CUP
$1,500 Critical Area Variance
$800 Public Hearing Fee
$125 Public Notice
$75 Review BiOp Report

$4,000

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From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Friday, March 29, 2019 9:44 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Greg-

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- Within 150 feet of Hurd Creek (less than 100)
- Minimal in-water work

Hurd Creek Pipe Removal:

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- Within 150 feet of Hurd Creek (less than 50)
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I'll be in contact if I have questions.

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Capital and Asset Management Program

Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Friday, March 29, 2019 8:40 AM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>
Subject: FW: Forms for WDFW project (External Email: USE Caution)

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If relocated hatchery is within 150 of Hurd Creek it would require a Critical Area Variance.

For sure it would be a Zoning CUP.

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Fee would be $2,300 for Zoning CUP plus $125 for notice, plus $75 for review of report.

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If just abandoning pipe it would be a certificate of compliance ($300 fee).

Please provide a copy of the SEPA threshold determination with applications.

This is a quick list of possible permits.

Please contact me if you have any questions.

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Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
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This proposal would be considered aquaculture 5.02 under the current SMP.

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Would submit our Shoreline Application along with JARPA

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Thank you!

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360-902-8422

From: Ballard, Greg
To: Theismann, Chad
Cc: "Wiedemeier, Douglas (DFW)"
Subject: RE: Forms for WDFW project
Date: Wednesday, May 22, 2019 11:03:55 AM
Attachments: image002.png

Hi Doug, we received you application. I briefly reviewed the application and did not see a mitigation plan.

The criteria for a Critical Area Variance (27.12.725(7) CCC requires a mitigation plan to be submitted prior to us processing the application.

27.12.725 Criteria of approval for a variance.

Before any variance is granted, it shall be shown by the applicant that the following criteria have been met:

(1) Failure to grant the variance would result in an extraordinary hardship to the applicant.

(2) The extraordinary hardship to the applicant is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and is not, for example, from deed restrictions or the applicant's own actions.

(3) The variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant and no other practicable or reasonable alternative exists (see Definitions).

(4) The granting of the variance will not be materially detrimental to the critical area, public health, safety, welfare, use or interest; or injurious to the property or improvements in the vicinity.

(5) The granting of the variance is the minimum necessary to afford relief to accommodate a use allowed under the Comprehensive Plan, CCC Title 31, Zoning Code, CCC Title 33, Shoreline Management Code, Chapter 35.01 CCC, the Shoreline Master Program or other applicable provisions of the Clallam County Code.

(6) The granting of the variance will not materially compromise the goals and policies of the Comprehensive Plan, CCC Title 31, or be inconsistent with County land use codes or inconsistent with the spirit and intent of this chapter.

(7) A mitigation plan pursuant to this chapter has been submitted and is approved by the review authority for the proposed variance request.

The AHCA Protection standards in Section 27.12.315(1)(c)

(c) Aquatic habitat conservation areas and associated buffers that have been altered and have lost ecological functions and values are encouraged to be restored in order to replace these lost functions. Clallam County shall provide information or technical expertise, where possible, in facilitating restoration activities, including referring interested property owners to various restoration information, efforts and funds. Prior to issuance of a development permit that is proposed adjacent to degraded critical areas or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an appropriate, approved legal device such as a conservation easement that is granted to a conservation program or restoration effort, or by legal, written agreement with restoration agencies or groups.

I am mostly looking for all the area where hatchery is removed & no longer utilized or in degraded AHCA buffers be replanted with native trees and shrubs. It would be nice to have a map that shows the restoration areas since much of the existing hatchery will be removed.

Any biologist could write up the mitigation plan.

27.12.835 Mitigation plan – Applicability.

SHARE

(1) Applicability. Submittal and approval of a mitigation plan shall be required for the following permits or activities:

(a) Variances, reasonable use exceptions and enforcement orders;

(b) Any alteration within 200 feet of a Class I wildlife habitat conservation area, or within a designated critical habitat associated with an threatened or endangered species under ESA;

(c) Development within a landslide hazard area or within 200 feet of a landslide hazard area where the Administrator or Clallam County Building Official determines through a site inspection that required buffers and/or building setbacks, respectively, may not be sufficient to protect public health, safety, and welfare;

(d) Mitigation plans required by the Administrator as part of the certificate of compliance application pursuant to this chapter;

(e) Environmental impacts identified by the Administrator from development proposals located within Class II wildlife habitat conservation areas. This

requirement shall not apply to development which is categorically exempt under WAC 197-11-305.

(f) Certain activities located within a critical aquifer recharge area as specified in Part Six of this chapter.

(2) Permit Conditions. Any mitigation plan prepared pursuant to this section and approved by the review authority shall become part of the certificate of compliance, variance, or reasonable use exception approval.

(3) Waiver. The review authority may waive all or portions of the mitigation plan if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.

27.12.850 Aquatic and wildlife habitat conservation areas – Special requirements.

SHARE

(1) Mitigation plans for impacts to wildlife habitat conservation areas shall be prepared by a biologist with professional experience in mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, may serve as guidance for preparing mitigation plans to protect wildlife habitat conservation areas.

(2) Possible mitigation measures to be included in the report, or required by the Review Authority, could include, but are not limited to:

(a) Establishment of buffer zones;

(b) Preservation or restoration of critically important plants and trees, or other affected areas;

(c) Limitation of access to habitat areas;

(d) Seasonal restriction of construction activities; and

(e) Establishing phased development requirements and/or a timetable for periodic review of the plan.

27.12.840 Mitigation plan – General requirements.

(1) The applicant shall identify and describe why those regulated uses and activities are not and cannot be consistent with the provisions of this chapter and shall describe how impacts shall be mitigated.

(2) The applicant shall mitigate impacts to critical areas by doing one or more of the actions listed below in order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve impacts to critical areas or buffer impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished in one of the following methods, or through other methods as deemed appropriate: selecting a reasonable alternative that avoids most critical area impacts; applying reasonable mitigation measures, such as drainage and erosion control, preservation of critically important plants and trees, limitation of access to critical areas, seasonal restrictions on construction activities, phased development, and/or establishment of buffers.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment for unavoidable impacts. This may be done by reestablishing critical area functions and buffers on-site which have been lost by alterations or activities.

(d) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments for unavoidable impacts. This may be done by intentionally creating critical area functions and buffer at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts.

(3) The review authority shall determine whether identified impacts can be first avoided

and secondly minimized. For any impacts to critical areas that are determined to be unavoidable and necessary, the review authority shall determine whether such impact should be rectified or compensated. The review authority shall affirm that no net loss of wetland or critical habitat results.

(4) Critical area impacts can be mitigated if mitigation measures would not result in an extraordinary hardship and denial of reasonable use of the property.

Thanks

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From: Ballard, Greg
Sent: Tuesday, May 21, 2019 3:36 PM
To: Theismann, Chad
Cc: 'Wiedemeier, Douglas (DFW)'
Subject: FW: Forms for WDFW project

Hi Chad, we received the WDFW Hurd Creek Hatchery.

Below is the fees required for the proposal.

I guess WDFW needs an invoice.

Thanks

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From: Ballard, Greg
Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

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Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

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Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
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Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Tuesday, May 21, 2019 3:36 PM
To: Theismann, Chad
Cc: 'Wiedemeier, Douglas (DFW)'
Subject: FW: Forms for WDFW project

Hi Chad, we received the WDFW Hurd Creek Hatchery.

Below is the fees required for the proposal.

I guess WDFW needs an invoice.

Thanks

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Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, March 29, 2019 4:02 PM
To: 'Wiedemeier, Douglas (DFW)'
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Fees would be

$1,500 Zoning CUP
$1,500 Critical Area Variance
$800 Public Hearing Fee
$125 Public Notice
$75 Review BiOp Report

$4,000

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Email: gballard@co.clallam.wa.us

From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Friday, March 29, 2019 9:44 AM
To: Ballard, Greg
Subject: RE: Forms for WDFW project (External Email: USE Caution) (External Email: USE Caution)

Greg-

Thanks for the quick response!

Hurd Creek Hatchery Relocation:

- More than 200 feet from Dungeness River (greater than 300)
- Within 150 feet of Hurd Creek (less than 100)
- Minimal in-water work

Hurd Creek Pipe Removal:

- Within 200 feet of the Dungeness River (greater than 100)
- Within 150 feet of Hurd Creek (less than 50)
- No in-water work

I'll be in contact if I have questions.

Thanks!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Ballard, Greg <gballard@co.clallam.wa.us>

Sent: Friday, March 29, 2019 8:40 AM
To: Wiedemeier, Douglas (DFW) <Douglas.Wiedemeier@dfw.wa.gov>
Subject: FW: Forms for WDFW project (External Email: USE Caution)

If within 200 feet of Dungeness River it would be a Shoreline Substantial Development permit.

If relocated hatchery is within 150 of Hurd Creek it would require a Critical Area Variance.

For sure it would be a Zoning CUP.

Would require a Habitat Assessment to address the BiOp (add $75 review fee).

Fee would be $2,300 for Zoning CUP plus $125 for notice, plus $75 for review of report.

****

If just abandoning pipe it would be a certificate of compliance ($300 fee).

Please provide a copy of the SEPA threshold determination with applications.

This is a quick list of possible permits.

Please contact me if you have any questions.

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, February 07, 2019 10:12 AM
To: 'Douglas.Wiedemeier@dfw.wa.gov'
Cc: Theismann, Chad
Subject: RE: Forms for WDFW project (External Email: USE Caution)

Hi Douglas, please provide more information to us and we can provide a more detailed response.

Below is some general info that may be applicable to your proposal.

Existing SMP
The existing Shoreline Master Plan (SMP) is attached.

This proposal would be considered aquaculture 5.02 under the current SMP.

If the hatchery moved within 200 feet of Dungeness River it would require a Shoreline Substantial Development Permit under the existing SMP.

Would submit our Shoreline Application along with JARPA

Proposed SMP

Clallam County has approved an update to the SMP that is currently being reviewed by the WA State Department of Ecology.
Info on this process and proposed SMP is at the link below.
http://www.clallam.net/LandUse/smp.html

Depending on when you submit your application you would be subject to the SMP that has been adopted and approved by Ecology.

Critical Areas
If the proposal was located within 150 feet of Hurd Creek or Dungeness River it would likely require a Critical Area Variance.

If the hatchery was located within the 100 year floodplain it would be subject a Habitat Assessment to the NMFS Biological Opinion regarding impact of development on ESA Species and their habitat (including compensatory storage – (no rise in flood elevation).
https://www.fema.gov/media-library/assets/documents/85343
https://www.fema.gov/media-library-data/1521082188266-40651225e6d536a82c5b995a9d4723d2/Floodplain-Habitat-Assessment-Worksheet_v1_6_Revised_508.pdf
Sample of HA for Rakowski parcel to south SHR2016-00010

Zoning

May need a Zoning Variance in the Rural Low Zone (R5).

SEPA

Would need SEPA done (WDFW would be lead). You would route and provide us a copy of the Threshold Determination.

Fees

See attached fee ordinance

Thanks

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Email: gballard@co.clallam.wa.us

From: Theismann, Chad
Sent: Thursday, February 07, 2019 9:01 AM
To: Ballard, Greg
Subject: FW: Forms for WDFW project (External Email: USE Caution)

This looks to be in your wheelhouse, came into DCDPlan inbox yesterday afternoon at 1:08. Thanks

Chad Theismann, Planner
Clallam County Dept. of Community Development
223 East 4th Street, Suite 5
Port Angeles, WA 98362
Phone 360-417-2420 Fax 360-417-2443
ctheismann@co.clallam.wa.us

From: Wiedemeier, Douglas (DFW) [mailto:Douglas.Wiedemeier@dfw.wa.gov]
Sent: Wednesday, February 06, 2019 1:08 PM
To: zDCDplan
Subject: Forms for WDFW project (External Email: USE Caution)

Hello-

I am a permitting biologist for WDFW, and I will be obtaining the environmental permits for the relocation of the Hurd Creek hatchery, near Sequim. I cannot readily find county forms to address critical areas, SMA, and shorelines. I am nearing completion of the JARPA, and have plans available. Should we obtain all the permits in time, we would like to start work this fall.

Feel free to contact me if you need more information, and I am willing to come to PA in person if necessary.

Thank you!

Doug Wiedemeier
WDFW
Capital and Asset Management Program
Fish and Wildlife Biologist
360-902-8422

From: Patrick Kent
To: Ballard, Greg
Cc: Clark, Donella; jeffcole@mail.com
Subject: Re: FW: West Sequim Bay Questions (External Email: USE Caution)
Date: Tuesday, April 14, 2020 2:00:36 PM

Hi Greg and Donella,

Thank you for all of your help. I have one last question: am I able to have a house on each of the three Parcels? I want to confirm these are truly three separate buildable tax parcels before I close on the property. Thank you again!!

Patrick Kent
206 890 7579

On Tue, Mar 31, 2020 at 12:22 PM Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> Hi Patrick, I do most of the shoreline and critical area reviews.
>
> The first attachment is useful shoreline info.
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> Link 9 is the WA State Department of Ecology Coastal Zone Atlas Maps that show oblique views of the shoreline over time (see link below for the 2016 for the subject parcels).
>
> 2016 aerial
>
> https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08453.jpg
>
> Any new development would be subject to the SMP adopted.
>
> Existing development would likely be allowed to be repaired and maintained per WAC 173-27-040(2)(b) (4th attachment).
>
> Info on non-conforming development in shoreline is attachment 5. In general if existing development is located within shoreline setback (~37 feet) new additions cannot increase the non-conformity (i.e. be locate a 37 feet or closer).

Existing 1976 SMP

The current 1976 Shoreline Master Program (2nd attachment) designates this site a Rural with a 50 ft setback from the Ordinary High Water Mark (OHWM).

Existing Critical area code has a 50 foot buffer from unstable bluffs per Section 27.12.415(1)(a) Clallam County Codes (CCC). Any development proposed within 50 ft of the top of bluff would require a geotechnical report.

The coastal zone atlas map indicates that this site is mostly stable (3rd attachment). The building division could require a 100 ft setback per 31.01.100 CCC

Link to Clallam County Codes

Proposed 2018 SMP

The WA State Department of Ecology has not approved our SMP but could anytime in the near future.

In 2018 Clallam County update the Shoreline Master Plan (link 11 on first attachment) or following link http://www.clallam.net/LandUse/smp.html

http://www.clallam.net/LandUse/documents/SMP_Map_book_3D_2.pdf

The proposed SMP designates this site a Residential Conservancy

Table 6-1 of the proposed 2018 SMP has the proposed setbacks.

This site also is designated unstable bluff (smaller setbacks than exception feeder bluff and other feeder bluffs).

See sections 7.13. & 7.14 & Table 7.7 for proposed landslide hazard standards in the proposed 2018 SMP.

Lots of info.

Let me know if you have any questions.

Thanks

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From: Patrick Kent [mailto:patrickkent31@gmail.com]
Sent: Sunday, March 29, 2020 1:27 PM
To: zDCDplan
Subject: West Sequim Bay Questions (External Email: USE Caution)

Hello Ms. Clark,

I am under contract on the following three parcels and was hoping you could help answer a few questions for me.

033035239020

033035239015

033035239010

1) Will I have any permitting issues remodeling or adding square footage to the waterfront house on parcel 9020?

See above

2) it appears that the cabin in the middle of the property is located on both parcel 9015 and 9010. If that is the case, will I have any issues doing a property line adjustment so the cabin falls fully within one of those parcels?

These lots are non-conforming 0.82 & 0.83 acres in size under 1 acre minimum lot size of NC District. After the Boundary Line Adjustment each lot would have to be the same size & cabin would have to meet setback (i.e. 10 ft side setback from lot line). Boundary Line Adjustment application is 6th attachment. Donella Clark, Principal Planner 360-417-2594 can answer questions about this process.

3) If I need to cut down a tree on the water bank, that will likely fall soon, Will I be allowed to cut it down if it is deemed a safety hazard?

Generally if a tree is within 200 feet of a structure or within a tree length & a half it could be considered a hazard tree. We sometimes require an arborist report to demonstrate tree (large conifer) is a hazard (see consultant list attached – 7th attachment). The Critical Area Code allows the removal of a hazard tree per Sections 27.12.315(1)(g) & 415 (1)(e) CCC.

Which states "Hazard Tree Removal. Where a threat to human life or property is demonstrated, the Administrator may allow the falling of a danger or hazard tree subject to the following criteria: (i) tree removal is the minimum necessary to balance the protection of the critical area and its buffer with protection of life and property; and (ii) planting of a tree may be required to assure habitat protection."

4) in 10 to 20 years if my bank has eroded closer to the house, am I allowed to reinforce it?

Normal repair and maintenance or existing retaining wall is allowed per WAC 173-27-040(2)(b) -4th attachment (easy process). If house is threatened a bulkhead may be allowed per WAC 173-27-040(2)(c) – 4th attachment (more review criteria for new bulkhead).

Any help you can provide would be greatly appreciated! This is a big purchase for me and my family, and I want to make sure I have all my bases covered.

Thanks so much!

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(206) 890-7579

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Date: Tuesday, April 14, 2020 2:00:36 PM

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Lots of info.

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Thanks

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Thanks so much!

Patrick Kent

(206) 890-7579

From: McConnell, Michelle (ECY)
To: Gray, Steve
Subject: RE: Need Word Version of Current SMP Checklist (External Email: USE Caution)
Date: Monday, October 29, 2018 7:29:27 AM
Attachments: SMP Checklist 2012.docx

Here's the Word version – probably the same as what you have since it hasn't changed in recent years.

Also, very exciting that tomorrow may be 'it' for the Board!! Unfortunately, I presently have a conflict but may be able to shuffle things so I can attend… if not I'll certainly be there in spirit!



~Michelle

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: Gray, Steve [mailto:SGray@co.clallam.wa.us]
Sent: Friday, October 26, 2018 3:11 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: Need Word Version of Current SMP Checklist
Importance: High

Hi Michelle,

Could you please confirm that the SMP Checklist we need to submit is the one in Appendix C of Ecology's SMP Handbook? The periodic review checklist is available on-line in a Word version, but could not find a "word version" of the comprehensive update checklist found in Appendix C.

We do have a word version of the checklist that we filled out based on earlier drafts. It looks similar to the one in Appendix C of the Handbook. So, I will start updating that one.

If I should be using a different checklist than the one in Appendix C please let me no ASAP and email me the correct checklist.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From:	bvreeland@tfon.com
To:	Mike Doherty
Cc:	edchadd; Jeff Ward; Andersen, Helle
Subject:	Re: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update (External Email: USE Caution)
Date:	Sunday, October 14, 2018 9:29:20 AM

Mike,

I just reviewed the language changes in the "whole bloody thing." There are a couple of places that wording could be improved and maybe some places where there might be loop holes. I don't have any good language that could remedy that.

There are some good/interesting additions. One of the good things is the addition of # 15 Shoreline Master Program Goal which states "To inform citizens and property owners about information on potential climate change and sea level rise impacts such as the 2015 Climate Change Preparedness Pland for the North Olympic Peninsula, as amended, and the Projected Sea Level Rise in Washington State - A 2018 Assessment." The only problem I see is who's going to do this (see discussion below)?

An interesting addition to the Management Policies for all shoreline designations (as well as a couple of other places) is: "Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place (and now the addition in red) THROUGH A TARGETED MARKETING OUTREACH PROGRAM IMPLEMENTED BY CLALLAM COUNTY" (my caps). Hhhhmmmmm, I wonder who might be task with this "targeted marketing outreach," additional County staff???? NOT!!!! Maybe the MRC???? Likely! I'll give Commissioner Peach credit for this one, I think he has found a use for the MRC! I think we better talk about this at the Mon. 10/15 MRC meeting!!!!!

I specifically looked at Chapter 10 and don't see any "biological" implications but do see "work" implications for added language under the Administrative Authority and Responsibility (1. k & l). Again who's going to do this, additional County staff? Likely not, so how is it going to get done? Your guess is as good as mine! These additions look to me to be out of the level of knowledge of the present MRC members. I know that they are out of my level of knowledge!!!

Bob V.

----- Original Message -----
From: "Mike Doherty" <doherty_mike@yahoo.com>
To: "Bob Vreeland" <bvreeland@tfon.com>
Sent: Thursday, October 11, 2018 9:49:25 AM
Subject: Fw: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update

Good Morning Bob. In case you did not get this from Steve Gray.... In the revised draft it looks to me that Bill Peach wanted a lot of changes (in red) in the channel migration area language. i don't have the background to understand the impacts of the proposed changed language. Have you looked at that section in the on-line revised draft (link below)? Can you help me understand the impacts of the proposed language? Thanks. mike doherty

----- Forwarded Message -----
From: zSMP <smp@co.clallam.wa.us>

Sent: Thursday, October 11, 2018, 8:22:06 AM PDT
Subject: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update

Interested Parties:

You are receiving this notice because you are on the Clallam County Shoreline Master Program (SMP) Update email notification list.

On December 12, 2017, the Board of County Commissioners (BOCC) held a public hearing on a Draft SMP (Sept. 2017) recommended by the County Planning Commission (PC) to update and replace: (1) the existing 1976 SMP (last amended 1992); and (2) procedures for administration (e.g., permit process) of the SMP in Chapter 35.01, Shoreline Management, of the Clallam County Code. Since the December 12 public hearing, the BOCC has held 14 work sessions addressing SMP issue areas and public comments received on the PC's recommended SMP.

Upcoming Work Session:

The BOCC will hold a work session on October 15 , 2018 (work sessions start at 9:00 a.m.) in the Commissioners' Meeting Room of the Clallam County Courthouse, 223 East 4th Street, Room 160, Port Angeles, Washington. Work session agendas available in advance of the meeting at: http://www.clallam.net/bocc/public_meetings.html . The work session can be viewed live over the Internet, and the video for both regular and work session BOCC meetings are archived and available for download. To access live or archived meeting video, go to the above BOCC public meeting web page link above.

The upcoming work session will focus on:

· Continued review of the September 2018 Revised Draft SMP first reviewed at the Board's September 17, 2018 work session.

· Clallam County Chief Deputy Prosecuting Attorney takings analysis of the September 2018 Revised Draft SMP based on guidance by the State Attorney General's Advisory Memorandum pursuant to WAC 173-26-186(5).

· Recommended additional revisions to the September 2018 Revised Draft SMP based on legal review and to address additional needed corrections and clarifications.

· Washington State Department of Ecology review and approval process once the Board takes action and submits the County's "locally adopted" SMP to initiate state review.

The upcoming work session meeting materials can be viewed at: October 15, 2018 Work Session Packet Materials

SMP Documents and Information:

The September 2018 Revised Draft SMP under consideration by the BOCC; Planning Commission Draft SMP (Sept. 2017) ; existing 1976 SMP (last amended 1992) and SMP administrative procedures ; SMP Update Supporting Documents (e.g., Shoreline Inventory and Characterization Reports, Shoreline Restoration Plan, Cumulative Impacts Analysis and No Net Loss Report, Consultant 2012 Memorandum: Explanation of Proposed Shoreline Buffer Widths), and other information (e.g., written public comments received) are available at the County Department of Community Development and on the County's Internet pages at: SMP Update Home Page

Steve Gray, Planning Manager

Clallam County Department of Community Development

From:	bvreeland@tfon.com
To:	Mike Doherty
Cc:	edchadd; Jeff Ward; Andersen, Helle
Subject:	Re: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update (External Email: USE Caution)
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Sent: Thursday, October 11, 2018 9:49:25 AM
Subject: Fw: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update

Good Morning Bob. In case you did not get this from Steve Gray.... In the revised draft it looks to me that Bill Peach wanted a lot of changes (in red) in the channel migration area language. i don't have the background to understand the impacts of the proposed changed language. Have you looked at that section in the on-line revised draft (link below)? Can you help me understand the impacts of the proposed language? Thanks. mike doherty

----- Forwarded Message -----
From: zSMP <smp@co.clallam.wa.us>

Sent: Thursday, October 11, 2018, 8:22:06 AM PDT
Subject: October 15, 2018 County Commissioner Work Session on the Shoreline Master Program (SMP) Update

Interested Parties:

You are receiving this notice because you are on the Clallam County Shoreline Master Program (SMP) Update email notification list.

On December 12, 2017, the Board of County Commissioners (BOCC) held a public hearing on a Draft SMP (Sept. 2017) recommended by the County Planning Commission (PC) to update and replace: (1) the existing 1976 SMP (last amended 1992); and (2) procedures for administration (e.g., permit process) of the SMP in Chapter 35.01, Shoreline Management, of the Clallam County Code. Since the December 12 public hearing, the BOCC has held 14 work sessions addressing SMP issue areas and public comments received on the PC's recommended SMP.

Upcoming Work Session:

The BOCC will hold a work session on October 15 , 2018 (work sessions start at 9:00 a.m.) in the Commissioners' Meeting Room of the Clallam County Courthouse, 223 East 4th Street, Room 160, Port Angeles, Washington. Work session agendas available in advance of the meeting at: http://www.clallam.net/bocc/public_meetings.html . The work session can be viewed live over the Internet, and the video for both regular and work session BOCC meetings are archived and available for download. To access live or archived meeting video, go to the above BOCC public meeting web page link above.

The upcoming work session will focus on:

· Continued review of the September 2018 Revised Draft SMP first reviewed at the Board's September 17, 2018 work session.

· Clallam County Chief Deputy Prosecuting Attorney takings analysis of the September 2018 Revised Draft SMP based on guidance by the State Attorney General's Advisory Memorandum pursuant to WAC 173-26-186(5).

· Recommended additional revisions to the September 2018 Revised Draft SMP based on legal review and to address additional needed corrections and clarifications.

· Washington State Department of Ecology review and approval process once the Board takes action and submits the County's "locally adopted" SMP to initiate state review.

The upcoming work session meeting materials can be viewed at: October 15, 2018 Work Session Packet Materials

SMP Documents and Information:

The September 2018 Revised Draft SMP under consideration by the BOCC; Planning Commission Draft SMP (Sept. 2017) ; existing 1976 SMP (last amended 1992) and SMP administrative procedures ; SMP Update Supporting Documents (e.g., Shoreline Inventory and Characterization Reports, Shoreline Restoration Plan, Cumulative Impacts Analysis and No Net Loss Report, Consultant 2012 Memorandum: Explanation of Proposed Shoreline Buffer Widths), and other information (e.g., written public comments received) are available at the County Department of Community Development and on the County's Internet pages at: SMP Update Home Page

Steve Gray, Planning Manager

Clallam County Department of Community Development

From: McFall, Barbara
To: Ballard, Greg
Subject: RE: Oyster Shack
Date: Friday, June 19, 2020 10:51:06 AM

Bummer. Are you in contact with owners on this still?

From: Ballard, Greg
Sent: Friday, June 19, 2020 10:50 AM
To: McFall, Barbara
Cc: Fleming, Holden; Harvey, Diane; Warren, Annette
Subject: FW: Oyster Shack

Doesn't look like we can authorize the use of this converted oyster shack for recreational use located waterward of the OHWM.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Rothwell, Rebecca (ECY) [mailto:rebs461@ECY.WA.GOV]
Sent: Thursday, June 18, 2020 12:10 PM
To: Ballard, Greg
Subject: RE: Oyster Shack

Hi Greg,

If this is viewed as a recreational use, it doesn't look like it would be allowed in the Conservancy SED, per 5.20.C.2.b: "Recreational development not requiring structures or extensive topographical alteration is permitted, subject to the policies, general regulations and special regulations." The converse of this statement would be that if the recreational development requires a structure, it would not be allowed. Also, to your point, under 5.20.C.3.a, this is within an estuary, and recreational structures are not allowed in estuaries.

If it were to be viewed as an accessory structure to a residential use (it doesn't meet the definition of normal appurtenance), it would need a conditional use permit as an unidentified use. I don't think it would meet the CUP criteria.

The question will remain—what can they do with this building? It appears to be an existing non-conforming use. Do you know when it was built? If it was built prior to the SMA, it wouldn't have needed permits. If that's the case, we would look at 3.03.8:

Shoreline uses that were in existence prior to the Shoreline Management Act of 1971, but are not now in conformance with the Act will be permitted to continue. However, no additions or rebuilding of structures will be allowed. When these non-conforming uses

are concluded, the structures should be removed and the shoreline allowed to restore itself to its natural state.

It looks like the building has already been renovated. Was this done with or without a shoreline permit or exemption?

Rebecca Rothwell

Wetlands and Shorelands Technical and Regulatory Lead
WA Department of Ecology | Southwest Regional Office | 360-407-7273
300 Desmond Drive SE, Lacey, WA 98503 | PO Box 47775 Olympia, WA 98504-7775
This communication is a public record and may be subject to disclosure per RCW 42.56.

Ecology's offices are closed until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available on our website. We remain committed to service, so don't hesitate to reach out to us.

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Wednesday, June 17, 2020 2:07 PM
To: Rothwell, Rebecca (ECY) <rebs461@ECY.WA.GOV>
Subject: RE: Oyster Shack

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Rebecca, we have a proposal to repair an old oyster shack located waterward of the OHWM to recreational use.

They need a change of use permit from our building division.

Parcel info
http://websrv2.clallam.net/tm_bin/tmw_cmd.pl?tmw_cmd=ParcelViewParcel&shl_prc_parcel_no=043126420380

Assessor's info
https://websrv22.clallam.net/propertyaccess/Property.aspx?cid=0&year=2019&prop_id=44119

2000 oblique
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2000/fullsize/0205311241_164_lg.jpg

The Recreational section of our SMP is in Section 5.20(3)(a) of the SMP.

It would seem that this use would be located within an estuary & subtidal since within Dungeness Bay and should not be allowed (since no structures allowed).

Let me know what you think.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McFall, Barbara
Sent: Wednesday, June 17, 2020 1:02 PM
To: Ballard, Greg
Subject: FW: Oyster Shack

Hi Greg

These guys have a little shack on the beach that has been there forever. People are afraid they are making it into a cabin rental but that is not the case. I didn't talk to the owner, I talked to one of the family friends that was doing some work on the place. If anything, it would be recreational use, but mainly just storage for their toys that they take out and use when they hit the water or the beach. Property owner has big strip of property of top where residential takes place. Apparently owns a large strip of the shoreline as well.

They want to strengthen the pilings, fix some leaks, I think maybe put some siding on to make it more weather proof, I am not sure but it appeared to be significant to need a permit especially with the pilings.

Can you please call Debbie and answer her questions regarding critical area, building etc. I gave the guy basic info. and advised him to call planning or building. I think she asked for me because I left my business card. Here is the address and parcel number. Please let me know if you will be calling her so I know we are covered.

CMP2020-00093
Address is just Cline Spit
Parcel #04-31-26-42-0380

From: Harvey, Diane
Sent: Wednesday, June 17, 2020 11:30 AM
To: McFall, Barbara
Subject: FW: Oyster Shack

Barb, please see below and speak to Ms. Cottrell.

Also, I have something for you to sign. Will you be in the office sometime this week?

Thanks,

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Major, Jesse
Sent: Thursday, June 11, 2020 4:27 PM
To: McFall, Barbara; Ballard, Greg
Cc: Harvey, Diane; Reynolds, Laura
Subject: Oyster Shack

Barb and Greg,

I received a call from Debbie Cottrell. She would like a call back with information about what permits are required for the Cline Spit oyster shack. She can be reached at 206-819-9837

-Jesse

Jesse Major
Code Enforcement Field Officer
Clallam County Department of Community Development
360-417-2000 ext. 3729

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From: Ballard, Greg
To: "Steve Belz"
Subject: RE: parcel 07-31-33-329050 Ranger Rd
Date: Friday, March 22, 2019 12:19:07 PM
Attachments: Useful Shoreline Related Links 2018.doc
Belz.pdf

Nice talking with you.

Link 9 provides a link to Coastal Zone Atlas maps that show oblique's over time.

There is other good shoreline and bluff links on this attachment also.

Sample of Pruning Plan CRI2018-00006

Greg Ballard
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Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Steve Belz [mailto:stevebelzstudio@gmail.com]
Sent: Friday, March 22, 2019 10:43 AM
To: Ballard, Greg
Subject: parcel 07-31-33-329050 Ranger Rd (External Email: USE Caution)

Hi Greg,

It was good to talk with you yesterday. I am sending you this email to get some clarification of the conversation that we had at the county office.

We are in the planning and permitting stage for building a 1500 sq ft or less single-family residence and detached garage on our lot. Our House and garage will most likely be from 50 to 100 feet from the bluff. We would like to divert all of the roof runoff into a rain garden.
The placement of a residence within 100 feet of the top of the bluff requires a Geotechnical Report per Section 21.01.100 of the Clallam County Code (CCC). Our Critical Area code has a 50 foot setback from the top of a landslide hazard area (per Section 27.12.415(1)(a) CCC..

(An engineered drainage plan would be required if the home was within 100 ft of the top of the bluff. This could include a rain garden. (drywells are for simple projects and not appropriate for areas near top of bluffs).

As I understand it from our conversation, we do not need to get a habitat assessment for bald eagles done to get a building permit for our parcel.
Yes, no eagle plan required.
Eagle requirements from USFA are available at the link below.
https://www.fws.gov/pacific/eagle/

Most of our conversation was about the selective removal of some trees and pruning on our lot. The majority of the trees on our lot are small (less than 10-inch diameter) deciduous (alder, maple) regrowth trees. You said that it was ok to cut any of the deciduous trees on the parcel south of the 50ft buffer setback without a Certificate of Compliance.
Yes provided that the stumps and understory are not removed (i.e. grading), which would be considered land disturbing activity & subject to a certificate of compliance and drainage plan. A driveway is the only exception to this since the gravel would stabilize this area. The land disturbing activity associated with the construction of a house is addressed by the drainage plan.

To enhance the viewshed of the Strait of Juan de Fuca we would like to modify some of the trees and vegetation within 50ft of the bluff. As I understand it, to remove or prune any of the trees within 50ft of the bluff we need to obtain a Certificate of Compliance by submitting a nearshore assessment like the one submitted by Peninsula Environmental Group (PEG) for parcel 03-30-24-50-0090 (you gave me a printed copy). Using PEG's format (lots of pictures), would it be possible for me and my wife to author and submit a nearshore assessment for our parcel?

Activities not regulated by this chapter – Exemptions Section 27.12.035 (11) CCC states "Normal and nondestructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide for a view corridor or removal of non-native vegetation and replacement with native vegetation; provided, that increased erosion or landslide potential or negative impacts to the critical area do not result."

If you proposal does not qualify as an exemption above, then you might get the Arborist or Dave Park to address the removal of any conifer tree within the 50 ft buffer, but you or your wife could prepare the plan to prune or remove dead/diseased trees.

Dave Parks of Cresent Environmental has just completed his geo-tech study and marked the 50ft setback from the bluff with stakes and flagging on the ground. I will submit his report to your office as soon as we receive it.
Sounds good

Clallam County Codes are available at the link below
https://www.codepublishing.com/WA/ClallamCounty/

Our new web maps (see attached) you can also create maps to scale (under Advance- force scale) that have our layers on it.

Thank you,
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Steve Belz
http://www.stevebelz.com/

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Thank you,
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Steve Belz
http://www.stevebelz.com/

From:	Ballard, Greg
To:	"Peter Giuntoli"
Cc:	Deemer, Christina
Subject:	RE: Property Enquiry (APN 093126-210400)
Date:	Thursday, April 04, 2019 8:45:09 AM
Attachments:	Shimko Rd Hillshade.pdf Useful Shoreline Related Links 2018.doc Shimko Coastal zone slope stability.pdf Timber 2016.pdf

Hi Peter, the marine slopes on the above referenced parcel are considered landslide hazard and have a vertical slope (1st attachment). The link below shows that the bluff has trees on it and looks like basalt that is good indication of slope stability
https://fortress.wa.gov/ecy/gisresources/shoreline_photos/yr2016/fullsize/160812_08129.jpg

See Shoreline & Bluff handout attached (2nd attachment) for more info (link 9 for oblique photos)

The critical area code has a 50 ft buffer from the top of the bluff per Section 27.12.415(1)(a) CCC.

The building code requires a 100 foot setback per Section 21.01.100 CCC from unstable bluff per the coastal zone atlas (3rd attachment).

These setbacks could be reduced with the submission and approval of a geotechnical report if the reduced setback can be determined appropriate.

Eagles are no longer regulated by WA State or Clallam County but U.S. Fish & Wildlife still protect eagles. Generally new development within 330 of an eagles nest or there can be restriction on noise disturbance between Jan 1 and August 15th (nesting). Additional info available at the link below.
https://www.fws.gov/pacific/eagle/

The cutting of trees (more than 5,000 board feet (~2 log trucks) requires a Forest Practice Permit from WA State Dept. of Natural Resources (DNR)(see 4th attachment. You may want to do a Class IV General Conversion Forest Practice permit through DNR.

Info on the parcel including survey and zoning setbacks are available at the link below.
APN 093126210400

Although this may sound complicated, I don't see a reason why a house could not be established on this parcel.

The above referenced Clallam County Codes (CCC) are available at the link below
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Thanks

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Peter Giuntoli [mailto:peter.a.giuntoli@gmail.com]
Sent: Thursday, April 04, 2019 7:37 AM
To: Ballard, Greg
Subject: Property Enquiry (External Email: USE Caution)

I'm looking in to buying a property on Shimko Road with the Geographic ID of 0931262104000000. It looks like the property has some history with pending sales falling through and I'm wondering if you can provide any information as to why that would be the case. I'm wondering if the land has any feasible homesites at all, it appears that there is a slide warning to the south and a protected habitat to the north while having a marshy area in the middle.

Thanks for any information you can provide!

(206) 356-2965
Peter Giuntoli

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Cc:	Deemer, Christina
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https://www.codepublishing.com/WA/ClallamCounty/

Thanks

Greg Ballard
Senior Planner

Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Peter Giuntoli [mailto:peter.a.giuntoli@gmail.com]
Sent: Thursday, April 04, 2019 7:37 AM
To: Ballard, Greg
Subject: Property Enquiry (External Email: USE Caution)

I'm looking in to buying a property on Shimko Road with the Geographic ID of 0931262104000000. It looks like the property has some history with pending sales falling through and I'm wondering if you can provide any information as to why that would be the case. I'm wondering if the land has any feasible homesites at all, it appears that there is a slide warning to the south and a protected habitat to the north while having a marshy area in the middle.

Thanks for any information you can provide!

(206) 356-2965
Peter Giuntoli

From: McConnell, Michelle (ECY)
To: LoPiccolo, Kevin
Subject: RE: SMP (External Email: USE Caution)
Date: Friday, January 10, 2020 10:29:19 AM
Attachments: image001.png
19-21EAGL Application Instructions.pdf

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Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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Subject: SMP

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Date: Tuesday, October 30, 2018 4:25:38 PM
Importance: High

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To: Gray, Steve
Subject: SMP (External Email: USE Caution)

Hi Steve,

Here are some questions I had about the Shoreline Master Program:

1. What are the major differences between the draft that was approved for submittal today and the existing 1976 Clallam County SMP that was amended in 1992?

Here are a few examples of major update areas:

- *SMP addresses updated and greatly expanded state requirements in comparison to when the 1976 SMP was adopted. For example, the updated SMP addresses the state requirement to avoid a net loss of shoreline ecological functions when new shoreline development uses and developments occurs.*

- *Updated shoreline environmental designation (SED) maps that provide the SMP framework for tailoring shoreline policies and regulation so areas with similar characteristics can be managed in a similar way.*

- *Tailored buffers/building setbacks from top of marine bluffs based on bluff type versus a versus a one size fits all.*

- *Comprehensively addresses protection of sensitive areas within the shoreline jurisdiction*

such as wetlands, landslide hazard areas (e.g., marine bluffs), floodplains, and fish and wildlife habitats within the shoreline jurisdiction.

2. How will this new plan benefit county residents?

- *The SMP and supporting documents (e.g., inventory and characterization and restoration plan) reflect our current understanding of the dynamics of our shoreline environments and address changed conditions along our marine, lake and major river reaches. For example, the County's population has more than doubled since adoption of the original SMP over 40-years ago.*
- *Protect natural resources along our marine, lake and major rivers, while accommodating water dependent, single-family residential and other shoreline uses.*
- *Promote and support public access to the shorelines.*
- *Streamlines County environmental protection regulations in the shoreline jurisdiction by fully integrating shoreline and critical area (e.g., wetlands, steep slopes, floodplains, etc…).*

3. What are some examples of new regulations in this plan?

Here are a few examples:

- *Increasing buffers/building setback standards along the County's most hazardous bluffs from a public safety aspect and most important for providing the source of sediment to area beaches and spits (e.g., Dungeness Spit).*
- *Adopting current state wetland rating system and recommended methodology for establishing wetland buffers.*
- *Improving and clarifying policies and regulations for new shoreline stabilization projects and maintaining existing shoreline stabilization structures.*

4. Is it accurate to say this plan affects only future development?

Yes, the SMP would only apply to new development and redevelopment within the shoreline

jurisdiction.

4. What were the main changes made to the plan after the Dec. 18, 2017 public hearing on the Planning Commission's recommended draft?

The County Commissioner public hearing was held on December 12, 2017 not the 18th.

The County has produced a document showing all revisions by the County Commissioners to the September 2017 SMP recommended by the Planning Commission. Highlights of some of the changes made by the County Commissioners included:

- *Added goal to support increase public awareness about available information on sea level rise and climate change.*
- *Prohibited in-water, non-native finfish aquaculture (including net pens).*
- *Required monitoring and added additional application information requirements for new finfish and commercial geoduck aquaculture.*
- *Amended standards/procedures applicable to use of maps that showing general extent of potential channel migration zones along rivers.*
- *Allow for consideration of new parking areas along the Clallam Bay-Sekiu Urban Growth Area shoreline due to existing significant constraints on available public parking in these waterfront communities.*
- *Amended policies and regulations to further support removal of invasive and noxious weeds within the shoreline jurisdiction.*
- *Added public access policies and standards.*

The only revision to the Planning Commission's recommended shoreline environmental designation (SED) map(s) was to place that portion of the developed waterfront area on Sequim Bay associated with the Pacific Northwest National Laboratory (Battelle) into the Marine Waterfront SED.

5. Are there any additional steps for the county if Ecology approves the current draft?

Pursuant to the state Shoreline Management Act (SMA), the County and the Washington State Department of Ecology share joint authority and responsibility for the SMP (RCW 90.58.050). Updates to the County's SMP require approval by Ecology to be effective (RCW 90.58.090). The next step is for the County to submit our "locally-approved" SMP to the Ecology to commence the state review and approval process. The submittal will include the County's shoreline inventory and characterization, shoreline restoration plan, cumulative impacts analysis/no net loss report, State Environmental Policy Act (SEPA) compliance and other information required by WAC 173-26-110.

Once Ecology determines that the County's submittal is complete they will commence the state review. Ecology's review and approval process follows RCW 90.58.090 and will include a public comment period of at least 30 days. Following close of Ecology's public comment period, the County will be provided an opportunity to respond to comments. Within 30-days of receipt of the County's response, Ecology will issue findings and conclusions regarding the consistency of the County's SMP with the SMA and the applicable state SMP Guidelines under Chapter 173-26 WAC. Ecology must also respond to issues raised during its public comment period. Ultimately, Ecology can either: (a) approve the SMP as submitted; (b) recommend specific changes necessary to make the proposal approvable; or (c) deny the SMP.

The County will take final action to adopt and consider any amendments to our locally approved SMP once receive Ecology's response. That action would be to adopt an ordinance to update and replace the existing SMP and related administrative procedures under Chapter 35.01, Shoreline Management of the Clallam County Code.

Thanks.

Rob Ollikainen

Reporter

Office: 360-452-2345

Internal: 56450

Fax: 360-417-3521

305 W. First St., Port Angeles, WA 98362

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From:	Gray, Steve
To:	"Michael Rossotto"
Subject:	RE: SMP final redline (External Email: USE Caution)
Date:	Monday, January 28, 2019 4:55:56 PM
Attachments:	FinalBOCCDraftSMP(shows revisions).pdf image002.png

Hi Michael,

Attached is the document you are requesting.

Please make sure to send your comments directly to Ecology and not the County. Ecology's public comment period on our locally-approved, SMP is from January 14 – Feb. 28, 2019. Following the close of the comment period Ecology will provide the County the comments they received.

I assume your received notice from Ecology, but just in case here is a link to the Ecology site for review of our locally-approved SMP: Ecology Web Page on Clallam County SMP Update

Regards, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: Michael Rossotto [mailto:michael.rossotto@quileutetribe.com]
Sent: Monday, January 28, 2019 3:51 PM
To: Gray, Steve
Subject: SMP final redline (External Email: USE Caution)

Hi Steve –

Is there a redline version of the final SMP sent to Ecology that would show all of the changes made to the September 2017 version that the Planning Commission submitted to the BOCC? I know you prepared several chapter redlines, and those were extremely helpful in tracking and understanding the revisions. I think staff may have made a few final changes at or after the last BOCC work session I observed. It would be extremely helpful to me in advising the Quileute Tribal Council to have a final redline showing all changes from the 2017 Planning Commission document Quileute submitted comments on and what the County has now actually submitted to Ecology.

I've looked around the County's website, and don't see a final redline. If it's there, a link will do. If you've got one but it's not on the website, I would certainly appreciate you emailing it to me.

~~~
~~~

Quileute Natural Resources



Office: 360-374-2265
Cell: 360-640-1174
Fax: 360-374-9250
U.S. Mail: PO Box 187, La Push, WA 98350
FedEx/UPS/courier/guests: 401 Main Street, La Push, WA 98350
http://www.quileutenation.org/government/natural-resources

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Regards, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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From:	Gray, Steve
To:	"McConnell, Michelle (ECY)"
Subject:	RE: SMP submittal missing item (External Email: USE Caution)
Date:	Monday, December 03, 2018 12:07:03 PM
Attachments:	LTR_Ecology(11-6-18).docx LTR_Ecology(11-6-18).pdf Exhibit A Summary.docx Exhibit B_Shoreline_Checklist (Oct 2018).doc
Importance:	High

Hi Michelle,

Attached is both an unsigned cover memo/index in Word format and a signed copy version of the same cover memo/index in a .PDF format.

The "Word" version of the text of the main body of the SMP is to large too email (33 MB) per County server. However, similar to an email, we can set up as a file transfer that you can directly access a link to download the SMP in a Word format. Will that work for you? Otherwise, I will need to put on another thumb drive and mail. In the meantime, also attached is the Word format for the text of Exhibit A ***(i.e., minus the maps)*** and Exhibit B that are part of the SMP and small enough files to email.

Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, December 03, 2018 11:23 AM
To: Gray, Steve
Subject: SMP submittal missing item (External Email: USE Caution)

Hello Steve,

I hope you enjoyed a nice Thanksgiving holiday and time away from the office. I've reviewed the County's SMP submittal package and need you to provide just one all-important required item that is missing:

- New SMP text in Word;

Also, if you happen to have the cover memo and index in digital format it would be helpful to have those recommended items in the digital file as well. These are not required by WAC so if it's not quick-n-easy to send them don't worry about it.

Upon receipt of the required item I anticipate sending notice of a complete submittal.

Thank you,

Michelle McConnell
Regional Shoreline Planner

WA Department of Ecology | Southwest & Olympic Region | Shorelands & Environmental Assistance (SEA) Program
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503
360.407.6349 | michelle.mcconnell@ecy.wa.gov

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NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

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To:	"McConnell, Michelle (ECY)"
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Date:	Monday, December 03, 2018 12:07:03 PM
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Thanks, Steve

Steve Gray
Deputy Director/Planning Manager
Clallam County Department of Community Development
360-417-2520; sgray@co.clallam.wa.us

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Sent: Monday, December 03, 2018 11:23 AM
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Subject: SMP submittal missing item (External Email: USE Caution)

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Upon receipt of the required item I anticipate sending notice of a complete submittal.

Thank you,

Michelle McConnell
Regional Shoreline Planner

WA Department of Ecology | Southwest & Olympic Region | Shorelands & Environmental Assistance (SEA) Program
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503
360.407.6349 | michelle.mcconnell@ecy.wa.gov

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NOTE: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From:	Ballard, Greg
To:	"Greg Kapitan"
Subject:	RE: Storage Shed at 51 N. Maple Lane (APN 053017-530140) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Date:	Wednesday, December 05, 2018 9:11:16 AM

You are vested under the regulations that are in place when we received a complete building permit.

The new SMP is more complicated & restrictive than the existing SMP.

No one has experience with the new SMP.

The proposed SMP has a 50 foot setback for most of Morse Creek Park

http://www.clallam.net/LandUse/documents/SMP_Map_book_10D_2.pdf

See proposed SMP at link below
http://www.clallam.net/LandUse/SMP_DraftOct2018.html

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Greg Kapitan [mailto:ggk454@gmail.com]
Sent: Tuesday, December 04, 2018 5:02 PM
To: Ballard, Greg
Subject: Re: Storage Shed at 51 N. Maple Lane (APN 053017-530140) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Greg,

Thanks for this update. Will the new plan affect me in any way? Will my surveying that I am hiring be able to understand this?

Best Regards,

Greg Kapitan
President
Texas Home Exteriors Inc.

Office # 281.919.6999
eFax # 866-591-2636

Houston, The Woodlands, Katy, Livingston Texas

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On Tue, Dec 4, 2018 at 11:07 AM Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> We are in the process of updating our Shoreline Master Plan.
>
> County Commissioners approved it so it's being reviewed by WA State Dept. of Ecology.
>
> New plan may be adopted in a few months.
>
> Not very familiar with the new plan but info is available at the link below.
> http://www.clallam.net/LandUse/smp.html
>
> *Greg Ballard*
> Senior Planner
> Clallam County Department of Community Development
> 223 E. 4th Street, Suite 5, Port Angeles, WA 98362
> Direct Phone# (360) 565-2616 Fax# (360) 417-2443
> Email: gballard@co.clallam.wa.us
>
> **From:** Greg Kapitan [mailto:ggk454@gmail.com]
> **Sent:** Tuesday, December 04, 2018 9:06 AM
> **To:** Ballard, Greg
> **Subject:** Re: Storage Shed at 51 N. Maple Lane (APN 053017-530140) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
>
> Greg,
>
> Just re reading this... Do you have a copy that you can email me of the "Morse Creek per the Shoreline Master Plan" ?

Best Regards,

Greg Kapitan
President
Texas Home Exteriors Inc.

Office # 281.919.6999
eFax # 866-591-2636

Houston, The Woodlands, Katy, Livingston Texas

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On Tue, Dec 4, 2018 at 8:28 AM Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> Yes
>
> Structure would also have to be 50 feet from Morse Creek per the Shoreline Master Plan.
>
> See attached sample of decision & reports for sheds in floodway and channel meander hazard at mouth of Dungeness River (similar circumstances)
>
> Greg Ballard
> Senior Planner
> Clallam County Department of Community Development
> 223 E. 4th Street, Suite 5, Port Angeles, WA 98362
> Direct Phone# (360) 565-2616 Fax# (360) 417-2443
> Email: gballard@co.clallam.wa.us
>
> **From:** Greg Kapitan [mailto:ggk454@gmail.com]
> **Sent:** Monday, December 03, 2018 4:42 PM
> **To:** Ballard, Greg
> **Subject:** Re: Storage Shed at 51 N. Maple Lane (APN 053017-530140) (External Email: USE Caution) (External Email: USE Caution)

Greg,

Thanks for this info. Please explain a bit further so I can understand. Are you saying that this is possible but I have to get a..."Would have to submit Geotech/Channel Meander hazard Report and also flood info that shed will not result in any increase in base floods during 100 year flood events" ??

Best Regards,

Greg Kapitan
President
Texas Home Exteriors Inc.

Office # 281.919.6999
eFax # 866-591-2636

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On Mon, Dec 3, 2018 at 4:31 PM Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> No residence is floodway or Channel meander hazard.
>
> Would have to submit Geotech/Channel Meander hazard Report and also flood info that shed will not result in any increase in base floods during 100 year flood events.
>
> Can be costly to have reports done.
>
> Greg Ballard
> Senior Planner
> Clallam County Department of Community Development
> 223 E. 4th Street, Suite 5, Port Angeles, WA 98362

Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Greg Kapitan [mailto:ggk454@gmail.com]
Sent: Monday, December 03, 2018 4:29 PM
To: Ballard, Greg
Subject: Re: Storage Shed at 51 N. Maple Lane (APN 053017-530140) (External Email: USE Caution)

Greg,

So what will that mean to me? Please explain..

Best Regards,

Greg Kapitan
President
Texas Home Exteriors Inc.

Office # 281.919.6999
eFax # 866-591-2636

Houston, The Woodlands, Katy, Livingston Texas

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On Mon, Dec 3, 2018 at 4:06 PM Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> Hi Greg, it appears that the entire parcel is in the Floodway and Channel Meander Hazard (see attached).
>
> Maps are advisory unless we get reports from a qualified profession indicating that they are incorrect per Section 27.12.050 Clallam County Codes (CCC).
>
> CCC available at link below

27.12.050 Official designation of critical areas.

The location and extent of critical areas shall be designated by Clallam County based upon best available information from qualified professional sources. Clallam County shall develop, and make available to the public, maps or other data bases, as appropriate, which show the location, extent, and classification of regulated critical areas as accurately as feasible. This information shall be advisory and used by the Administrator in determining the applicability of the standards of this chapter to a particular location or development proposal site. When additional information is required as to the location or extent of a critical area that may be affected by a proposed development activity, the Administrator may require additional information or may hire a qualified professional at the applicant's expense. Any land, water, or vegetation that meets the criteria of critical area designation under this chapter which is not identified on maps or other publicly available documents shall be subject to the provision of this chapter.

Critical areas shall not include those lands where a qualified professional or qualified professional sources demonstrate to the satisfaction of the Administrator that maps or other information used to identify the location and extent of critical areas are in error. Qualified professional sources shall mean the following for each of the designated critical areas listed below:

(1) Wetlands. Written recommendations or published reports from State or federal agencies charged with wetland identification, or a biologist with wetlands ecology expertise and who is knowledgeable of wetland conditions within the North Olympic Peninsula Region, and who has professional experience in this occupation demonstrated by a minimum of two years practical experience of delineating wetlands and wetland plant identification; or those individuals or firms which have been certified by the Society of Wetlands Scientists.

(2) Aquatic and Wildlife Habitat Conservation Areas. Written recommendations or published reports from State or federal agencies charged with management of fish and wildlife resources, or a person with a bachelor's degree in biological sciences or related field from an accredited college or university and four years' experience as a practicing biologist.

(3) Geologic Hazard Areas. Written recommendations or published reports from State or federal agencies charged with identification of geologic hazards, or by a geotechnical or civil engineer or geologist licensed in the State of Washington who is knowledgeable of regional geologic conditions and who has professional expertise in geologic hazard evaluation.

(4) Frequently Flooded Areas. Written recommendations or published reports from State or federal agencies charged with the identification of flood control, or a civil engineer licensed in the State of Washington. The Administrator may allow a land surveyor licensed by the State of Washington to recommend designation of frequently flooded areas where base flood elevation data is available.

(5) Critical Aquifer Recharge Areas. Written recommendations or published reports from State and federal agencies charged with designation of geologic or water resources features, or a person(s) with a four-year degree in hydrology, hydrogeology, or related field from an accredited college or university and also having demonstrated experience in hydrogeologic assessment.

Not sure what's on parcel but the section on Pre-existing Uses is at 27.12.040 CCC

This standard is for repair & reconstruction in the Floodway and Channel Meander Hazard Area (not buffer)

27.12.040(2) Repair, Reconstruction or Minor Improvements within Landslide Hazards or Floodways. Repair, replacement or minor improvements of a pre-existing use or structure within a landslide hazard (includes channel meander hazards) or floodway shall comply with the following:

(a) Consistent with RCW 86.16.041(2)(a), Floodplain Management, which states: "Restriction of land uses within designated floodways including the prohibition of construction or reconstruction of residential structures except for: (i) Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (ii) Repairs, reconstruction or improvements to a structure the cost of which does not exceed fifty percent of the market value of the structure either: (A) before the repair, reconstruction, or repair is started, or (B) if the

structure has been damaged and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty percent determination."

(b) Pre-existing structures for human occupation located within a landslide hazard (includes meander hazards) may not be reconstructed or replaced without meeting the provisions of this chapter unless a variance or reasonable use exception approval is granted by the applicable review authority pursuant to this chapter.

(storage shed not subject to this standards because not residential structure or place of occupancy).

Floodway

Section 27.12.515(3) Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the State Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area, except as follows:

(a) Frequently Flooded Areas. Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in ~~more than a one-foot increase~~ **no rise (per State Law)** in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.

Section 27.12.515(6) CCC Protection Standards for Structures in Frequently Flooded Areas. In addition to the critical area buffer requirements and other applicable protection standards of this chapter and the standards set forth in Chapter 21.01 CCC, Clallam County Construction Code, as amended, the

following conditions shall apply to structures constructed within designated frequently flooded areas.

(a) Floodways. Consistent with RCW 86.16.061(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent.

(b) Residential, commercial and/or industrial buildings. Buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980, for the Dungeness and Elwha Rivers and the effective date of this chapter for all other special flood hazard areas. If a portion of the pre-existing lot lies outside the flood hazard area, building shall be directed to the nonhazard portion to the maximum extent feasible.

(This applies to new residence & not storage structures).

Channel Meander Hazard
Channel Meander Hazard Areas are considered landslide hazards per Section 27.12.410(1)(a)(x) CCC

27.12.410 Classification and designation.

(1) Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:

(a) Landslide Hazard Areas. Lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards and are subject to the requirements of this chapter:

(i) Areas of historic, existing or ongoing landslide activity as evidenced by downslope movement of a mass of materials including rock, soils, fills, and vegetation.

(ii) Glaciolacustrine silt and clays on terraces.

(iii) Slopes fifteen (15) percent or steeper with a combination of: slowly permeable silt and clay interbedded sand and gravel, and sidehill springs or seeps from perched water tables.

(iv) Soils mapped and described by the Soil Survey of Clallam County, Washington, issued February 1987, as amended, classified as having a severe or very severe erosion hazard potential.

(v) Planar slope forms sixty-five (65) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vi) Concave slope forms twenty-five (25) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vii) Any slopes greater than eighty (80) percent subject to rockfall during seismic shaking.

(viii) Marine coastlines including marine bluffs potentially unstable due to wave action or mass wasting and littoral dune systems which border the ordinary high water mark.

(ix) Ravines with a vertical relief of ten (10) or more feet in depth except areas composed of consolidated rock.

(x) Channel meander hazard. Areas subject to the natural movement of stream channel meanders

associated with alluvial plains where long-term processes of erosion and accretion of the channel can be expected to occur. Such meander hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or avulsion.

27.12.415 Landslide hazard protection standards.

All development within the jurisdiction of designated landslide hazard areas shall adhere to the following standards:

(1) Buffers.

(a) A minimum buffer of fifty (50) feet shall be established from the top, toe and all edges of landslide hazard areas for major or minor new developments, except as otherwise allowed under this subsection. The buffer shall not be altered except by a general exemption, certificate of compliance, variance, or reasonable use exception approval, as authorized by this chapter; provided, that such alterations meet all other standards for

the protection of aquatic habitat conservation areas.

(b) Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible.

(c) The buffer may be reduced to not less than twenty (20) feet by the Administrator upon the submittal of a geotechnical report as specified in Part Eight of this chapter; provided further, that vegetation removal, including mature trees, within the buffer area that is reduced is kept to a minimum.

(d) Any buffer reduction to less than twenty (20) feet, or developments proposed within the landslide hazard shall require a reasonable use exception approval pursuant to Part Seven of this chapter, and shall require a geotechnical report as required by Part Eight of this chapter.

Critical Area Variance

27.12.710 Variances to the performance standards – Applicability.

(1) A request for a variance, or exception from the performance standards prescribed by this chapter may be authorized by the Hearing Examiner and/or Administrator as specified in

CCC 27.12.720; provided, that a mitigation plan consistent with Part Eight of this chapter is also provided. Should relief of the standards allowed under this section still not provide reasonable use of a property, a reasonable use exception may be pursued under CCC 27.12.740.

(2) Variances shall not be granted for the following proposed development activities:

(a) Any construction of the habitable portion of a structure that would be below the base flood elevation.

(b) Any development within a designated floodway if any increase in flood levels during a base flood would result.

(c) Any reduction of a buffer width for wetlands and aquatic habitat conservation areas to less than fifty (50) feet at any point;

except as allowed by buffer averaging.

(d) Any reduction of a buffer width for landslide hazard areas to less than twenty (20) feet at any point; except for channel meander hazards.

(e) Any reduction of the buffer width for channel meander hazards to less than fifty (50) feet at any point.

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Date:	Tuesday, December 04, 2018 11:07:31 AM
Attachments:	SHORELINE_MASTER_PROGRAM.pdf Res. Dev. 5.08 SMP .pdf

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> > **27.12.050 Official designation of critical areas.**
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standards of this chapter to a particular location or development proposal site. When additional information is required as to the location or extent of a critical area that may be affected by a proposed development activity, the Administrator may require additional information or may hire a qualified professional at the applicant's expense. Any land, water, or vegetation that meets the criteria of critical area designation under this chapter which is not identified on maps or other publicly available documents shall be subject to the provision of this chapter.

Critical areas shall not include those lands where a qualified professional or qualified professional sources demonstrate to the satisfaction of the Administrator that maps or other information used to identify the location and extent of critical areas are in error. Qualified professional sources shall mean the following for each of the designated critical areas listed below:

(1) Wetlands. Written recommendations or published reports from State or federal agencies charged with wetland identification, or a biologist with wetlands ecology expertise and who is knowledgeable of wetland conditions within the North Olympic Peninsula Region, and who has professional experience in this occupation demonstrated by a minimum of two years practical experience of delineating wetlands and wetland plant identification; or those individuals or firms which have been certified by the Society of Wetlands Scientists.

(2) Aquatic and Wildlife Habitat Conservation Areas. Written recommendations or published reports from State or federal agencies charged with management of fish and wildlife resources, or a person with a bachelor's degree in biological sciences or related field from an accredited college or university and four years' experience as a practicing biologist.

(3) Geologic Hazard Areas. Written recommendations or published reports from State or federal agencies charged with identification of geologic hazards, or by a geotechnical or civil engineer or geologist licensed in the State of Washington who is knowledgeable of regional geologic conditions and who has professional expertise in geologic hazard evaluation.

(4) Frequently Flooded Areas. Written recommendations or published reports from State or federal agencies charged with the identification of flood control, or a civil engineer licensed in the State of Washington. The Administrator may allow

a land surveyor licensed by the State of Washington to recommend designation of frequently flooded areas where base flood elevation data is available.

(5) Critical Aquifer Recharge Areas. Written recommendations or published reports from State and federal agencies charged with designation of geologic or water resources features, or a person(s) with a four-year degree in hydrology, hydrogeology, or related field from an accredited college or university and also having demonstrated experience in hydrogeologic assessment.

Not sure what's on parcel but the section on Pre-existing Uses is at 27.12.040 CCC

This standard is for repair & reconstruction in the Floodway and Channel Meander Hazard Area (not buffer)

27.12.040(2) Repair, Reconstruction or Minor Improvements within Landslide Hazards or Floodways. Repair, replacement or minor improvements of a pre-existing use or structure within a landslide hazard (includes channel meander hazards) or floodway shall comply with the following:

(a) Consistent with RCW 86.16.041(2)(a), Floodplain Management, which states: "Restriction of land uses within designated floodways including the prohibition of construction or reconstruction of residential structures except for: (i) Repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (ii) Repairs, reconstruction or improvements to a structure the cost of which does not exceed fifty percent of the market value of the structure either: (A) before the repair, reconstruction, or repair is started, or (B) if the structure has been damaged and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty percent determination."

(b) Pre-existing structures for human occupation located within a landslide hazard (includes meander hazards) may not be reconstructed or replaced without meeting the provisions of this chapter unless a variance or reasonable use exception approval is granted by the applicable review authority pursuant to this chapter.

(storage shed not subject to this standards because not residential

structure or place of occupancy).

Floodway

Section 27.12.515(3) Land Disturbing Activities. Land disturbing activities located within the jurisdiction of critical areas shall obtain a certificate of compliance and provide for storm water quality and quantity control, including preparation of a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Stormwater Management Manual for the Puget Sound Basin, prepared by the State Department of Ecology, February, 1992, as amended. This requirement may be waived by the Administrator upon determination that the proposal will not affect the critical area, except as follows:

(a) Frequently Flooded Areas. Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in ~~more than a one-foot increase~~ **no rise (per State Law)** in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.

Section 27.12.515(6) CCC Protection Standards for Structures in Frequently Flooded Areas. In addition to the critical area buffer requirements and other applicable protection standards of this chapter and the standards set forth in Chapter 21.01 CCC, Clallam County Construction Code, as amended, the following conditions shall apply to structures constructed within designated frequently flooded areas.

(a) Floodways. Consistent with RCW 86.16.061(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary,

or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent.

(b) Residential, commercial and/or industrial buildings. Buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980, for the Dungeness and Elwha Rivers and the effective date of this chapter for all other special flood hazard areas. If a portion of the pre-existing lot lies outside the flood hazard area, building shall be directed to the nonhazard portion to the maximum extent feasible.

(This applies to new residence & not storage structures).

Channel Meander Hazard
Channel Meander Hazard Areas are considered landslide hazards per Section 27.12.410(1)(a)(x) CCC

27.12.410 Classification and designation.

(1) Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:

(a) Landslide Hazard Areas. Lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards and are subject to the requirements of this chapter:

(i) Areas of historic, existing or ongoing landslide activity as evidenced by downslope movement of a mass of materials including rock, soils, fills, and vegetation.

(ii) Glaciolacustrine silt and clays on terraces.

(iii) Slopes fifteen (15) percent or steeper with a combination of: slowly permeable silt and clay interbedded sand and gravel, and sidehill springs or seeps from perched water tables.

(iv) Soils mapped and described by the Soil Survey of Clallam County, Washington, issued February

1987, as amended, classified as having a severe or very severe erosion hazard potential.

(v) Planar slope forms sixty-five (65) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vi) Concave slope forms twenty-five (25) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vii) Any slopes greater than eighty (80) percent subject to rockfall during seismic shaking.

(viii) Marine coastlines including marine bluffs potentially unstable due to wave action or mass wasting and littoral dune systems which border the ordinary high water mark.

(ix) Ravines with a vertical relief of ten (10) or more feet in depth except areas composed of consolidated rock.

(x) Channel meander hazard. Areas subject to the natural movement of stream channel meanders associated with alluvial plains where long-term processes of erosion and accretion of the channel can be expected to occur. Such meander hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or

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27.12.415 Landslide hazard protection standards.

All development within the jurisdiction of designated landslide hazard areas shall adhere to the following standards:

(1) Buffers.

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(b) Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible.

(c) The buffer may be reduced to not less than twenty (20) feet by the Administrator upon the submittal of a geotechnical report as specified in Part Eight of this chapter; provided further, that vegetation removal, including mature trees, within the buffer area that is reduced is kept to a minimum.

(d) Any buffer reduction to less than twenty (20) feet, or developments proposed within the landslide hazard shall require a reasonable use exception approval pursuant to Part Seven of this chapter, and shall require a geotechnical report as required by Part Eight of this chapter.

Critical Area Variance

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(This applies to new residence & not storage structures).

Channel Meander Hazard
Channel Meander Hazard Areas are considered landslide hazards per Section 27.12.410(1)(a)(x) CCC

27.12.410 Classification and designation.

(1) Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:

(a) Landslide Hazard Areas. Lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards and are subject to the requirements of this chapter:

(i) Areas of historic, existing or ongoing landslide activity as evidenced by downslope movement of a mass of materials including rock, soils, fills, and vegetation.

(ii) Glaciolacustrine silt and clays on terraces.

(iii) Slopes fifteen (15) percent or steeper with a combination of: slowly permeable silt and clay interbedded sand and gravel, and sidehill springs or seeps from perched water tables.

(iv) Soils mapped and described by the Soil Survey of Clallam County, Washington, issued February

1987, as amended, classified as having a severe or very severe erosion hazard potential.

(v) Planar slope forms sixty-five (65) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vi) Concave slope forms twenty-five (25) percent or steeper with vertical relief of ten (10) or more feet, except areas composed of consolidated rock.

(vii) Any slopes greater than eighty (80) percent subject to rockfall during seismic shaking.

(viii) Marine coastlines including marine bluffs potentially unstable due to wave action or mass wasting and littoral dune systems which border the ordinary high water mark.

(ix) Ravines with a vertical relief of ten (10) or more feet in depth except areas composed of consolidated rock.

(x) Channel meander hazard. Areas subject to the natural movement of stream channel meanders associated with alluvial plains where long-term processes of erosion and accretion of the channel can be expected to occur. Such meander hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or

avulsion.

27.12.415 Landslide hazard protection standards.

All development within the jurisdiction of designated landslide hazard areas shall adhere to the following standards:

(1) Buffers.

(a) A minimum buffer of fifty (50) feet shall be established from the top, toe and all edges of landslide hazard areas for major or minor new developments, except as otherwise allowed under this subsection. The buffer shall not be altered except by a general exemption, certificate of compliance, variance, or reasonable use exception approval, as authorized by this chapter; provided, that such alterations meet all other standards for the protection of aquatic habitat conservation areas.

(b) Buffers that are in their natural state should not be altered and should remain in their natural condition, and enhanced whenever possible.

(c) The buffer may be reduced to not less than twenty (20) feet by the Administrator upon the submittal of a geotechnical report as specified in Part Eight of this chapter; provided further, that vegetation removal, including mature trees, within the buffer area that is reduced is kept to a minimum.

(d) Any buffer reduction to less than twenty (20) feet, or developments proposed within the landslide hazard shall require a reasonable use exception approval pursuant to Part Seven of this chapter, and shall require a geotechnical report as required by Part Eight of this chapter.

Critical Area Variance

27.12.710 Variances to the performance standards – Applicability.

(1) A request for a variance, or exception from the performance standards prescribed by this chapter may be authorized by the Hearing Examiner and/or Administrator as specified in CCC 27.12.720; provided, that a mitigation plan consistent with Part Eight of this chapter is also provided. Should relief of the standards allowed under this section still not provide reasonable use of a property, a reasonable use exception may be pursued under CCC 27.12.740.

(2) Variances shall not be granted for the following proposed development activities:

(a) Any construction of

the habitable portion of a structure that would be below the base flood elevation.

(b) Any development within a designated floodway if any increase in flood levels during a base flood would result.

(c) Any reduction of a buffer width for wetlands and aquatic habitat conservation areas to less than fifty (50) feet at any point; except as allowed by buffer averaging.

(d) Any reduction of a buffer width for landslide hazard areas to less than twenty (20) feet at any point; except for channel meander hazards.

(e) Any reduction of the buffer width for channel meander hazards to less than fifty (50) feet at any point.

Greg Ballard
Senior Planner
Clallam County Department of Community

Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Gray, Steve
To: Jodoin, Starla
Subject: RE: Update of County SMP Home Page
Date: Wednesday, January 09, 2019 2:22:52 PM

Looks great. Thanks!
-Steve

From: Jodoin, Starla
Sent: Wednesday, January 09, 2019 1:59 PM
To: Gray, Steve
Subject: RE: Update of County SMP Home Page

Done and posted.

Starla Jodoin
Clallam County
Community Development
223 E. 4th St.
Port Angeles, WA 98362
Ph: 360-417-2496

From: Gray, Steve
Sent: Wednesday, January 09, 2019 12:45 PM
To: Jodoin, Starla
Subject: Update of County SMP Home Page
Importance: High

Hi Starla,

Below is text and hyperlink for update to the SMP Home Page. I will come down to explain where to put on the web page.

Thanks, Steve

NEXT-STEPS: STATE REVIEW OF COUNTY SMP IS NOW UNDERWAY

Under the state Shoreline Management Act, RCW 90.58, the County and state Department of Ecology share joint authority and responsibility for the update and administration of the SMP. Pursuant to RCW 90.58.090, updates to the County's SMP require approval by Ecology to be effective. Clallam County has submitted its locally-approved SMP update to Ecology to initiate the state review and approval process.

Ecology's Public Comment Period on the Clallam County SMP Update:

Opens: January 14, 2019

Closes: February 28, 2019 at 5 p.m.

NOTE: *All comments must be submitted to and received by the Washington State Department of Ecology.*

For More Information and how/where to send comments to Ecology, **CLICK HERE:**
WA. Dept. of Ecology Web Page on Clallam County SMP Update

From: Jodoin, Starla
To: Gray, Steve
Subject: RE: Update of County SMP Home Page
Date: Wednesday, January 09, 2019 1:58:42 PM

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From: Ballard, Greg
To: "William Pleake"
Cc: Goralski, Toni
Subject: RE: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120)
Date: Tuesday, May 07, 2019 10:28:07 AM
Attachments: image002.png

DCD Planning has no objection if you apply for an address on this parcel that contains landslide hazard as the road approach is over 200 feet from the top of the bank.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, May 02, 2019 8:20 AM
To: 'William Pleake'
Cc: Goralski, Toni
Subject: RE: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

You would vest under the current SMP once a complete building permit is submitted.

I would contact Toni Goralski (360) 417- 2595 about the building permit process & what is required to submit a complete application.

Since engineered drainage is required, the plan would be required before the issuance of the building permit. I think it can come in after a complete building permit is submitted.

Greg Ballard
Senior Planner
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Wednesday, May 01, 2019 11:41 PM
To: Ballard, Greg
Subject: Re: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Ok, I'm working this week on engaging either an architect or designer to provide the needed plans within

the required timeframe. A few issues I'm seeing given that I may only have 45 days to work with:

- The online plans we liked do not have the structural engineering you said would be needed on the basement and looking at local engineers, they are telling me that if I were to get into the queue now, it would take 2 months.
- In speaking to local architects and designers, they are saying the same thing, structural engineering review is going to be an issue

So that leads me to a few more questions:

1. Given that the Building department is currently 6-8 weeks out for plan review, can the initial plans be delivered and the permit issued while we are waiting for the structural engineering to be approved?
2. If the structural engineering needs to be delivered as part of the original delivery, does it have to be a local engineer or can I use an engineer from Benton County or elsewhere as long as they are Washington certified?
3. If I am successful in getting detailed plans in place within the next 45 days and the is permit issued, does that protect me and will I be covered under the SMP in place at the time the building permit is issued even if it hasn't progressed through plan approval? One thing we are considering to expedite the process is going with a 2 story structure with conventional crawl rather than the daylight basement to remove the structural engineering impediment.
4. Storm Water drainage plan - Does that need to be provided with the initial plans or can that be a follow on report?

Thank you in advance for your patience with all my questions. I really appreciate your time.

William Pleake

On Monday, April 29, 2019, 8:26:24 AM PDT, Ballard, Greg <gballard@co.clallam.wa.us> wrote:

You need detailed plans.

The SMP shouldn't be adopted for at least another 45 days.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Saturday, April 27, 2019 4:50 PM
To: Ballard, Greg

Subject: Re: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

This has all been very helpful. We should be closing on the lot shortly, do I need to have the building plans prior to filing for a permit, or can I get that started using a rough floorplan as soon as we close?

Thanks,

William

On Tuesday, April 23, 2019, 12:29:46 PM PDT, Ballard, Greg <gballard@co.clallam.wa.us> wrote:

They just need to give us a report with the findings and recommendations along with their stamp.

I usually review them for Planning and Building.

Geotech does not have to do extensive core samples for a deck or patio (just if it were a life & safety issue with the house).

Below is the requirements

27.12.820 Geotechnical report. SHARE

(1) A geotechnical report shall contain: a description of the geology of the site; conclusions and recommendations regarding the effect of geologic conditions on the proposed development and how construction will adequately protect the proposed development; opinions and recommendations of the adequacy of the site to be developed, and a determination of the impacts of the proposed development and appropriate mitigating measures.

The geotechnical report shall also certify that:

(a) There is minimal hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties;

(b) The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions; and

(c) The development will not decrease slope stability on adjacent properties.

(2) Geotechnical Report Preparation. Geotechnical report shall be prepared by either (a) a geologist and a geotechnical engineer, (b) a geotechnical engineer, or (c) a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation, mitigation plan design, implementation, and monitoring.

(3) The review authority may waive the requirement for the report if it is determined that the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures. Pre-existing lots or land divisions regulated by CCC Title 29, Clallam County Land Division Code, for which geotechnical plans were previously prepared may be considered to have already complied with this section unless new information such as recent geologic activity warrants a new report to be required; provided, that any new storm water best management practices that were not previously included as a part of the geotechnical report shall be incorporated.

Greg Ballard
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From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Tuesday, April 23, 2019 12:22 PM
To: Ballard, Greg
Subject: Re: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution)

(External Email: USE Caution)

Thank you Greg. One follow up question. We are working with our geo technical engineer and if we wanted to have a deck or concrete patio extend into the 100' zone, what would be needed there (a letter and summary analysis, a full study, core samples)?

Cheers,

William Pleake

509.786.3434

On Tuesday, April 23, 2019, 8:33:52 AM PDT, Ballard, Greg <gballard@co.clallam.wa.us> wrote:

I agree with your general summary of our conversation.

Here are some useful shoreline links. (see link 9 for Ecology Photos and Coastal Zone Atlas that includes slope stability)

In general a lot is buildable if it can meet all requirements (Shoreline, Critical Area, Zoning Setbacks, Building, septic and water requirements).

All residences have a 100 foot setback from unstable bluffs per Section our building code found in Section 21.01.100 of Clallam County Code.

Our current Critical Area Code is found in Section 27.12.415(a) CCC.

Current Clallam County Codes are available at the link below

https://www.codepublishing.com/WA/ClallamCounty/

A geotechnical Report would be able to have the setbacks reduce below 100 feet for the home and attached decks. It would also specify what activities could occur within the 100 foot setback.

You would be subject to whatever regulations are in place when you submit a complete building permit.

Our current SMP is the 2nd attachment. (see section 5.08 for residential standards)

Info on the SMP update that has been approved by our County Commissioners but not adopted by the WA State Department of Ecology is available at the link below. Not sure when it will be adopted by Ecology (i.e. immediately or 1 year or longer)

http://www.clallam.net/LandUse/smp.html

Section 7.13 would be the new regulation on landslide hazard (Critical Areas) when the new SMP is adopted within Shoreline Jurisdiction.

There are new section about vegetation removal in the SMP so may want to make sure the tree report is approved before the new SMP is adopted.

Thanks

Greg Ballard
Senior Planner
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223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Monday, April 22, 2019 5:15 PM
To: Ballard, Greg; William Pleake
Subject: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution)

Dear Mr. Ballard,

Thank you for taking the time to meet with me at the counter this morning and patiently walk through my questions. As promised, I wanted to follow up with a summary of what I understood from our conversation.

As we discussed, I am in the process of performing due diligence prior to purchasing a vacant lot in the Sequim area and am seeking to validate that the lot is indeed buildable.

Parcel Number 03-30-24-50-0120

- Vacant Ocean Front lot on Buck Loop with a tree covered bluff down in front
- The bluff is actually on a greenbelt parcel and this lot (lot 12) sits behind it
- Lot is approx 105 x 189
- Tree Survey has been performed recently that you may have reviewed in the last 6 months

As I mentioned, we hired a Geological Engineer to visit the site and provide us with his assessment. His findings are that there has been movement on the face of the bluff within the last 100 to 500 years and there was still some evidence of loose soils on the face. The top of the bluff and parcel also showed no signs of movement.

Based on this my understanding after talking with you after looking up the Lidar and Ortho maps this morning is the following:

Summary: As of the current shoreline master plan, the lot is buildable and will only require a 100' setback from the top forward edge of the bluff unless we have it reviewed by an engineer and they provide findings that would allow the home or deck to be moved closer and those findings are approved by the Clallam County Planning Dept.

- Since this lot is in a Critical Areas and has some evidence of loose soils or unstable bank as identified by our engineer, we would need to position the house no closer than 100' from the edge of the bluff
    - The "Edge" of the bluff is defined as the area with a greater than 65 degree slope and is yet to be determined.
- To approve placement of any structure (house / deck) **closer than 100'** of the bluff would require the feature be defined and an engineering study / recommendation to support it not having a negative impact on the bluff stability by an engineer approved by your office
- If all structures are **outside** the 100' distance from the bluff, there is no need for any additional geo-technical analysis or studies. We could proceed with the permitting process today

Other topics covered outside the buildability of the lot:

- A daylight basement may require additional Structural Analysis as part of the design
- If the building is greater than 2500 sq ft, we will need an engineered storm water plan for runoff water.

Also, in speaking to your Health Department, the septic was approved in 1999 for conventional but permit has expired. They stated that if nothing has changed, that it would likely still qualify for a conventional system, so that was welcome news.

Please let me know if I have summarized everything correctly and if not, please feel free to correct me in your response. Thank you in advance for your time and expertise!

Respectfully,

William Pleake

509.786.3434

From: William Pleake
To: Ballard, Greg
Cc: Goralski, Toni
Subject: Re: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution)
Date: Tuesday, May 07, 2019 11:13:01 AM

Thank you Greg, I will proceed with the address application

- William

On May 7, 2019, at 10:28 AM, Ballard, Greg <gballard@co.clallam.wa.us> wrote:

> DCD Planning has no objection if you apply for an address on this parcel that contains landslide hazard as the road approach is over 200 feet from the top of the bank.
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> Thanks
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> Greg Ballard
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Thank you in advance for your patience with all my questions. I really appreciate your time.

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Sent: Saturday, April 27, 2019 4:50 PM
To: Ballard, Greg
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prepared may be considered to have already complied with this section unless new information such as recent geologic activity warrants a new report to be required; provided, that any new storm water best management practices that were not previously included as a part of the geotechnical report shall be incorporated.

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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Tuesday, April 23, 2019 12:22 PM
To: Ballard, Greg
Subject: Re: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution) (External Email: USE Caution)

Thank you Greg. One follow up question. We are working with our geo technical engineer and if we wanted to have a deck or concrete patio extend into the 100' zone, what would be needed there (a letter and summary analysis, a full study, core samples)?

Cheers,

William Pleake

509.786.3434

On Tuesday, April 23, 2019, 8:33:52 AM PDT, Ballard, Greg <gballard@co.clallam.wa.us> wrote:

I agree with your general summary of our conversation.

Here are some useful shoreline links. (see link 9 for Ecology Photos and Coastal Zone Atlas that includes slope stability)

In general a lot is buildable if it can meet all requirements (Shoreline, Critical Area, Zoning Setbacks, Building, septic and water requirements).

All residences have a 100 foot setback from unstable bluffs per Section our building code found in Section 21.01.100 of Clallam County Code.

Our current Critical Area Code is found in Section 27.12.415(a) CCC.

Current Clallam County Codes are available at the link below

https://www.codepublishing.com/WA/ClallamCounty/

A geotechnical Report would be able to have the setbacks reduce below 100 feet for the home and attached decks. It would also specify what activities could occur within the 100 foot setback.

You would be subject to whatever regulations are in place when you submit a complete building permit.

Our current SMP is the 2nd attachment. (see section 5.08 for residential standards)

Info on the SMP update that has been approved by our County Commissioners but not adopted by the WA State Department of Ecology is available at the link below. Not sure when it will be adopted by Ecology (i.e. immediately or 1 year

or longer)

http://www.clallam.net/LandUse/smp.html

Section 7.13 would be the new regulation on landslide hazard (Critical Areas) when the new SMP is adopted within Shoreline Jurisdiction.

There are new section about vegetation removal in the SMP so may want to make sure the tree report is approved before the new SMP is adopted.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
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Email: gballard@co.clallam.wa.us

From: William Pleake [mailto:wp_iii@yahoo.com]
Sent: Monday, April 22, 2019 5:15 PM
To: Ballard, Greg; William Pleake
Subject: Vacant Lot on Buck Loop (Parcel 03-30-24-50-0120) (External Email: USE Caution)

Dear Mr. Ballard,

Thank you for taking the time to meet with me at the counter this morning and patiently walk through my questions. As promised, I wanted to follow up with a summary of what I understood from our conversation.

As we discussed, I am in the process of performing due diligence prior to purchasing a vacant lot in the Sequim area and am seeking to validate that the lot is indeed buildable.

Parcel Number 03-30-24-50-0120

- Vacant Ocean Front lot on Buck Loop with a tree covered bluff down in front
- The bluff is actually on a greenbelt parcel and this lot (lot 12) sits behind it
- Lot is approx 105 x 189
- Tree Survey has been performed recently that you may have reviewed in the last 6 months

As I mentioned, we hired a Geological Engineer to visit the site and provide us with his assessment. His findings are that there has been movement on the face of the bluff within the last 100 to 500 years and there was still some evidence of loose soils on the face. The top of the bluff and parcel also showed no signs of movement.

Based on this my understanding after talking with you after looking up the Lidar and Ortho maps this morning is the following:

Summary: As of the current shoreline master plan, the lot is buildable and will only require a 100' setback from the top forward edge of the bluff unless we have it reviewed by an engineer and they provide findings that would allow the home or deck to be moved closer and those findings are approved by the Clallam County Planning Dept.

- Since this lot is in a Critical Areas and has some evidence of loose soils or unstable bank as identified by our engineer, we would need to position the house no closer than 100' from the edge of the bluff
    - The "Edge" of the bluff is defined as the area with a greater than 65 degree slope and is yet to be determined.
- To approve placement of any structure (house / deck) **closer than 100'** of the bluff would require the feature be defined and an engineering study / recommendation to support it not having a negative impact on the bluff stability by an engineer approved by your office
- If all structures are **outside** the 100' distance from the bluff, there is no need for any additional geo-technical analysis or studies. We could proceed with the permitting process today

Other topics covered outside the buildability of the lot:

- A daylight basement may require additional Structural Analysis as part of the design
- If the building is greater than 2500 sq ft, we will need an engineered storm water plan for runoff water.

Also, in speaking to your Health Department, the septic was approved in 1999 for conventional but permit has expired. They stated that if nothing has changed, that it would likely still qualify for a conventional system, so that was welcome news.

Please let me know if I have summarized everything correctly and if not, please feel free to correct me in your response. Thank you in advance for your time and expertise!

Respectfully,

William Pleake

509.786.3434

Chapter 11
Vegetation Conservation, Buffers and Setbacks

Phase 3, Task 3.4
Shoreline Master Program Planning Process

Introduction

Vegetation along the shoreline provides a myriad of benefits for the water body, the upland area and shoreline residents and users. Vegetation helps to stabilize soils, which filter pollutants and fine sediments, contributing to improved water quality. Trees and shrubs provide habitat for many species and provide food for aquatic species. More stable banks reduce occurrences of landslides, damage to structures and threats to life safety.

Conserving shoreline vegetation is important to retaining these benefits. The most effective ways to conserve vegetation are shoreline buffers and setbacks. They protect shoreline ecological



Figure 11-1: Trees and vegetation along the shoreline were retained when this house was built in Kitsap County and provide a buffer between the house and the water. (Hugh Shipman photo.)

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11/11; rev. 6/17

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functions and help local governments achieve the no net loss standard and other requirements of Shoreline Master Program (SMP) comprehensive updates.

Buffers and setbacks with vegetation conservation support a main tenet of the Shoreline Management Act (SMA) -- "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life." The SMP Guidelines require master programs to protect the functions provided by shoreline vegetation. Vegetation conservation standards, including buffers and setbacks, should be based on local shoreline conditions. Ecology will want to see the rationale that supports your decisions. It's important to keep good records. See the SMP Handbook Chapter 18, "Integration of Critical Areas Ordinances," for information on record keeping.

This chapter briefly discusses the sensitive nature of vegetation conservation, including buffers and setbacks, for SMP updates. This chapter also covers SMP Guidelines requirements regarding vegetation conservation and the protection and restoration of buffers and setbacks from the ordinary high water mark, reviews the benefits of buffers, discusses buffer and setback widths and their relationship to local shoreline conditions, offers alternatives to standard buffers and setbacks, and recommends a process for determining buffer and setback widths.

See Ecology's Wetlands pages for information about wetlands, wetlands buffers and the wetlands ratings system.

Distinguishing between buffers and setbacks

The terms "buffers" and "setbacks" are often used interchangeably in shoreline documents, including Shoreline Master Programs. Ecology prefers to distinguish between the two, as described below.

Shoreline buffers typically are naturally vegetated areas adjacent to water bodies that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the water body, as described in the scientific literature. Buffers provide a transition between the aquatic and upland areas.

Buffers are generally recognized as a "separation zone" between a water body and a land use activity (e.g., timber harvest, commercial or residential development) to protect ecological processes, structures, and functions and mitigate the threat of a coastal hazard on human infrastructures (National Wildlife Federation 2007, referenced in *Protection of Marine Riparian Functions in Puget Sound, Washington*, June 2009.)

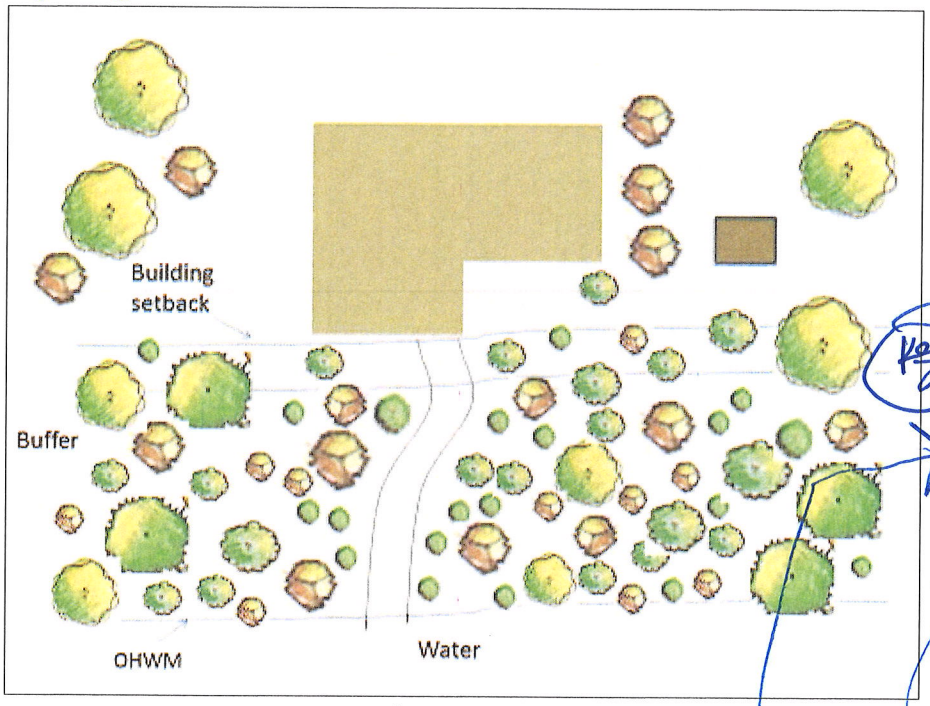

Figure 11-2: This graphic illustrates the concept of buffers and setbacks on a shoreline. The setback separates the structure from the buffer. Buffers should have a mix of trees, shrubs and groundcovers. Buffers and setbacks are measured landward from the Ordinary High Water Mark. (Items in the graphic are not to scale.)

Shoreline buffers can help to protect structures from hazards such as erosion, landslides, floods, and storm damage associated with a water body. Ideally, shoreline buffers are relatively undisturbed; uses are limited, and there are no substantial structures. A typical use is a trail leading to the water or a stairway leading down to a dock or the beach.

Shoreline setbacks are the distances separating two features such as a structure and the water, or a structure and the buffer. Natural native vegetation may or may not exist within a setback. A setback from a buffer protects the buffer from the impacts related to use of the structure, such as maintenance of a house.

Setbacks also help to assure that development is located a safe distance from bluffs, river banks, and other natural features, including buffers. Setbacks help to protect views by requiring nearby residences to be a certain distance from the water. Setbacks are measured from the landward edge of a shoreline buffer or the OHWM, or in certain circumstances, from the top of a steep bank or unstable slope. Major structures cannot be built, but some uses such as gardens or sheds may be allowed within the setback.

Some local governments with intensely developed shorelines have established only setbacks from the OHWM. Vegetation conservation is required, and planting new vegetation, replacing noxious weeds and invasive plants with native plants, and other habitat improvements are required for new or expanded development. These measures meet the requirements of the SMP Guidelines to protect ecological functions, as buffers do.

Together, buffers and setbacks protect shoreline ecological functions, provide aesthetic qualities, including views of the land from the water, and protect structures from hazards. Buffers and setbacks also provide space between development and natural shoreline processes, helping to protect structures over the long term from hazards such as wave action, flooding, erosion, and bank sloughing, lessening the need for shoreline stabilization such as bulkheads.

Critical areas ordinances will not apply

After the SMP update is approved by Ecology, the Critical Areas Ordinance (CAO) established under the Growth Management Act (GMA) will not apply within shoreline jurisdiction. Critical areas within shoreline jurisdiction still must be protected, and will be regulated by the SMP, as directed by the GMA [RCW 36.70A.480(3)(b)], with an exception discussed below. The State Legislature clarified this issue in 2010.

Therefore, you will not be able to rely on the CAO for shoreline buffers. Shoreline buffers must be established in the SMP, or the SMP must incorporate provisions of the CAO. Buffers for critical areas such as wetlands that are within shoreline jurisdiction also must be protected through the SMP. See Ecology's guidance in Chapter 18, "Integration of Critical Areas Ordinances."

Some local governments set critical areas buffers along their SMA water bodies after determining the water bodies are Fish and Wildlife Habitat Conservation Areas, which are critical areas under the GMA. These buffers developed for the CAO are a starting point but may not be adequate or appropriate shoreline buffers under the SMA for several reasons:

- Shoreline buffers must be based on shoreline ecological functions, development patterns and anticipated preferred uses discussed in the SMP and supporting documents. For example, the broader perspective of shoreline management planning of critical freshwater habitats calls for "Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the floodplain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheric zone, results from new development" [WAC 173-26-221(2)(C)(iv) (B)(II)]. This comprehensive approach anticipates an integration of master program provisions "to protect human health and safety and to protect and restore the corridor's ecological functions and eco-system-wide processes."

- New scientific studies conducted after the CAO was adopted may establish the need for different-sized buffers than included in the CAO. The SMP Guidelines require "the most current, accurate and complete scientific and technical information available" to be used

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for development of SMPs [WAC 173-26-201(2)(a)].

- New information about the presence of critical habitats, such as kelp beds, fish spawning or holding areas, and channel migration zones, for example, must be considered when establishing buffers.

The CAO exception referred to above concerns "land necessary for buffers" that extends outside of typical shoreline jurisdiction. Local governments have statutory authority to extend shoreline jurisdiction beyond the typical 200-foot area to include "land necessary for buffers." This issue, part of the SMA-GMA interaction and an important local decision regarding shoreline jurisdiction, is discussed in depth in SMP Handbook Chapter 5, "Shoreline Jurisdiction."

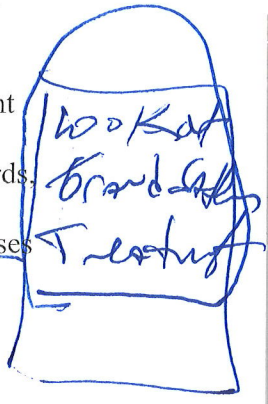
Sensitive topic for SMP Updates

Establishing buffers and setbacks can be a contentious issue during SMP updates, even though setbacks, and to a lesser extent, buffers, have been included in SMPs since the 1970s. Some SMP updates have been stymied over this decision. Major issues are discussed below.

How are existing structures affected?

Establishing new buffers and setbacks may result in some existing structures being located partly or entirely within the buffer or setback. Home owners have been particularly concerned about buffers and setbacks that encompass or affect existing single family residences.

The State Legislature addressed this issue for residential structures in 2011 with an amendment to the SMA. SMPs approved by Ecology after September 1, 2011 may consider existing residential structures and their appurtenances as conforming in regard to setbacks, buffers, yards, area, bulk, height and density. This does not apply to bulkheads, shoreline modifications and overwater structures. Ecology's guidance in SMP Handbook Chapter 14, "Legally Existing Uses and Development," discusses how SMPs should address the potential for expansion and redevelopment for properties within buffers and setbacks as well as throughout shoreline jurisdiction.



Can existing structures expand?

Some property owners are concerned that updated SMPs may limit or prohibit redevelopment and expansion of structures within shoreline buffers and setbacks and discourage any new uses. The SMP Guidelines do not strictly prohibit redevelopment and expansion within buffers and setbacks. The Guidelines do require SMPs to include policies and regulations, including regulations for setbacks, buffers and vegetation conservation, that assure no net loss of ecological functions will result from development.

The SMP will regulate whether an addition to an existing house may be built, where it can be built, and what mitigation measures will be required. Mitigation measures will be required in order to offset impacts of new development and achieve the no net loss standard. Most SMPs approved by Ecology to date allow some expansion of existing houses within buffers, usually to

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Figure 11-3: This Lake Sammamish shoreline in the City of Bellevue has residences close to the water's edge. Setbacks with vegetation conservation have been a contentious issue. (Washington Coastal Atlas Photo.)

the side or back, not waterward, of the existing house. A shoreline variance is usually required for building closer to the water when the existing structure is closer than the standard buffer or setback.

Are gardens and sheds "grandfathered?"

New SMP regulations are not retroactive, so legally existing uses and structures can remain in place; i.e., they are "grandfathered." Residents of some communities have said they are concerned that gardens, lawns, or sheds will have to be removed or modified if these features are within a buffer or setback.

Are existing setbacks good enough?

Many SMPs adopted in the 1970s have 25-foot to 35-foot setbacks. Residents of some cities want to know why these existing setbacks aren't good enough now. For example, in some urban areas, homes are set back an average of 80 feet or more from the ordinary high water mark, although the official setback is much less. Why not leave the setback at 25 feet, as homes are built further back from the water? Here's why the narrow setback isn't adequate:

- An SMP setback of 25 feet means that structures can be built 25 feet from the ordinary high water mark. That will not protect the existing shoreline functions where the homes are now 80 feet or more from the water. Since the 1970s when these setbacks were established, our understanding of how vegetative buffers function to protect shoreline resources such as water quality and fish and wildlife habitat has increased. For example,

the pervious surface that now exists helps to filter water, improving water quality.

- When SMPs were first adopted in the 1970s, setbacks were established largely to protect structures from erosion and effects of wind and water and to prevent new houses from blocking views. Some consideration was given to habitat, as in Conservancy environments with bigger setbacks than in Urban environments. We now know more about the value of buffers in regard to ecological functions. Recent scientific studies show that 25-foot setbacks do not protect most ecological functions and will not meet the no net loss standard of the SMP Guidelines.

- If the average setback in a residential area is 80 feet, and a new house is built only 25 feet from the water, that house will impact the buffer functions provided by the existing pervious soil and vegetation, as well as the views from houses further back. The new house may not be far enough back to be protected from erosion and storms.

Are buffers and setbacks legal?

Legal questions have also arisen during recent SMP updates. There have been some statements that a state law, RCW 82.02.020, is applicable to SMPs, and that buffers are a form of taxation. The Washington Supreme Court, in *Citizens for Rational Shoreline Planning v. Whatcom County*, ruled in 2011 that SMPs are the result of state action "and are not subject to RCW 82.02.020."

Some attorneys have also contended that buffers must be justified under the nexus and proportionality tests adopted by the U.S. Supreme Court. These tests were developed by the Court in cases involving public access easements. The tests require that a public access easement bear a direct relationship to the impacts of the project and the easement must be roughly proportional to those impacts. Since a buffer is not the same as a public access easement, Ecology's position is that these tests do not apply to buffers. However, the courts have not directly ruled on this issue.

Buffers have been established through Critical Areas Ordinances under the Growth Management Act and have been generally upheld in the courts.

SMP Guidelines

The Shoreline Master Program Guidelines [WAC 173-26] address shoreline buffers and setbacks and vegetation conservation in several sections – steps in developing a master program, environment designations, shoreline vegetation conservation and residential development. This section reviews the Guidelines requirements and provides links to the specific WAC sections.

Inventory

The Guidelines require local governments to collect information about shoreline vegetation for the shoreline inventory. This inventory information will be important for identifying existing buffer functions. See box at right.

> WAC 173-26-201(3)(c): "Local government shall, at a minimum, and to the extent such information is relevant and reasonably available, collect the following information:
>
> (i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction. Special attention should be paid to identification of ecologically intact blocks of upland vegetation, developed areas with largely intact riparian vegetation, water-oriented uses and related navigation, transportation and utility facilities." (Underline added.)

Ecosystem processes

The ecological functions of shoreline vegetation for streams are listed in WAC 173-26-201(3)(d)(i)(C) as including "Maintaining temperature; removing excessive nutrients and toxic compound, sediment removal and stabilization; attenuation of high stream flow energy; and provision of woody debris and other organic matter." For lakes and marine waters, the function, "attenuating wave energy," is added and "attenuation of high stream flow energy" is not listed.

Shoreline vegetation

Vegetation conservation is discussed in Section 201(3)(d)(viii), where local governments are directed to "Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives."

The Guidelines acknowledge the importance of vegetation in urban areas. "...The importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity."

Environment designations

Management policies for three of the recommended environment designations direct SMPs to address vegetation conservation:

- In the High Intensity environment, a management policy calls for maintaining natural vegetative buffers and other methods to implement aesthetic objectives [WAC 173-26-211(5)(d)].

- In the Shoreline Residential environment, a management policy requires standards including setbacks, buffers, and vegetation conservation, among others, to assure no net

loss of shoreline ecological functions [WAC 173-26-211(5)(f)].

- In the Natural environment, a management policy states that vegetation removal "that would reduce the capability of vegetation to perform normal ecological functions should not be allowed."[WAC 173-26-211(5)(a)(G)].

Vegetation conservation

The shoreline vegetation conservation section defines vegetation conservation as "activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas" [WAC 173-26-221(5)]. These activities include "the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species." Vegetation conservation can protect ecological functions, plant and animal species and their habitats, as well as protect human safety and property, increase the stability of river banks and coastal bluffs, reduce the need for shoreline stabilization, improve visual and aesthetic qualities of the shoreline and enhance shoreline uses.

Local governments should identify the ecological processes and functions that are important to the local shoreline, both upland and aquatic, and conserve vegetation needed to maintain those functions. The Guidelines require master programs to include policies and regulations that address vegetation conservation and restoration. Measures may include clearing and grading regulations, setbacks and buffers, critical area regulations, conditional use requirements, mitigation requirements, incentives and nonregulatory programs.

Residential development

The residential development section under Shoreline Uses directs master programs to include provisions that assure no net loss of shoreline ecological functions from residential developments [WAC 173-26-241(3)(j)]. These provisions should include regulations for setbacks and buffers and vegetation conservation requirements, among others. The Guidelines also require residential development and appurtenances to be set back from steep slopes and shorelines vulnerable to erosion so that structural improvements are not required to protect them.

Benefits of shoreline buffers

Shoreline buffers offer a variety of benefits to the natural and human-built environments. In general, buffers benefit the natural environment by protecting or improving water quality, providing habitat for wildlife, and attenuating water flow, reducing the chances of flooding and erosion.

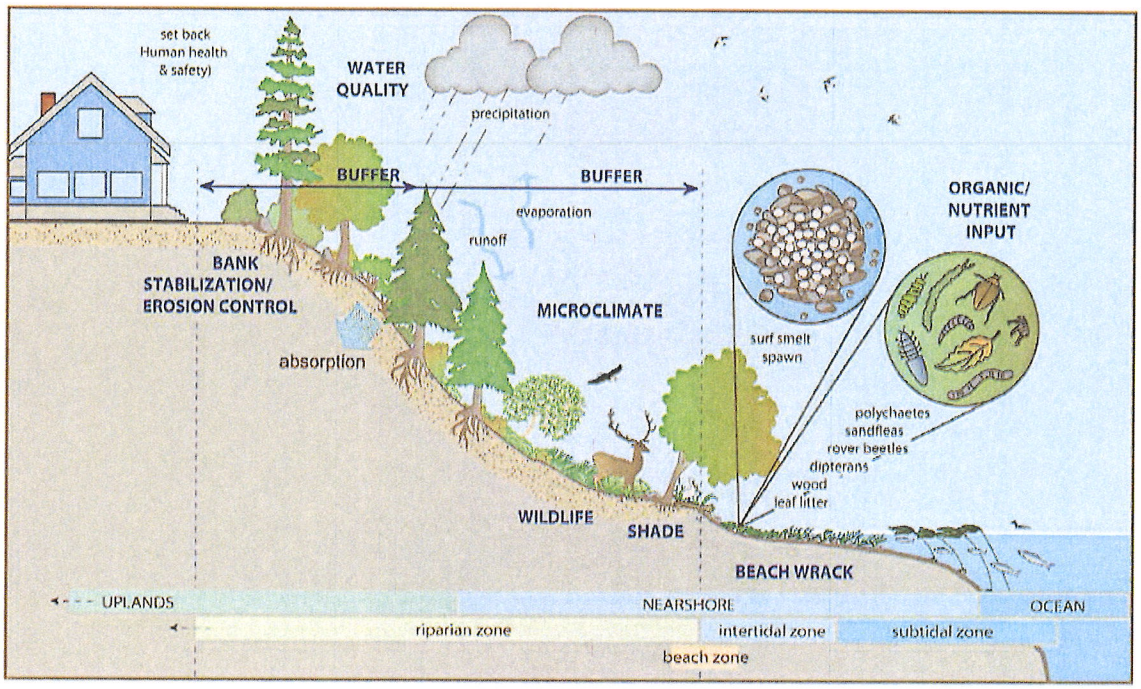

Figure 11-5. The graphic provides a conceptual model of marine riparian functions. Shoreline buffers are measured landward from the ordinary high water mark. In this graphic, the OHWM is not shown. (King County Department of Natural Resources and Parks graphic for Brennan and Culverwell, 2004.)

For the human-built environment, buffers and setbacks protect structures from damage by assuring they are a safe distance from erosive bluffs, channel migration zones, flooding, wave action and storms. Buffers and setbacks also can help protect views of the water from structures by assuring that nearby structures are adequately set back. Protecting native vegetation along the shoreline enhances property values by stabilizing slopes, screening adjacent development from view, providing attractive landscaping and habitat and blocking noise and glare from adjacent properties.

The SMP Guidelines describe the most commonly recognized functions of shoreline vegetation at WAC 173-26-221(5)(b). Setbacks and buffers are among measures that can protect ecological functions and ecosystem processes provided by vegetation along shorelines.

> In the Pacific Northwest, aquatic environments, as well as their associated upland vegetation and wetlands, provide significant habitat for a myriad of fish and wildlife species. Healthy environments for aquatic species are inseparably linked with the ecological integrity of the surrounding terrestrial ecosystem. For example, a nearly

continuous corridor of mature forest characterizes the natural riparian conditions of the Pacific Northwest. Riparian corridors along marine shorelines provide many of the same functions as their freshwater counterparts. The most commonly recognized functions of the shoreline vegetation include, but are not limited to:

- Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota.

- Providing organic inputs critical for aquatic life.

- Providing food in the form of various insects and other benthic macroinvertebrates.

- Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function.

- Reducing fine sediment input into the aquatic environment through storm water retention and vegetative filtering.

- Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.

- Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structural element that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization.

- Regulation of microclimate in the stream-riparian and intertidal corridors.

- Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Sustaining different individual functions requires different widths, compositions and densities of vegetation. The importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested shoreline settings, periodic recruitment of fallen trees, especially conifers, into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams which once supported or could in the future support mature trees should be wide enough to accomplish this periodic recruitment process.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some environments, such as in arid climates and on coastal dunes. In these instances, the width of a vegetated area necessary to achieve the full suite of vegetation-related shoreline functions may not be related to vegetation height.



Figure 11-4: At Cama Beach State Park on Camano Island, shoreline vegetation provides ecological functions such as wildlife habitat, organic inputs and stabilization. (Hugh Shipman photo.)

Research on freshwater and marine areas

Research on freshwater riparian areas is relevant to marine riparian areas and vice versa. A panel of 14 scientists with expertise related to riparian ecosystems generally agreed that "findings from studies of freshwater riparian areas are transferable to marine riparian areas, although some processes and functions are unique to marine riparian areas." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, Appendix H, 2009.) This document also concludes that "riparian areas provide ecological functions regardless of whether they are adjacent to freshwater or marine water bodies" (Section 1).

The functions of marine riparian and freshwater riparian areas can vary. For example, marine riparian areas and freshwater riparian areas have different relative contributions to Puget Sound water quality. "However, the marine riparian area is limited in spatial extent; that is, it constitutes a small fraction of the Puget Sound drainage basin. Most contaminants reach Puget Sound via streams or drainage networks discharging into the Puget Sound Basin, or pathways that concentrate rainfall and snowmelt from impervious surfaces associated with human residential and commercial development and transportation infrastructure." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, pages 8-9.)

The Marine Riparian paper also notes differences related to shade. While shade is important to organisms in the upper intertidal area during low tide, shade is "potentially less important in moderating water temperature than shade in freshwater systems" (page 15). Marine riparian areas likely cover only a small fraction of the intertidal area. Marine riparian areas are not likely to have much effect on water temperatures of Puget Sound.

Resources on the benefits of buffers

The ecological benefits of buffers are discussed extensively in the following documents, which are briefly reviewed below. The first three documents were developed by the Aquatic Habitat Guidelines program, a partnership of state agencies, which conducted extensive reviews of the scientific literature for these documents. Ecology has participated in the development of the Aquatic Habitat Guidelines documents. The fourth document in the list was developed by the Washington Department of Fish and Wildlife.

- *Protection of Marine Riparian Functions in Puget Sound*, Washington, 2009.
- *Protecting Nearshore Habitat and Functions in Puget Sound*, 2007, revised 2010.
- *White Paper - Ecological Issues in Floodplains and Riparian Corridors*, 2001.
- *Management Recommendations for Washington's Priority Habitats: Riparian*, 1997.

Protection of Marine Riparian Functions in Puget Sound, Washington focuses on the benefits of riparian areas for seven riparian functions along marine waters: water quality, fine sediment control, shade/microclimate, large woody debris, litter fall/organic matter inputs, hydrology/slope stability and wildlife. "This document was developed to provide shoreline planners and managers with a summary of current science and management recommendations to inform protection of ecological functions of marine riparian areas... Specifically, we summarize the range of marine riparian buffer widths (Appendix G) needed to meet particular levels of ecosystem function based on a literature review and input from an expert panel workshop," according to an overview of the document available at http://wdfw.wa.gov/publications/pub.php?id=00693.

> Because much of the literature was related to freshwater riparian systems, we assembled an interdisciplinary science panel to inform the process of adapting fresh water studies to marine nearshore environments (Marine Riparian Workshop Proceedings 2008; Appendix H). (Page 4 of the document.)

Protecting Nearshore Habitat and Functions in Puget Sound provides "a synthesis of current science on several important nearshore habitats and processes, and directions for where to find data and specific recommendations for moving through the mitigation sequence; from avoidance of new activities and reducing impacts from approved activities, to mitigating for cumulative impacts. In addition to helping local planners prepare SMP updates, this document will also assist Ecology in their review to ensure that SMP updates are based on good science," according to an introduction available at http://wdfw.wa.gov/publications/pub.php?id=00047.

White Paper - Ecological Issues in Floodplains and Riparian Corridors "examines and synthesizes the literature pertaining to the current state of knowledge on the physical and biological effects of alluvial river channelization, channel confinement, and various channel and floodplain modifications. It also examines and summarizes literature on the mitigation, rehabilitation and restoration of rivers affected by these human modifications. Data gaps in our current understanding of physical and biological process, the effects of human modifications, and appropriate rehabilitation or restoration techniques are also reviewed," according to the executive summary available at http://wdfw.wa.gov/publications/pub.php?id=00058.

Management Recommendations for Washington's Priority Habitat: Riparian offers information on the riparian habitat adjacent to streams, seeps and springs and recommends Riparian Habitat Area widths for areas with typed and non-typed streams. "Riparian areas contain elements of both aquatic and terrestrial ecosystems which mutually influence each other and occur as transitions between aquatic and upland habitats, according to the Executive Summary found at http://wdfw.wa.gov/publications/pub.php?id=00029. The report states that about 85 percent of Washington's terrestrial species use riparian habitat, with the density of wildlife in riparian areas "comparatively high."

Buffer width in the scientific literature

According to the scientific literature, the buffer widths to protect shoreline ecological functions vary according to the parameter observed and the site conditions of the study. Scientific studies typically include observations of **undisturbed areas** when considering the effectiveness of buffers and report a specific distance to protect function or percentage of a function. For example, studies report a 102-foot stream buffer width for 40% contaminant removal or 167-foot stream buffer width for 84% contaminant removal. Applying the scientific information to local shoreline conditions is discussed in the next section.

The *Marine Riparian Functions* document provides buffer widths for general shorelines for the seven functions reviewed in Appendix G. The document reviews buffer width ranges, including the smallest and largest buffers needed to achieve 80% effectiveness. Effectiveness indicates how much of the particular function would be preserved. The document uses 80% effectiveness because most of the studies can be summarized at this level.

Appendix G also provides an average buffer width needed to achieve 80% effectiveness, based on the literature reviewed. Finally, the appendix also provides minimum buffer widths to achieve greater than or equal to 80% effectiveness, according to curves developed by FEMAT, the Forest Ecosystem Management Assessment Team. The effectiveness curves were first developed in 1993 to depict the relationship between ecological functions and the width of mature riparian forests along a generalized shorelines. The science panel working on the *Marine Riparian Functions* document adapted the FEMAT style curves for the marine environment.
For example, for water quality, the buffer widths that would achieve greater than or equal to 80% effectiveness are:

- Buffer width range of 16 feet to 1,920 feet for 80% removal, depending on the water quality parameters.
- Average of all literature – 358 feet to achieve greater than or equal to 80% effectiveness.
- FEMAT curve minimum buffer width to achieve 80% effectiveness – 82 feet for sediment and 197 feet for nitrogen.

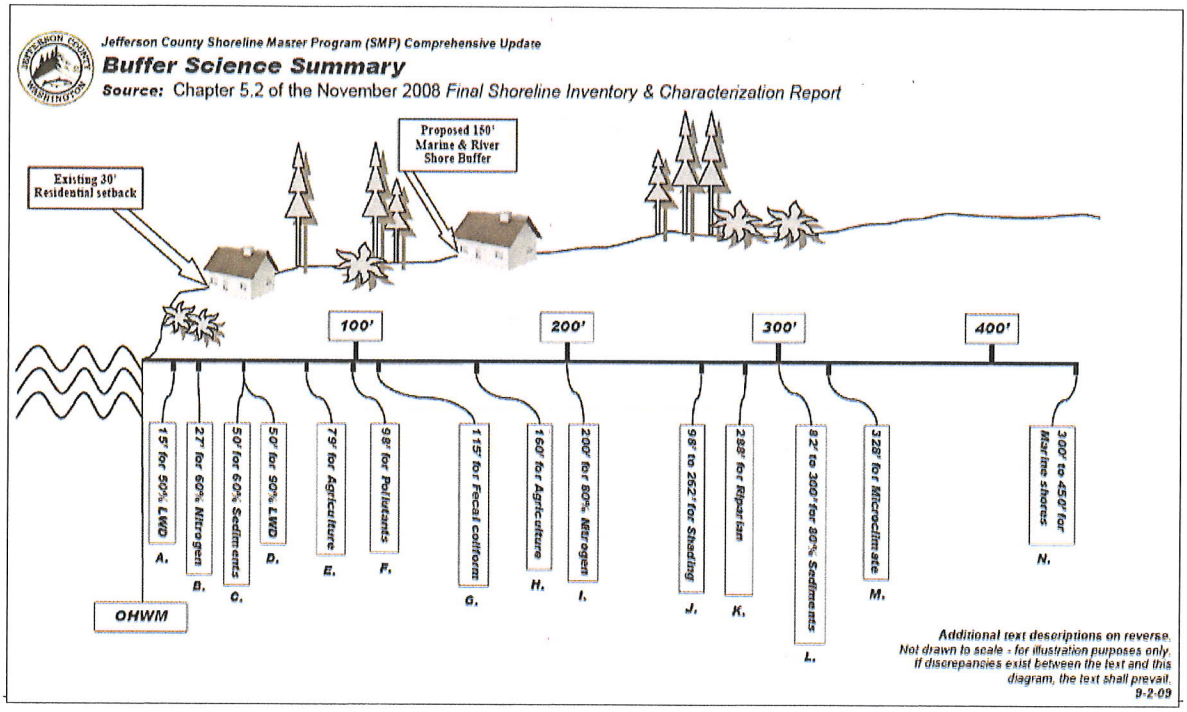

Figure 11-6: This graphic from the Jefferson County SMP update displays the locations on the landscape needed for specific buffer functions. The letters (A, B, C) are keyed to descriptions of the scientific literature on the back of the original handout. The descriptions are included at the end of this chapter

For wildlife, the buffer widths needed to achieve greater than or equal to 80% effectiveness are:

- Buffer width range of 240 feet to achieve 90% of hibernation and nesting to 902 feet to achieve 100% of hibernation and nesting.
- Average of all literature – 571 feet to achieve greater than or equal to 80% effectiveness.
- FEMAT curves do not address wildlife function.

These examples show the range of buffer widths needed for these functions to continue to be effective in undisturbed areas. The SMP Guidelines do not require a return to pre-European settlement conditions. The buffer widths are summarized in Appendix G of the marine riparian guidance, available in the document at http://wdfw.wa.gov/publications/pub.php?id=00693.

Management Recommendations for Washington's Priority Habitats – Riparian suggests a Riparian Habitat Area width of 250 feet for Types 1 and 2 streams, Shorelines of the State, and Shorelines of Statewide Significance.

Consider risk to ecological functions

Consider the risk of disturbance to the shoreline ecological functions in the riparian area if buffers or setbacks are not required and development is allowed. Ecology's wetlands guidance includes an extensive discussion of the characterization of risk from land use actions to wetland functions. This discussion is relevant to shoreline buffers.

"In a characterization of risks, local jurisdictions should consider whether the plans, policies, and regulations they are developing will minimize the risk of cumulative impacts to the functions and values of natural resources including wetlands." (*Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands,* page 10-2.)

"Whether planning is done at the scale of the management area or the site itself, the risks can be characterized by answering a series of questions about the actions being proposed:

- What disturbances or benefits will result from a proposed action (e.g., change in land use through zoning, regulations that affect how land is used, restoration plan, etc.)?
- What risks do these disturbances pose to the functions and values of wetlands?
- What measures are proposed to minimize the risks or replace the resource at risk?" (page 10-4)

Therefore, when determining shoreline buffer width, you should consider the potential risk to the ecological functions. If ecological functions would be negatively affected, consider what measures would offset the impact to ecological functions. If mitigation measures and restrictions on land use would not offset the impacts from a smaller buffer, larger buffers are necessary to achieve no net loss of shoreline ecological functions. (The SMA provides local governments the option to include critical areas buffers that extend outside the minimum shoreline jurisdiction within shoreline jurisdiction [RCW 90.58.030 (2)(d)(ii)]).

Determining buffer width

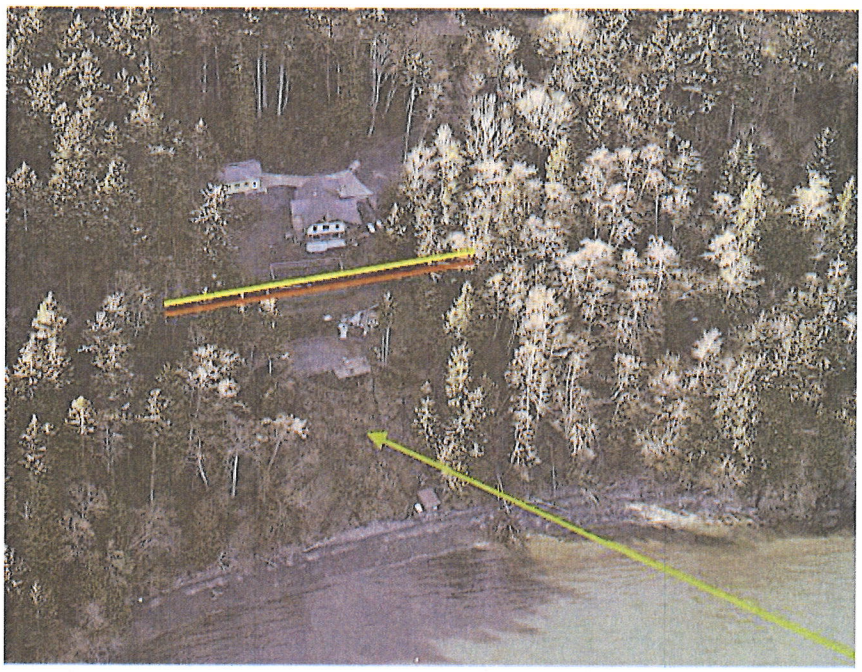

Figure 11-7: Whatcom County marine shorelines have a 150-ft buffer, shown by the red line. The yellow line indicates the 10-ft setback, and the green arrow points to an unstable slope stripped of vegetation. (Whatcom County photo.)

How do you apply these buffer widths from the scientific literature to your local shorelines? Much of Washington's shorelines are developed, unlike the undeveloped shorelines discussed in much of the scientific literature.

Those land uses include industry, commercial uses, houses, multi-family dwellings, parks, trails, marinas, bulkheads, parking lots, and fishing piers, among others. Some upland areas are intensely developed, and others are more sparsely developed. Some of our waters are heavily used for ports, industry, marinas and recreational piers. Many Washington lakes are intensely developed with houses on the upland and piers and docks in the water, while others remain undeveloped.

Tailor buffers to local conditions

Determining buffers and setbacks is a challenge. The buffers and setbacks for marine and freshwater shorelines should be tailored to local conditions including existing shoreline functions and existing and planned land use and public access. Buffers and setbacks likely will vary within a local government's boundaries to reflect different shoreline conditions and functions. The inventory and characterization report should provide a complete analysis of shoreline functions. See SMP Handbook Chapter 7, "Shoreline Inventory and Characterization."

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The Aquatic Habitat Guidelines document, *Protecting Nearshore Habitat and Functions in Puget Sound,* offers some general guidance in determining buffer width. These general recommendations are also applicable to freshwater rivers and lakes.

> In applying buffers as part of a marine riparian habitat protection strategy, shoreline managers should consider what functions need protection in their shoreline areas (based on existing or anticipated threats), what level of protection is appropriate for those functions, how the protective goals of using a buffer can actually be achieved on the land given existing and planned development, and what functions will not be protected by choosing particular buffer widths. The science summarized in Table III.7 provides the information and context for these decisions. It does not dictate a single approach (page III-38).

With this general guidance in mind, consider the following:

- What shoreline ecological functions continue to exist and need protection or restoration? What species of wildlife live along the shoreline, and what buffer width will protect them? Would smaller buffers increase nitrogen and phosphorous levels in local waters? How would removal of riparian vegetation affect slope stability and hydrology?
- Will future growth include new or expanded water-oriented uses?
- For developed shorelines, is redevelopment likely?
- Is development projected on vacant parcels?

Most developed shorelines with remaining vegetation still provide some ecological functions. For example, trees are often located near houses that are built within shoreline jurisdiction. Trees provide habitat, stabilize the soil and reduce erosion. Naturally vegetated areas help to filter surface water runoff.

People ask why their local shorelines have buffers or setbacks that are different than those in nearby areas. The answer is that the buffers reflect the local conditions including shoreline ecological functions and existing development -- these are not the same everywhere, so different buffers or setbacks are required. In all cases, however, buffers and setbacks should be designed, in combination with SMP regulations, to assure no net loss of shoreline ecological functions.

WAC 173-26-2(c)]. "Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered."

Some approved SMPs establish specific buffers or setbacks for every environment designation. Some SMPs establish buffers or setbacks for water bodies, based on shoreline conditions. Some environment designations have varying buffer widths for different shoreline uses – industrial, commercial, residential and recreation. For example, Whatcom County's buffers are set for marine, stream and lake shorelines, while Douglas County buffers are set for environment

designations. In the City of Kent, a shoreline with High Intensity designation has a 100-foot setback for industrial uses and 70-foot setback for commercial uses.

Rural shorelines



Figure 11-8: This Columbia River shoreline near Rock Island in Douglas County has a Rural Conservancy designation with a 100-foot buffer. (Washington Coastal Atlas photo.)

Rural shorelines in Washington typically include large residential lots; parks with undeveloped areas and shorelines with boat launches, docks and other amenities; and scattered other uses such as restaurants or industry. The degree of development is less intense overall than in urban areas. Steep slopes are common although not universal. The amount and type of vegetation varies, depending on the degree of development and location within the state. It's generally fair to say that more native vegetation exists in rural areas compared with urban areas.

The shoreline ecological functions in these less developed areas should be protected with adequate buffers or setbacks and vegetation conservation. Environment designations should establish low densities with large lot sizes, as appropriate. Other measures to protect ecological functions may include large minimum lot width at the shoreline, vegetation conservation and replacement standards, and incentives to encourage voluntary restoration and bulkhead removal.

Urban shorelines

Establishing buffers for intensely developed urban shorelines seems to be more challenging than doing so for less developed rural or undeveloped shorelines, as Ecology has seen over the past few years. Questions arise regarding the likelihood of ecological functions on small lots developed with houses and garages or at waterfront industrial areas.

Again, some ecological functions likely exist in the upland area, and protecting these helps to protect the remaining aquatic functions. Some cities with highly developed shorelines have established buffers or setbacks that reflect local conditions, require mitigation for redevelopment, and offer incentives as an opportunity for shoreline improvements.

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For example, the city of Kirkland has a range of setback standards to address the diversity of its highly developed shoreline, where redevelopment is more likely than new development.

In its R-L (Residential – Low) shoreline environment, which has a wide variety of parcel depths, the setback is 30 percent of the average parcel depth, with a 30-foot minimum setback and 60-foot maximum setback.

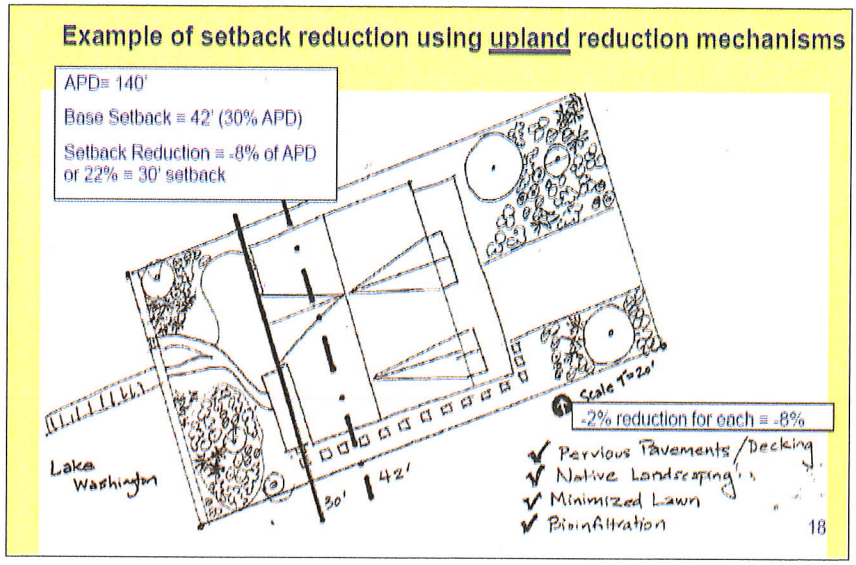

Figure 11-9: The City of Kirkland SMP includes administrative setback reductions in return for shoreline improvements. The figure shows the base setback for an average parcel depth (APD) of 142 feet and a 2 percent reduction for upland improvements

In the UM (Urban Mixed) environment, which has less variation in parcel depth, the setback is 15 percent of the average parcel depth, with a 25-foot minimum. The new SMP setbacks are within range of the current, on-the-ground setbacks for existing shoreline development.

These standards are flexible. The setback can potentially be reduced to the minimum setback in exchange for improvements such as replacing hard armoring with soft shore protection, building a shoreline cove, or moving the bulkhead away from the water. Figure 11-9 provides examples of setback reductions. Setbacks less than the minimum would require a shoreline variance.

The City of Seattle's guidebook, *Green Shorelines: Bulkhead Alternatives for a Healthier Lake Washington*, available at http://www.govlink.org/watersheds/8/action/greenshorelines/, includes discussion of vegetated buffers on small lots on pages 14-15. The guidebook states that vegetated buffers add visual interest to property and contribute to aquatic habitat. The guidebook offers various options for "greening" the shoreline by removing or setting back bulkheads, building coves, planting vegetation, among others. Although the guidebook is directed to property owners on Lake Washington, the techniques discussed will apply along other shorelines.

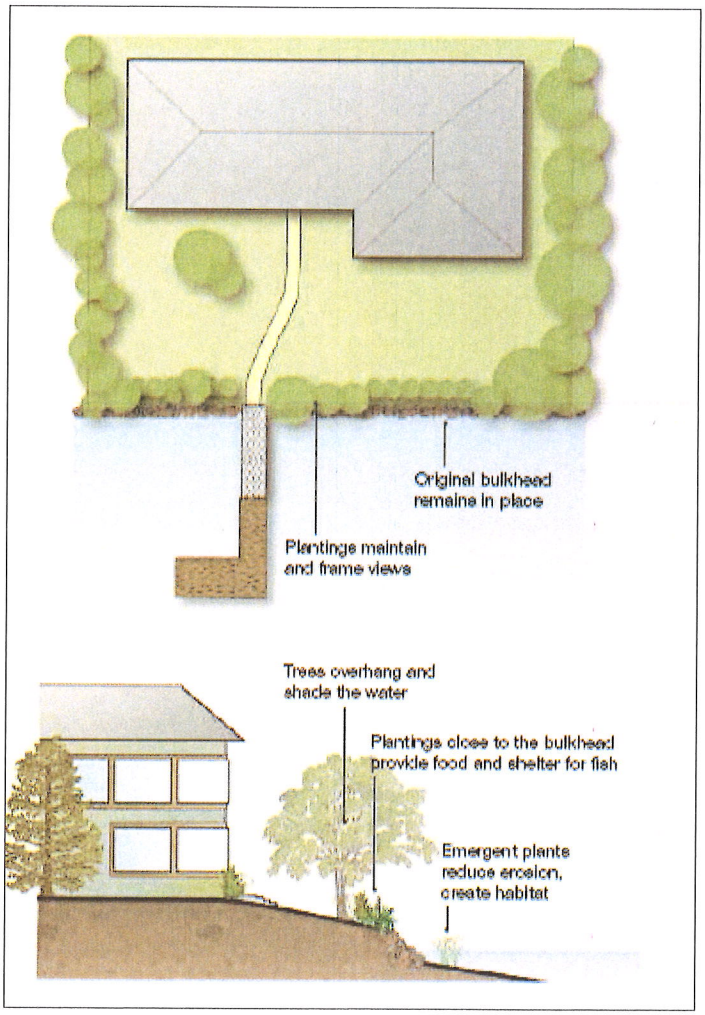

Figure 11-10: This graphic from *Green Shorelines- Bulkhead Alternatives for a Healthier Lake Washington,* shows a narrow strip of vegetation at water's edge.

Alternatives

Alternatives to a strict buffer or setback with vegetation conservation may be acceptable if they protect shoreline functions. Local governments must show how their shoreline regulations, including buffers, setbacks and development regulations, will achieve no net loss of shoreline ecological functions. Possible alternatives are discussed below.

Several zones with varying intensities of vegetation and development are being used to protect water bodies in various locations around the country and may be appropriate for developed shorelines. For example, in a residential area, the zones might look like the following:

- Zone 1: Native vegetation buffer. Along water's edge, between water and area of most development. This zone should be comprised of native vegetation, with limited uses only. A path to the water or access to dock would be allowed. Shoreline areas currently planted with native vegetation should be preserved. If native vegetation areas don't exist, they can be created over time through mitigation measures connected with redevelopment,

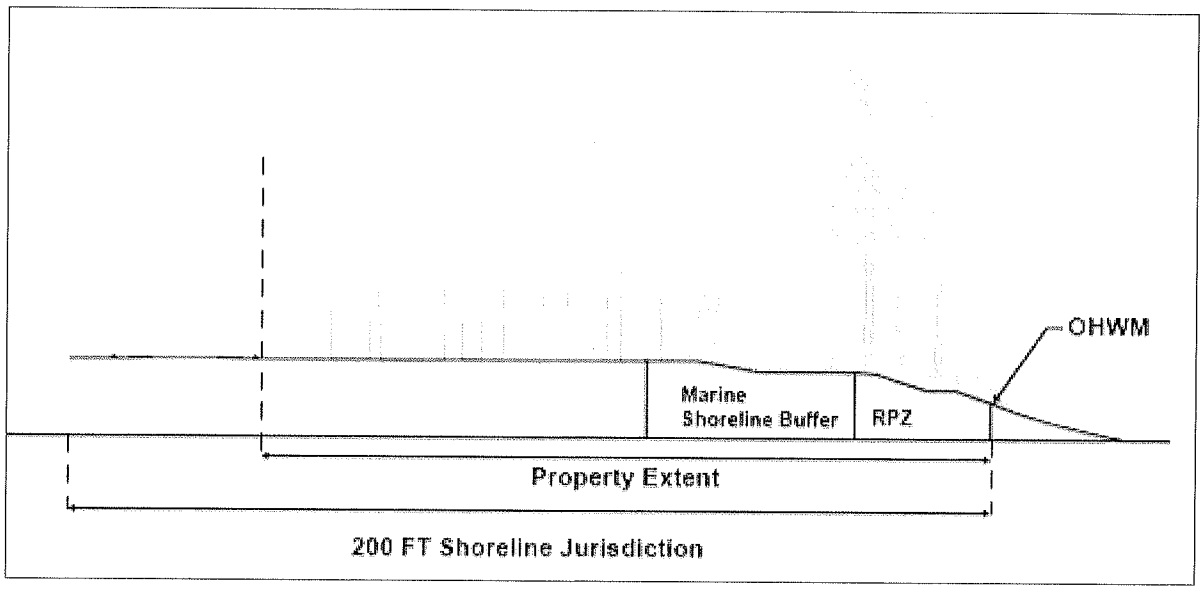

Figure 11-11: A 2011 memo to Bainbridge Island staff from Herrera Environmental Consultants, Inc., suggests a two-zone buffer system. A Riparian Protection zone is adjacent to the marine nearshore, and a Marine Shoreline Buffer is between the riparian zone and development. The SMP includes a two-zone system as described on the previous page, although the suggested terms are not part of the city code.

incentives to property owners, or restoration activities conducted by various organizations.

- Zone 2: No buffer. Area of most development and activities. This area includes the house and garage, driveway, deck, and lawn area near house. These uses would continue. Some redevelopment and expansion would be allowed. Mitigation measures would enhance Zone 1.

- Zone 3: Vegetation conservation area. Between house and upland edge of property, away from water. This area would be a vegetation conservation zone. Require permits or administrative review before cutting trees or making major vegetation changes. Only limited development in this area would be allowed and must be mitigated.

Another potential alternative is a parallel environment. Parallel environment designations can be established in the SMP to serve as buffers and setbacks. The environment designation closer to the water could be Natural, with most uses prohibited. The next landward environment designation would reflect the development pattern, such as shoreline residential, urban or rural conservancy, and high intensity.

The City of Bainbridge Island SMP shoreline buffer consists of two zones. Zone 1 extends from the ordinary high water mark a minimum of 30 feet, or to the limit of existing native vegetation, whichever is greater. The native vegetation area is determined through a site-specific analysis. Zone 2 is landward of Zone 1 and extends no further than the depth of the shoreline buffer.

Some local governments are using terms other than buffers. Gig Harbor's SMP defines a vegetation conservation strip, an undisturbed area of native vegetation. The width of the vegetation conservation strip varies among water bodies. A building setback from the conservation strip is also required.

Use a logical process

Ecology suggests you use a logical process to determine buffer width. Steps in the process include:

1. Use the inventory & characterization report. The inventory and characterization should provide information about shoreline functions, current uses and development, and potential future development. The standard of no net loss of shoreline ecological functions starts with the current conditions discussed in the inventory and characterization. These ecological functions must be protected. What buffer width is necessary to protect them? For example:

   - Trees provide shade and woody debris and stabilize banks.
   - Vegetation intercepts nutrients and fine sediments, boosting water quality.
   - Birds and animals feed and breed in the shrubs and trees that are within shoreline jurisdiction.
   - Vegetation shades the water, helping to keep streams and the intertidal area cool.

   If the inventory and characterization lacks sufficient information to support these decisions, the SMP regulations should be more protective. "As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources" [WAC 173-26-201(3)(g)].

2. Review the scientific literature regarding buffers, particularly the documents referenced earlier, to gain an understanding of the value of buffers and the size of buffers needed to maintain ecological functions. How would the recommended buffer widths apply to your shorelines?

3. Consider the CAO as a starting point. It may not address all the requirements of shoreline management such as the SMA preference for water-dependent uses.

   - Do the buffers reflect recent scientific literature?
   - If Ecology provided comments on the proposed CAO, review the comment letter and see if Ecology supported the CAO for protecting ecological functions.
   - Are the CAO buffers consistent with the requirements to provide for preferred uses?

4. Analyze the current development patterns. A majority of our developed shorelines are residential areas. Some are large-lot, rural residential, with limited disturbance of native vegetation and high quality ecological functions. Other areas are highly developed with a large percentage of the shoreline in impervious surfaces. What size buffers or setbacks

and other vegetation conservation regulations are needed to protect the remaining ecological functions?

5. Realize that you need to include measures in the SMP to continue to protect these functions and these will likely include buffers, possibly setbacks with vegetation conservation, and mitigation requirements. It's important to discuss this requirement within the framework of the SMA and SMP Guidelines with advisory groups, elected officials and the public.

6. During public participation and community visioning events, get the public's perspective on shoreline aesthetics. Property vegetated with trees, shrubs and groundcover generally is more pleasing to the eye (for most people) than property where the vegetation has been scraped from the ground. Property that is attractive generally has more monetary value than similar property that is not attractive. Buffers and setbacks can help to preserve views. Buildings set closer to the water are likely to block views from buildings set further back. Common line setbacks measured from buildings on adjacent parcels can be part of the buffer and setback equation.

Consider that buffers and setbacks, in addition to protecting ecological functions, also provide safety and aesthetic benefits. Setting buildings back from the water and from the edge of the bluff and retaining native vegetation, or planting native vegetation if it is lacking, can help to reduce erosion and landslides and the chances of damage to buildings. Buildings that are set back adequately should not need to be protected by bulkheads. Communities on marine waters should consider sea level rise projections when determining structural setbacks for safety.

Example

The City of Spokane used a logical process to establish its shoreline buffers for the Spokane River and Latah Creek. The City's "Draft Shoreline Buffer Mapping Methodology" outlines the process.

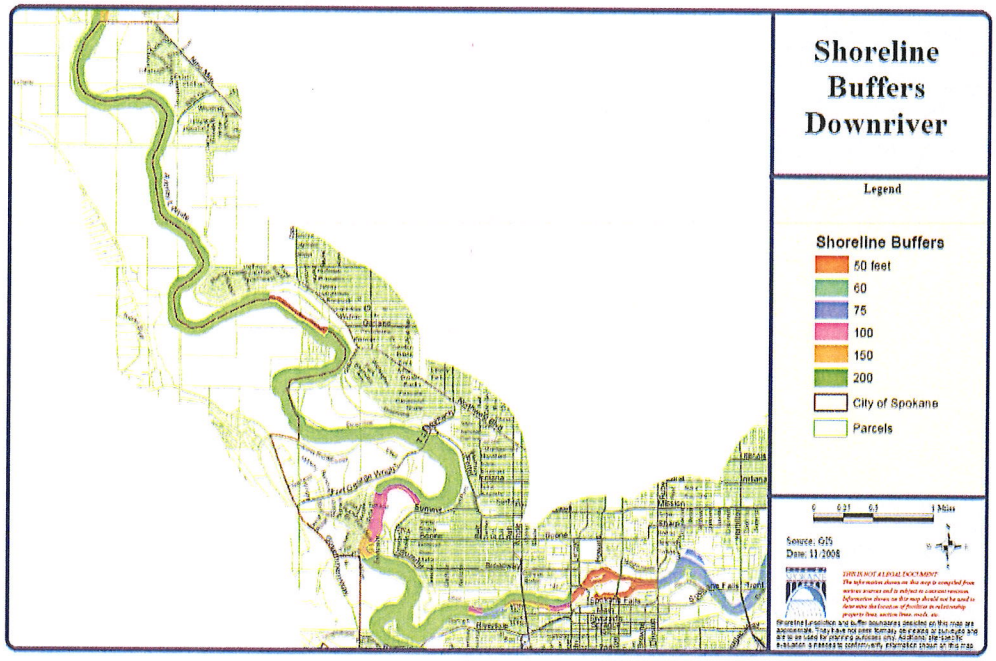

Figure 11-12: The majority of shoreline buffers on the western part of the Spokane River in the city of Spokane are 200 feet. The eastern part of the Spokane River has buffer widths of 50, 75, 150 and 200-feet. Most of the Latah Creek shoreline has 200-foot buffers to protect the channel migration zone.

The City set the following objectives:

- Ensure no further degradation of the shoreline.
- Set buffer distances to achieve a "no net loss" of shoreline ecological functions.
- Set buffer distances, where possible, to increase the potential for future shoreline restoration.
- Critical areas regulations layers and buffers provided a strong basis for the shoreline buffer determination.

The City considered the shoreline inventory information, looked at natural features and reviewed historic and current aerial photography and literature on stream buffers. The City reviewed the existing shoreline condition and potential for restoration as well as existing regulations, including the CAO.

GIS layers included land use and development patterns, critical areas inventories and buffers, orthophotos showing ground and vegetation conditions, and historic orthophotos for vegetation and land use.

The City then set general buffer widths at 50, 60, 75, 100, 150 and 200 feet from OHWM to fit existing constraints such as development patterns. Natural environment designation was generally given a 200-foot buffer, Intensive Urban a 50-foot buffer, and the Wastewater Treatment environment a 50-foot buffer

Example

The City of Kirkland SMP establishes setbacks with vegetation conservation and enhancement rather than buffers for its intensely developed shorelines. The inventory and characterization shows that wetlands areas have high ecological functions, but other areas generally have low functions. Key issues included addressing a heavily armored shoreline, numerous overwater structures including piers and docks and some overwater residences. One goal was to find the balance between creating a minimum number of new nonconforming structures and meeting the no net loss requirement. Its process to determine its shoreline setbacks included a number of steps.

First, the City developed a good understanding of existing land use conditions by measuring average parcel depths and existing setbacks using aerial photos. City staff looked for patterns of existing setbacks and lot depths and then overlaid current setbacks on maps to see how many existing nonconforming structures existed.

Next, the City looked at assessor's information to determine the potential for redevelopment. This included the number of vacant parcels and parcels that could be subdivided, zoning for both categories, and the number of parcels with low improvement values and likely to redevelop.

The City considered several setback options, taking into account the number of potential new nonconforming structures, the total open space that would be gained or lost for redevelopable lots, and the total gain in native vegetation. (Kirkland developed its SMP update prior to the legislative change to the SMA that allows SMPs to include residential structures as conforming structures with regard to buffers, setbacks and some other standards.) Flexible setback standards, discussed earlier, will result in shoreline improvements such as increases in native vegetation, biofiltration, reduction in bulkheads, etc. Small additions to structures will require an equal amount of native vegetation as mitigation.

The City then prepared its cumulative impact analysis to determine whether the likely future development and development standards addressing native vegetation, lighting, pervious materials, and tree retention would meet the no net loss requirement.

Ecology's review of proposed buffers and setbacks

The SMP Guidelines require vegetation conservation standards in SMPs, with buffers and setbacks specifically required for residential development. Ecology expects that most SMPs will include buffers (or setbacks with vegetation conservation requirements) to protect the existing ecological functions of the shoreline. If buffers or setbacks with vegetation conservation are not included in the SMP, local governments should describe the alternatives being used and how they will protect existing ecological functions.

The SMP may allow some development within the buffer in order to allow for private property rights consistent with the public interest and allow water-dependent, preferred uses and public access. Any development must be mitigated to assure no net loss of shoreline ecological functions.

Buffer sizes, setbacks and development regulations will vary among jurisdictions because they are tailored to local conditions and the shoreline ecological functions that are present. A buffer that is appropriate for one shoreline is not appropriate for all shorelines.

In the past few years, Ecology has approved updated shoreline master programs that will regulate the following shorelines. Note that environment designations, permitted uses and development regulations, as well as buffers and setbacks, are part of the SMP package.

- Low density, rural residential areas in Whatcom and Jefferson counties. Marine shoreline buffers are 150 feet.
- Densely developed, small lot residential shorelines in the city of Kirkland. Setbacks are based on average parcel depth, with setbacks to 25 feet and 30 feet possible with shoreline improvements.
- Agricultural areas in Douglas County. Agricultural land within the Rural Conservancy environment has a 100-foot buffer.
- Historic downtown development in Port Townsend. The buffer for the Historic Waterfront designation is 25 feet.
- Lakes with residential development in numerous cities. For example, in Kent, the Shoreline Residential setback for houses is 75 feet.
- Latah Creek in the City of Spokane. The 200-foot buffer in most areas protects the channel migration zone.

When analyzing proposed buffers and setbacks in SMPs, Ecology reviews the documents listed under the "logical process" section on pages 24-25, as well as draft SMP regulations and the cumulative impacts analysis. Ecology expects that mitigation measures will be included in the SMP in order to achieve no net loss of shoreline ecological functions. Mitigation measures may include but are not limited to reducing the lawn area or impervious area and planting native plants, enhancing or expanding existing stands of native vegetation, using stormwater infiltration techniques, removing bulkheads, requiring no use of synthetic herbicides, requiring low impact development techniques, or providing beach nourishment.

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Ecology has rejected some proposed shoreline buffers because the buffers were not supported by scientific studies that showed the buffers were adequate to protect existing shoreline ecological functions or based on SMP documents such as the inventory and characterization report.

The SMP Guidelines require SMPs to include policies and regulations designed to achieve no net loss of shoreline ecological functions [WAC 173-26-186(8)(b)]. Therefore, for developed areas, small buffers or setbacks that would allow new development or re-development to be built closer to the OHWM than existing development and would not protect existing shoreline ecological functions are not acceptable. For undeveloped areas, buffers that do not protect existing shoreline ecological functions are not acceptable

General recommendations for buffer width

Following are general recommendations for buffers, based on Ecology's approval of several dozen SMPs.

- Undeveloped shorelines with largely intact ecological functions should be protected with buffers of 150 feet to 200 feet. Shorelines with extensive critical areas, or within channel migration zones or floodplains, also will need protective buffers to protect life and property during flooding.

- Rural residential development, where houses and appurtenances such as garages and sheds cover about 25 – 35 percent of the ground, some area is landscaped, and the rest is in native vegetation, would likely need buffers of 150 feet to protect existing functions.

- Small-lot residential development in highly developed areas provides some ecological functions. Buffers or setbacks with vegetation conservation requirements of roughly 30 to 60 feet may be appropriate. If these areas include critical areas, larger buffers likely will be needed.

- Heavily developed waterfront areas with port facilities, water-dependent industry, overwater structures such as docks for containerized shipping or other intensely developed areas may have limited ecological functions. In these areas, buffers or setbacks may not be appropriate. Regulations should address retention of any existing vegetation and encourage restoration where it is appropriate. Busy waterways still harbor fish and other species.

In most cases, a "one-size" buffer applied throughout shoreline jurisdiction will not reflect shoreline ecological functions and local shoreline conditions. Shoreline conditions and ecological functions likely vary enough for most shorelines within local government boundaries that more than one buffer or setback with vegetation conservation will be needed to protect ecological functions.

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Jefferson County Shoreline Master Program (SMP) Comprehensive Update

Buffer Science Summary - page 2

Source: Chapter 5.2 of the November 2008 *Final Shoreline Inventory & Characterization Report*

Excerpted Text Descriptions

A. **Large Woody Debris (LWD):** In riverine environments, more than half of all large woody debris is recruited from within 15 feet of streams.
B. **Nitrogen:** According to the literature, buffer widths as small as 27 feet could reduce nitrogen by as much as 60 percent, while widths up to 200 feet would be required to reduce nitrogen by 80 percent (Desbonnet et al., 1994, in Pentec, 2001).
C. **Sediment:** In general, a 50-foot buffer is estimated to be approximately 60 percent effective at removing sediments, while an 82- to 300-foot buffer would remove approximately 80 percent of sediment load (Brennan and Culverwell, 2004; Pentec 2001).
D. **LWD:** About 90 percent of all large woody debris comes from trees growing within about 50 feet of streams (Herrera, 2005).
E. **Agriculture:** Minimum buffer recommendations for controlling agricultural runoff are 79 feet for 20 percent slopes with slight erosion, and 160 feet for 30 percent slopes with severe erosion (Brennan and Culverwell, 2004).
F. **Pollutants:** Although sediment carried into nearshore marine environments will seldom be of a magnitude to significantly compromise water clarity, the minimum recommended buffer width for sediment control and pollutant removal is 98 feet (30 meters) (May, 2003).
G. **Fecal Coliform:** Control of fecal coliform inputs from agriculture or septic systems to acceptable levels for primary contact recreational use could be achieved by a 115 feet buffer (Young et al., 1980, in Pentec, 2001).
H. **Agriculture:** See 'E' above.
I. **Nitrogen:** See 'B' above.
J. **Shading:** Buffer recommendations range from 98 to 262 feet for natural temperature regulation and shading, or providing equivalent shading as a mature forest (May, 2003).
K. **Riparian Habitat:** For Washington State, the average width reported to retain riparian function for wildlife habitat is 288 feet (Knutson and Naef, 1997).
L. **Sediment:** See 'C' above.
M. **Microclimate:** The minimum recommended buffer for microclimate protection is 328 feet (May, 2003).
N. **Marine Shores:** Levings and Jamieson (2001) cite findings from the Canadian Ministry of Forestry in British Columbia recommending buffers of 300 to 450 feet for marine shores depending on the type of shore, wind conditions, and other factors.

Buffers protect shoreline ecological functions and processes, water quality and habitat:

- Nutrient cycling
- Groundwater recharge
- Soil stability
- Erosion
- Siltation
- Soil-bound contaminants
- Particulate nutrients, metals, organic chemicals
- Fecal coliform bacteria
- Feeding/foraging
- Perch/refuge
- Breeding & Nesting
- Microclimate for plant growth/ decomposition
- Prey production
- Migration/travel corridor
- Habitat structure
- LWD = large woody debris

For Discussion
Association of State Wetland Managers

MODEL ORDINANCES FOR REGULATING WETLANDS; RIPARIAN HABITATS; STREAM BUFFERS

By Jon Kusler, Esq.
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DCD 8805 - 030

12/09

PREFACE

The following paper has been written to help communities protect and restore vulnerable wetlands and related riparian ecosystems by adopting or upgrading regulations including:

- Wetland regulations, or,
- Riparian regulations, or,
- Combined wetland, riparian area, and watercourse regulations.

These regulations may be adopted as "stand alone" ordinances or as part of broader ordinances.

The ordinances set forth herein are based upon

- The publications and web sites listed in the bibliography,
- Model wetland and riparian regulations listed in the bibliography,
- A web-based search of local wetland and riparian zone regulations, and
- The author's experience over several decades working with wetland and floodplain regulations at all levels of government.

Much of the model language and most of the concepts have been extracted from other, existing ordinances.

The models must, of course, be tailored to local conditions and needs. We hope you find them useful. They are in draft form and any comments or suggestions are welcome.

Sincerely,

Jon Kusler

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PART 1: WHY SHOULD LOCAL GOVERNMENTS ADOPT WETLAND AND RIPARIAN AREA ORDINANCES?

Threats to Waters

Over the last two decade, an estimated 5,000 local governments have adopted regulations to protect and restore wetlands and/or riparian areas/stream buffers. In some instances the regulations have also addressed "watercourses". Adoption has been motivated by

- Worsening **nonpoint water pollution** including nutrients, sediment, pesticides, other toxic substances from stormwater, agricultural runoff, application of pesticides on upland areas, grading and filling, and other sources of pollution.
- Worsening **natural hazard losses** from flooding and erosion due to construction of residential housing and other activities in wetland and riparian/stream buffer areas and the destruction of flood storage and flood conveyance.
- EPA, state, and local regulations requiring communities to deal with both the quantity and quality of **stormwaters**.
- Loss of **fish habitat and recreational fishing** for salmon, trout, and a broad range of other fish species due to pollution, sedimentation, dewatering of rivers and stream, and increased water temperatures.
- Threats to **potable water supplies** by sediment, toxic chemicals, pesticides, excessive nutrients, and other pollutants. Over the last decade, the demand for water for domestic water supply, agricultural, industrial, commercial and recreational purposes has skyrocketed. These demands are projected to increase with added population and economic growth. Rising demands are faced with limited, fixed supplies
- Threats to **endangered species** such as salmon due to pollution, destruction of habitat, and dewatering of rivers and streams,
- **Watershed management initiatives** which address flooding and stormwater management, navigation, recreation, water supply, and other goals.
- Community interest in providing **open spaces and greenways** as part of **comprehensive planning** and **smart growth** initiatives
- **State statutes requiring that local governments adopt** wetland protection regulations. Such requirements are contained in shoreland and shoreline zoning statutes (e.g., Wisconsin, Minnesota, Maine, Washington), coastal zone management statutes (e.g., Virginia, California), wetlands and watercourse statutes (e.g., Connecticut), wetland protection statutes (e.g., Maryland), and comprehensive land planning and growth management statutes (e.g., Florida, Washington).
- **Gaps in state and federal** wetland regulations and other protection measures due to exempted activities (e.g. agriculture, certain types of dredging), court cases (e.g., SWANCC, Rapanos), and lack of adequate administrative and enforcement staff and budgets.
- **Advocacy and help** at the local level by citizen groups such as land trusts and watershed councils. These groups are working with local governments and

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landowners to protect wetlands and riparian/stream buffer areas. They are educating landowners and acquiring fee interests and conservation easements. They are undertaking mapping and planning. They are assisting local governments draft and publicize local regulations. They are reporting violations and commenting on local permits.

Watershed Context for Wetlands and Riparian Areas

In a typical U.S. watershed, some of the precipitation falls directly into water bodies. But, most falls onto the land. Some is lost to evaporation. Most runs off through sheet flow, channelized flow, and flow through wetlands and riparian areas (during high water and flood stages). Much of this precipitation is ultimately discharged into larger rivers and streams, lakes, reservoirs, and coastal waters. The quality and quantity of water in these larger water bodies is dependent upon what happens to the runoff along the way.

Wetlands and riparian areas not only convey runoff but greatly affect its quality and quantity. More specific functions of wetlands and riparian areas include:

- **Intercept pollutants before they reach other waters.** Wetlands and riparian areas intercept sediment, nitrogen, phosphorous, and a host of other non pollutants before they reach other water bodies.
- **Remove pollution from rivers, lakes, streams, coastal waters.** Wetlands in lakes, rivers, streams and estuarine waters remove sediment, debris, nutrients (e.g., denitrification) in both normal and high flows. Riparian areas remove sediments and pollutants from river and stream waters during high flows.
- **Convey flood waters from upstream to downstream areas.** Both riverine wetlands and riparian areas act as flood conveyance areas. Most lie within "floodways" on FEMA flood maps.
- **Store flood waters and stormwaters.** Both wetlands and riparian areas store flood waters, reducing downstream flood heights and velocities.
- **Stabilize river and creek banks and provide erosion control.** Riverine wetlands and riparian areas reduce the velocity of river flows, stabilizing river and creek banks. Riparian vegetation also binds the soil, stabilizing banks and reducing erosion.
- **Provide recreation areas for biking, hiking, bird watching and other activities.** Wetlands and riparian areas provide bird watching and canoeing areas. Riparian areas provide hiking, biking, bird watching and other recreation.
- **Provide natural crops such as timber and hay.** Both wetlands and riparian areas produce timber. Wetlands provide cranberries and saltmarsh hay. Riparian areas produce high bush blueberries and many other fruits.
- **Provide educational opportunities.** Both wetlands and riparian areas provide educational opportunities including research areas for primary and secondary schools, colleges, and universities.
- **Protect water supplies including water supply reservoirs.** Both wetlands and riparian areas protect potable water supplies by intercepting sediment,

bacteria, and other pollutants before they can reach such waters and (in the case of wetlands located in streams and lakes) removing pollutants from waters..

- **Shade rivers, creeks, and streams, reducing water temperatures.** Vegetation in both riverine wetlands and riparian areas shade rivers, creeks, and streams, reducing water temperatures and protecting fish.
- **Provide fish spawning and feeding habitat**. River, stream, lake, and coastal/estuarine fringe wetlands provide fish spawning, feeding, and resting areas. Riparian habitat provides fish spawning and feeding areas during periods of high water.
- **Provide food chain support.** Both wetlands and riparian zones provide detritus and other food chain support for fish, shellfish, frogs, salamanders, and a broad range of other species.
- **Provide habitat for endangered species such as salmon.** Wetlands and riparian areas provide habitat for a broad range of endangered plants and animals.
- **Provide habitat for many other song birds, waterfowl, amphibians, etc.** Wetlands and riparian areas are the principal habitats for many other types of song birds, waterfowl, amphibians, and reptiles.
- **Provide wildlife corridors.** Wetlands and riparian areas provide wildlife corridors for frogs, salamanders, fish, reptiles, deer, bear, elk and a broad range of other species. These corridors are essential to wildlife breeding and feeding and permit the movement of animal in response to seasonal and longer term changes in precipitation and vegetation.

Wetland and Riparian Systems

Wetlands and riparian areas form the transitional areas between waters and uplands. They share many features with each other.

- Both provide a range of similar functions. See description above.
- Both contribute to base flows of streams.
- Both are often dependent upon the hydrology of adjacent waters.
- Both are subject to erosion and flood hazards although not to the same degree or in the same proportions,
- Both are threatened by ditching, fills, dikes, grading, vegetation removal and channelization.

There are, of course, also differences:

- Location. Riparian areas occur primarily along rivers and streams although they are also found along lakes, reservoirs, and coastal waters. Wetlands occur more broadly in the landscape. They occur adjacent to coastal and estuarine waters, lakes and reservoirs, and rivers and streams. They are also found in depressions, on slopes (seeps in mountainous areas), in permafrost areas, and in other areas of high ground water or poor drainage.

- Degree of flooding/saturation. Many wetlands (e.g., coastal, estuarine, lacustrine, river fringe, depessional, slope) are flooded or saturated much of the year. In contrast, most riparian habitats (particularly in the west) are flooded only in the spring or fall or during periods of high rainfall.

- Flooding and erosion hazards. Riparian areas are often subject to severe erosion and flooding hazard, damaging or destroying houses, bridges and other structures. Some but not all riverine, lake, and ocean/estuary fringe wetlands are also subject to waves, deep inundation, and high velocity flows.

- Habitat. Both wetlands and riparian areas provide significant habitat functions although the types of habitat differ. Waterfowl utilize open water wetlands. Fish such as trout and salmon are found in many cold water rivers and streams and associated riparian habitat (during floods). Salamanders and frogs breed in vernal pools.

- Availability of maps. Wetland maps (National Wetland Inventory) exist for much of the Nation. Unfortunately, there are no comparable maps for riparian areas although streams are shown on USGS planimetric and topographic maps and in USGS and other hydrologic inventories.

- Assessment methods. The assessment and modeling tools applied to wetlands are, in general, biologically-related such as HGM and IBI models. Hydrologic and hydraulic models are more often applied to riparian areas including floodplain and floodway analytical models (e.g., HEC, TR20) and stream stability models (e.g., Rosgen).

- Protection efforts. Many efforts have been adopted at federal, state, and local levels to protect wetlands; fewer efforts have been made to protect riparian areas although public land management agencies in the West (U.S. Forest Service, Bureau of Reclamation, Bureau of Land Management) some states, and some local governments have riparian area protection programs.

PART 2. REGULATORY APPROACHES

The U.S. Fish and Wildlife Service estimates that more than 50% of the wetlands have been lost nationally with much greater percentages in some states. Destruction and degradation of wetlands and riparian zones by channelization, drainage, fills, grading, grazing, vegetation removal and other activities has been widespread over the last century.

Nationally, flood and erosion losses also continue to rise due to increased development in floodplains and increased runoff due to urbanization and more intensive use of rural lands.

To stem these losses, thousands of local governments in the East, Midwest, and far West, have adopted wetland protection ordinances. Local governments in the semi-arid West have favored riparian protection ordinances because they have large numbers of streams but fewer wetlands.

These efforts supplement the federal Section 404 program and state public water, wetland, and river and stream protection efforts.

Wetland Protection Ordinances

Wetland protection ordinances adopted by cities, counties, towns and villages take two principal forms:

- Stand-alone ordinances; and
- Regulations adopted as part of broader resource protection or comprehensive planning efforts.

Most of the communities adopting stand-alone ordinances are in states with statutes specifically authorizing and in some instances requiring communities to adopt wetland regulations such as the states of Connecticut, Massachusetts, Maryland and Virginia.

However, many other communities have adopted wetland protection provisions as part of broader resource regulation or comprehensive planning efforts. These include communities in Wisconsin, Minnesota, Maine, and Washington which have adopted wetland regulations as part of broader shoreland or shoreline zoning efforts. These include communities in California which regulate wetlands as part of coastal zone management efforts. They include communities in Florida, Washington, California and other states which regulate wetlands as part of comprehensive planning or smart growth initiatives.

Some communities also provide partial protection of wetlands through the adoption of floodplain or floodway and floodplain restrictions, water setbacks for structures, restrictions on wetland vegetation removal, and restrictions on the use of septic tank and soil absorption systems for the disposal of wastes in high ground water areas.

The essential elements of stand-alone and combined wetland regulations are the similar (see description below): statement of goals and objectives; definition of regulated wetlands; incorporation of wetland maps into the regulations (most instances); definition of regulated activities; requirements that regulated activities be undertaken only with a permit; statement of uses permitted as of right; standards and criteria for issuance of permits; and, penalty and enforcement provisions. These provisions may be incorporated into a single ordinance with a stand-alone approach or integrated into a broader comprehensive planning, coastal zone management, floodplain management or another type of ordinance with a combined approach.

There are advantages and disadvantages with both "stand alone" and "combined" approaches. Stand alone ordinances are easier to understand because wetland-related provisions are in one place. On the other hand, combined approaches tend to better integrate wetland protection into broader planning, zoning, and subdivision control processes and this may provide more comprehensive protection.

Riparian Protection/ Stream Buffer Ordinances

An increasing number of cities, towns, and counties have adopted riparian protection/stream buffer or stream setback ordinances. This is particularly true in the semi-arid West. There are relatively few wetlands in semi-arid regions except for some wetlands along rivers and streams and slope wetlands in the mountainous areas. In semi-arid areas, riparian areas along rivers, creeks and streams serve many of the same functions as wetlands in the East, Midwest, and far West. See report from the Committee on Riparian Zone Functioning and Strategies for Management, Riparian Areas: Functions and Strategies for Management, Water Science and Technology Board, National Academy Press, Washington, D.C. 2002. This report documented the importance of these areas and called for a national riparian protection program.

Some communities with wetland regulations in the Midwest and East are also adopting riparian regulations because protection of wetlands alone is not enough to protect community water resource systems. River and stream corridors must be more broadly protected.

Riparian area ordinances are similar to wetland ordinances in many respects. Like wetland regulations, they can be adopted as

- Stand-alone regulations; or
- As part of broader regulations.

Stand-alone regulations include "riparian habitat", "stream setback", "stream buffer" and various river and stream corridor protection ordinances. Riparian protection regulations adopted as part of broader regulations, like their wetland counterparts, include floodplain ordinances, stream setbacks, minimum lots sizes, restrictions on vegetation removal as part of shoreland zoning, scenic and wild river protection, combined wetland and riparian area; "sensitive area"; and comprehensive planning and zoning regulations.

Critical elements of both stand alone and combined riparian area regulations are similar to those for wetland areas such as statement of goals and purposes and definition of regulated riparian areas.

PART 3: TYPICAL ORDINANCE COMPONENTS

Wetland and riparian area ordinances usually include the following sorts of provisions although the level of detail and the order of presentation of these provisions differ from ordinance to ordinance.

Finding of Fact

Wetland and riparian protection ordinances usually begin with findings of fact. Findings help explain to the public, landowners, and regulatory agencies why the ordinance is necessary. Findings also help guide the local regulatory agency evaluating permit applications.

Findings typically summarize the functions of wetlands or/and, riparian areas in the regulating unit (e.g., city, town, county), what has been happening to such areas, and what needs to be done to protect and restore such areas.

Purposes, Goals

Almost all ordinances also contain a statement of goals. This section of an ordinance, like the findings of fact, helps the regulatory agency evaluate permits by establishing general goals for issuance of permits. It also helps the public and landowners understand the reasons for adoption of the ordinance.

Many wetland ordinances in recent years have stated a no net loss of wetland functions, values, and acreage goal as well as more specific goals. See the model ordinances below.

It is to be noted that purposes and goals often emphasize not only protection of wetland functions and values but protection of activities from flooding, erosion and other natural hazards and the prevention of increased hazards on other lands.

Regulatory Authority

Ordinances typically reference the state statute or statutes pursuant to which they have been adopted. This statute may be a wetland protection, shoreland or shoreline zoning, coastal zone management, grading and erosion control, subdivision control, comprehensive zoning, or other statute. In some states a community may also adopt regulations pursuant to constitutional or statutory "Home Rule" powers. See, e.g., Lovequist v. Conservation Commission of Dennis, 379 Mass. 7 (1979).

Definitions

All ordinances contain a "definitions" section. Key terms are defined here. These definitions are of great importance because they define the scope of the regulations. Some of the most important terms include:

"Wetland". Local governments have adopted a wide variety of definitions for the term "wetland" Local governments must typically adopt the wetland definition contained in any state enabling act authorizing the adoption of regulations. But many enabling acts and implementing regulations are silent with regard to the definition of wetland and local governments are then able to choose the definition they wish. In recent years, local governments have increasingly adopted the definition of wetland utilized by the Section 404 program. This helps provide consistency in federal, state, and local regulations.

"Riparian Area". Local governments have also adopted a variety of definitions for "riparian area". Some define it in terms of a horizontal distance from a water body. Others reference vegetation characteristics.

"Regulated" Activities. The definition of regulated activities is also an important portion of the ordinance because it determines what activities are and are not regulated. Local ordinances typically regulate filling and drainage in wetland or riparian areas. However, ordinances also exempt some activities from regulation such existing nonconforming uses, routine maintenance of ditches, construction of wetlands for stormwater storage or tertiary treatment of wastes, and certain agricultural or forestry activities.

Lands to Which the Ordinance Applies

All ordinances formally identify the lands and waters to which an ordinance applies although how this is done differs. Approaches for identifying lands to which an ordinance applies include:

> Wetland ordinances usually incorporate wetland maps as part of the regulations such as National Wetland Inventory Maps, state wetland maps, or local wetland maps. Ordinances also provide a verbal description of regulated wetlands (see definitions above) and provide that, in case of dispute over wetland boundaries, the verbal description combined with on-the-ground information gathering prevails over map because this is typically more accurate. A few communities not only regulate wetlands in general but establish particularly tight standards for "prime wetlands" by actually listing the wetlands by name. See Amherst, New Hampshire wetland ordinance at http://www.amherstnh.gov/acc/WetlandsAssessment/WetlandOrdinance
>
> Riparian area and stream setback ordinances most commonly adopt a horizontal distance measurement from the high water mark or top of the bank of a river or stream (e.g., 100 feet-- 300 feet) to identify lands to which the ordinance applies. Some communities have, alternatively, prepared riparian area maps which are then adopted by ordinance. Some ordinances incorporate FEMA, state or local floodplain maps or some combination of flood maps and horizontal distance measurements to identify regulated riparian areas. Ordinances may also designate regulated riparian areas in terms of particular rivers, creeks and steams or stretches of such rivers, creeks, and streams.

Delineation

Because wetland and riparian area maps are typically at relatively small scale and contain inaccuracies or may not totally coincide with wetland definitions, ordinances often provide that landowners may request field investigations applying wetland definitions on the ground. See discussion in mapping above. Such field "delineations" prevail over maps if there is a dispute. Maps are only used to determine that an area is, in general, a wetland or riparian area. Some ordinances also allow landowners to contest maps and propose revisions in boundaries by submitting requests for clarification or proposed changes. Typically a landowner must submit a technical report to support any proposed changes. The regulatory agency evaluates the landowner's proposal as part of the field delineation.

Activities Permitted as of Right

Both wetland and riparian area ordinances typically list a variety of low impact, open space activities as or right. These activities do not require a permit as long as certain minimum standards are met. All other regulated activities require a permit.

Permit Requirements

This section typically requires a permit from a designated body (e.g., planning commission, board of adjustment, conservation commission) for all "regulated" activities within the regulated areas (see above). Typically ordinances require permits for all filling and drainage within regulated wetlands/riparian areas. But, as indicated above, ordinances may also set forth partial exemptions for alterations to wetlands created for stormwater storage or tertiary treatment of wastes, maintenance of drainage ditches, agricultural uses, and existing nonconforming uses.

Wetland and/or Riparian Boards or Commissions

Legislatures in some states such as Massachusetts and Connecticut have authorized local governments to create conservation or environmental commissions to issue wetland permits. Such specialized boards or commissions bring more expertise to bear in wetland permitting than a planning commission or board of adjustment. In Massachusetts implementation of state wetland regulations is delegated to municipal conservation commissions. For example, the Needham, Massachusetts conservation law provides, in part (see web page which provides, in part, (http://www.town.needham.ma.us/ConCom/Index.htm:

> The Needham Conservation Commission is a seven-member volunteer board appointed by the Board of Selectmen to protect the Town's wetland resource areas. The Commission administers the Massachusetts Wetlands Protection Act and Regulations and the Needham Wetlands ByLaw (Article 6) and regulations. The Commission also oversees the Town's conservation lands including Ridge Hill Reservation.

In states where such commissions are not specifically authorized, local governments have nevertheless, in some instances, created advisory committees to advise Boards of Adjustment, Planning Commissions, or local legislative bodies in the issuance of permits for wetland or riparian areas. For example, Clifton Park, New York regulations provide, in part, (http://www.cliftonpark.org/ecommunity/envconcom/wetlands.htm):

> It is the intent of the town that there be a review board whose purpose is to provide input to the applicants and appropriate federal, New York State and local government agencies to ensure that local concerns for streams and wetlands are addressed in the planning and implementation of projects within the town.
>
> This review board shall be the Town of Clifton Park Environmental Conservation Commission (ECC) which shall review applications for wetlands and stream disturbance permits submitted to local, New York State or federal governmental bodies and provide input thereto.

Standards and Procedures for Special Permit Uses

Ordinances set forth standards for issuance of wetland or riparian area permits. Increasingly, local government regulations contain "sequencing" standards similar to those required for federal Section 404 permitting. With sequencing a permit applicant must (1) avoid impact, (2) minimize impacts if avoidance is not possible or practical, and (3) provide compensatory mitigation if impacts remain after minimization. Ordinances also typically set forth conditions which may be attached to permits.

Some ordinance set forth more specific provisions for particular types or subtypes of wetlands or riparian areas. For example, the wetland bylaw regulations of the Town of Sturbridge, Massachusetts sets forth both general standards for all types of areas and more specific standards for subareas. See http://www.town.sturbridge.ma.us/Public_Documents/SturbridgeMA_ByLaws/I0071F05D.0/TOS%20Regs%202004%20adopted.pdf) Ordinances set forth separate permit application procedures and standards including hearing requirements for:

5.1 Banks
5.2 Bordering Vegetated Wetlands
5.3 Land Under Waterbodies and Waterways
5.4 Land Subject to Flooding
5.5 Riverfront Areas
5.6 Vernal Pools
5.7 Habitat for Rare Wildlife

Compensatory Mitigation

Some local ordinances set forth more detailed standards and procedures for mitigation (compensation) of wetland and riparian losses. These provisions may include guidance with regard to: use of various mitigation techniques (e.g. restoration, creation,

enhancement); inkind and out of kind compensation; onsite and offsite compensation; mitigation ratios; monitoring requirements; and other requirements. The regulatory board or commission may be authorized to require a wetland or riparian management plan and/or a compensatory mitigation plan.

Some local ordinances also establish standards for the use of mitigation banks.

Evaluation of compensatory mitigation proposals often requires considerable expertise in wetland restoration, creation, and enforcement which may be lacking at the local level. Local governments, therefore, often seek assistance from state wetland regulatory agencies, the Army Corps of Engineers, NRCS, or the Fish and Wildlife Service in evaluating compensatory mitigation proposals.

Non-conforming Activities

Typically ordinances allow existing, lawful activities in wetland and riparian areas to continue such as cranberry operations, roads, and houses. However, regulations often prohibit expansion of an activity and reestablishment of an activity after abandonment or destruction (e.g., the rebuilding of a house after destruction by fire or a storm).

Enforcement

Ordinances typically establish fines for violations. They may also authorize injunctions and restoration activities by the regulatory agency if a landowner fails to restore a wetland or riparian area altered in violation of the ordinance. The regulatory agency may also be authorized to charge the landowner for such restorations.

Judicial Review

Many but not all ordinances contain judicial review procedures. Often wetland statutes, zoning enabling acts and other land use control enabling acts specify the court to which appeals are to be taken.

PART 4: RECOMMENDATIONS FOR ADOPTION, ADMINISTRATION, AND ENFORCEMENT

Community and state planners and regulators have suggested to us the following "keys for success" in local adoption, administration, and enforcement of wetland and riparian ordinances:[1]

- Work with community groups in developing ordinances. The political and logistical support of community groups is essential to ultimate adoption and enforcement. Groups may include:

  - Land trusts, watershed councils,
  - Hunting and fishing groups like duck clubs and local chapters of Ducks Unlimited and Trout Unlimited,
  - Local land use and water planners,
  - Individuals interested in and with expertise in wetlands (e.g. high school and college science teachers),
  - Local stormwater and floodplain managers, and
  - Private property owners, particularly those who are conservation leaders.

- Keep ordinances simple and understandable. Do not make the ordinances too long or complicated.

- Include a clear statement of legislative fact-finding and a clear statement of ordinance goals such as no net loss of function, value, and acreage.

- Address not only wetland or riparian area functions and values but natural hazards. Landowners and the public often understand public health and safety issues. Courts provide strong support for government efforts to prevent nuisances and protect safety.

- Tailor ordinances to local problems and needs. Model ordinances are useful as a starting point but need to be tailored to local needs. For example, grazing may be a problem in some areas but not others.

- Obtain and adopt by reference accurate and large scale wetland, riparian area, floodplain maps (if such are available) but realize that there are also financial limits to map accuracy and detail. Provide mechanisms within the ordinance for clarifying boundaries and addressing inaccuracies in maps.

- Establish coordinating mechanisms between various regulatory agencies and levels of government with jurisdiction over wetland or riparian activities.

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[1] These recommendations are based upon discussions with state and community planners and regulators over the last two decades.

Establish referral procedures for permit applications and joint permit applications This can reduce duplication, reduce permitting times and improve the information available in processing permits.

- More specifically, tap various local, state, regional, and federal sources of data and expertise in evaluating permit applications by referring permit applications for comment and/or approval to local (e.g., Soil and Water Conservation Districts, municipal engineering departments), state (e.g., Department of Natural Resources, floodplain management) and federal (e.g., Corps of Engineers, U.S. Fish and Wildlife Service, NRCS) agencies. Tap also school teachers, college professors, others with local expertise.

- Provide in the ordinance general standards for activities but also provide some flexibility to deal with special situations and avoid "takings" issues (e.g., variance and special exception procedures).

- Shift much of the data gathering burden on individual permits to permit applicants.

- Provide the regulatory board or commission with authority to require wetland/riparian management plans and compensatory mitigation plans if such plans are needed. This will depend upon the size of the project, type of project, amount of wetland and riparian area affected, functions of the affected areas, and whether onsite or offsite mitigation is proposed and other factors. Additional fact-finding and planning are often needed for larger projects, projects in particularly sensitive areas, and projects with severe potential impacts (e.g., potential for toxic spills), and, projects where offsite mitigation and/or active management of wetlands or riparian areas is proposed or needed.

- Form local conservation commissions or other expert boards or commissions to help develop regulations, issue or comment upon permits.

- Provide landowners with incentives such as density bonuses and development right schemes.

- Coordinate regulations with property tax, sewer and water assessment, road building, acquisition, and other policies.

- Be prepared to purchase lands in some instances (e.g., rare and endangered species habitat) to provide a higher degree of protection than can be afforded through regulations alone, public access (e.g. a trail or boardwalk), or restoration. Purchase of easements or fee can also help avoid "takings" problems.

PART 5. MODEL WETLAND PROTECTION ORDINANCE

INTRODUCTION

As discussed above, a community may adopt a wetland protection ordinance as a free-standing ordinance or as part of a broader set of regulations. The latter may take the form of coastal zone management, shoreland, floodplain regulation, comprehensive zoning, or other types of regulations. The following model wetland ordinance is designed as a stand-alone regulation but may be separated into various sections and incorporated into a broader ordinance.

Whatever approach is taken, the most critical provisions or "meat" of a wetland ordinance include:

- Definition of wetland,
- Definition of regulated activities, and
- Standards for issuance of permits and conditions which may be attached to permits.

These provisions can be set forth with varying degrees of specificity and detail. The following model ordinance is quite detailed but could be simplified if a community wishes.

Definition of Regulated Wetland

Local governments have adopted a broad range of definitions for wetlands. These include definitions based upon hydric soils (e.g., Connecticut), definitions related to the 100 year floodplain (e.g., Massachusetts), definitions based on vegetation (New York), and definitions based upon or a combination of soils, vegetation, and hydrology (many states and communities).

Increasingly local governments are adopting the federal Section 404 wetland definition because this facilitates coordination with the Section 404 program and allows, in some instances, a single boundary delineation in the field for federal and local regulations. The Section 404 definition is included in the model ordinance below.

However, other definitions have advantages as well. Communities using National Wetland Inventory (NWI) maps as regulatory maps may best utilize the US Fish and Wildlife Service definition of wetlands because this definition has been used by the Service in preparing the maps. This definition is somewhat more inclusive than the Corps of Engineers wetland definition and includes more small rivers and streams and other less frequently flooded areas.

Whatever definition is adopted, a local government typically also needs to provide "boundary delineation" procedures to allow the local regulatory agency to more precisely define regulatory boundaries at the request of landowners or other agencies. See ordinance below.

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Definition of Regulated Activities

The definition of regulated activities is also critical because it defines what gets regulated and what does not. Most local regulations define regulated activities to include a broad range activities which may destroy or damage wetlands such as drainage, filling, grading, and vegetation removal. However, many ordinances also contain partial exemptions for existing buildings and uses, agriculture, maintenance of public facilities, and emergency measures.

Standards for Issuance of Permits and Conditions Which May be Attached to Permits

Ordinances typically set forth both general standards (e.g., no net loss) and more specific standards (e.g. mitigation ratios) for issuance of permits. Many ordinances also set forth conditions which may be attached to permits.

MODEL WETLAND PROTECTION ORDINANCE

Section 1: Findings of Fact

The legislative body of .....(*local government name*) determines that that:

- Many of the wetlands of.....(*local government name*) have already been lost to drainage and fills. This has increased downstream water pollution, flooding, and erosion and the loss of habitat. This ordinance has been adopted to conserve and protect remaining wetlands and water resources.

- Wetlands and associated buffers function to provide a variety of goods and services including:

    - Provide flood conveyance and storage;
    - Provide stormwater detention and stormwater purification;
    - Provide living, breeding, nesting and feeding environments for many forms of wildlife including waterfowl, shorebirds, salamanders, frogs, and deer;
    - Provide linkeages between aquatic systems (lakes, rivers, etc.);
    - Maintain potable water supplies;
    - Treat polluted surface/subsurface waters through biological degradation and chemical oxidation;
    - Prevent additional nonpoint pollution of waters by providing buffers;
    - Serve as nursery grounds and sanctuaries for fish; and,
    - Provide recreation areas for fishing, boating, hiking, bird watching, photography and other recreation uses.

- Activities in wetlands and associated buffers are often subject to flood, erosion, and subsidence and exacerbate hazards on other lands.

- Further loss of wetland and wetland buffer quality and quantity is contrary to the public health, safety, and general welfare.

Section 2: Purposes

The purpose of this ordinance is to protect health, safety, and general welfare of the residents of .....(*local government name).* More specific goals include:

- Protect the quality and quantity of all waters;
- Achieve no net loss in the quantity, quality, and biological diversity of wetlands and associated buffers including functions and goods and services;
- Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands and adjacent buffers;
- Reduce the expense to the city for flooded roads, sewer, and water and for disaster and flood assistance;
- Provide an ecologically sound transition between wetlands and upland areas;
- Replace wetland and buffer functions, values, and acreage where avoidance of activities is not practical and all practical measures have been taken to reduce impacts;
- Minimize impacts to existing land uses and lots by preventing increases in flood, erosion, and other natural hazards due to destruction of wetland and buffer areas/
- Incorporate wetland protection into the.....(*local government name*) land use planning and management and development approval procedures.

Section 3: Authority

This ordinance has been adopted pursuant to and in accordance with .....(*statutory cite).*

Section 4: Definitions

"Board" means the .....(*Specify one: Wetland Review Board, Board of Adjustment, or Planning Board. Note, the local government must choose the regulatory entity it wishes to authorize to issue wetland permits. Permits are typically be issued by the Board of Adjustment or Planning Board if state statutes do not specifically allow the creation of a separate wetland or environmental board with regulatory powers such as a conservation commission.).*

"Buffer" means the area surrounding a wetland that helps maintain the wetland's functional integrity and furnishes protection against the impacts to the wetland from activities in adjacent upland areas.

"**Compensatory mitigation**" means the replacement of wetland acreage, function, and value to compensate for losses.

"Creation" means a human activity bringing a wetland into existence at a site in which it did not formerly exist.

"Enhancement" means the manipulating the physical, chemical or biological characteristics of a wetland to increase or improve specific functions or to change the growth stage or vegetation present.

"Floodplains" mean areas subject to periodic inundation when a river, stream, or other watercourse overflows its banks. They are relatively flat areas or lowlands adjoining the channel of a river, stream or watercourse or other body of water. They include but are not limited to those mapped by the Federal Emergency Management Agency shown as flood hazard areas on the .....*(name of municipal government)* Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program numbered and dated.....

"Floodway" means the channel of any rivers, stream or other watercourse and the portions of the adjoining floodplain required to carry a discharge flood without raising flood waters and velocities more than a defined amount.

"National Wetlands Inventory Maps (NWI)" are a series of maps produced by the U.S. Fish and Wildlife Service showing the general location and classification of wetlands. Some wetlands, particularly smaller wetlands, are not shown on these maps. In addition the criteria used for mapping wetlands in the NWI does not fully coincide with the definition of wetland provided below. The definition of wetland provided below and field surveys provided by the Board or provided by a permit applicant and reviewed and approved by the Board shall provide the basis for more specific and accurate designation of wetlands and wetland.

"Ordinary High Water Mark" means the point of the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

"Regulated Activities" means all activities in regulated wetlands and associated buffer areas which involve filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation or any other alteration or use which will damage or destroy a wetland or associated buffer area.

"Restoration" means manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved wetland functions, values, and acreage.

"Riparian Area". The area adjacent to rivers, streams, creeks, washes, arroyos, and other bodies of water or channels having banks and bed through which waters flow at least periodically. These areas are subject to periodic flooding and are generally

characterized or distinguished by a difference in plant species composition or an increase in the size and/or density of vegetation as compared to upland areas.

"**Watercourses**" mean rivers, streams, intermittent streams, ditches, brooks, channels, lakes, ponds, manmade ponds, estuarine waters, swamps, bogs, vernal pools, playas, and all other bodies of water, natural or artificial, intermittent or permanent, public or private which has defined banks and water at least a portion of each year. These areas are typically shown on the United States Geologic Survey topographic maps of the community.

"Wetlands". Wetlands are areas and waters that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include but are not limited to lands and waters meeting this definition and otherwise often referred to as swamps, marshes, bogs swamps, wetland meadows, ephemeral and tributary streams vernal pools, banks, reservoirs, ponds, lakes, and lands under water bodies. The primary ecological parameters for identifying wetlands include hydric soils, hydrophytic vegetation, and hydrologic conditions reflecting temporary or permanent inundation or saturation. *(Note, we are utilizing the Corps of Engineers regulatory wetland definition here but have added an additional explanatory sentence. A community may wish to substitute its own definition.)*

"Wetlands Delineation" means the establishment of wetland boundaries.

Section 5: Wetland Review Board

(Note, this is an optional section. Appointment of a local wetland review board can enhance local expertise in reviewing wetland permit applications. Some states specifically authorize conservation commissions (e.g., Massachusetts) to adopt wetland and related regulations. Others do not specifically authorize separate commissions with regulatory powers. In such instances a community may, nevertheless, form an advisory wetland review board to make recommendations on individual permit applications to the planning commission or board of adjustment which issues the actual wetland permits. The wetland review board may also provide input to the community governing body or boards on other wetland issues.)

The Council of.....(local government *name*) shall appoint a Wetland Review Board (hereafter referred to as the Board) of not more than eight but not less than four members for terms to be specified by the Council. The Board may issue, deny or conditionally issue wetland permit applications on forms provided by the Board and consistent with the standards, goals, and criteria set forth in this ordinance. *(Note, the ordinance should vest permitting powers in the Board of Adjustment or Planning Commission if the Wetland Board is to be advisory only.)*

The Board may also advise the Council with regard to wetland policies and activities and may help the Council undertake the following activities.

- The mapping and delineation of wetlands, floodplains, and riparian buffers,
- The assessment of wetland functions and values,
- The location of wetland boundaries on the ground,
- The initiation of wetland or riparian area enforcement actions, and
- The acquisition of wetland and related wildlife or recreation areas.

Section 6: Wetlands Regulated by This Ordinance

All wetlands and associated buffer areas within the boundaries of..... (*local government name*) are subject to regulation by this ordinance. More specifically, wetlands subject to regulation include:

- All wetlands shown on National Wetland Inventory maps series.....*(specify series and date)* and associated 75 foot buffer areas. National Wetland Inventory maps delineate the general location and boundaries of wetlands. Copies of these maps are available for inspection in the office of the .....*(specify)*. Mapped wetlands and regulations shall function as an overlay district to all other districts.

- All other wetlands and associated 75 foot buffer areas meeting the wetland definition criteria set forth above.

(Note: This ordinance as written applies to both mapped and unmapped wetlands. Many communities only regulate mapped wetlands. This ordinance also includes a 75 foot regulated buffer)

Section 7: Delineation of Wetlands and Buffers

Any property owner who believes that designation of an area as wetland or wetland buffer or the wetland boundary is incorrect may petition the Board to clarify or change the designation and/or boundary. All petitions for a clarification or change in designation shall be submitted in writing and shall include all relevant facts and circumstances which support the change. For proposed changes in boundaries, the petitioner shall provide expert proof that the designation is inconsistent with the definition of wetland provided in this ordinance and the delineation procedures provided by the 1987 Wetlands Delineation Manual of the U.S. Army Corps of Engineers.

The wetland buffer area shall be measured perpendicularly from the boundaries of a wetland.

Section 8: Permitted Uses

The following uses are permitted in wetlands and associated buffer areas, providing they do not alter the natural hydrology, destroy wetland functions and values, or increase flood or erosion hazards on other lands:

- Conservation of soil, vegetation, water, fish, shellfish and wildlife.
- Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, boating, trapping, hunting, fishing, shell fishing, cross-country skiing where otherwise legally permitted.
- Grazing, farming, nurseries, gardening, forestry and harvesting of crops. However, road construction, erection of buildings, or relocation of wetlands or watercourses, clear cutting of timber, or the mining of top soil, peat, sand or gravel from wetlands shall require a permit as provided below.
- Recreational open space and other types of open space for adjacent residential, commercial, and industrial property including subdivisions.
- Control of noxious weeds if the control does involve the drainage or fill of a wetland.
- Maintenance of existing ditches, watercourses, farm pounds, utilities, roadways providing the activity does not involve the expansion of roadways, drainage ditches or related improvements into previously unimproved rights of way or portions of rights of way.
- Construction for nature study and educational purposes trails, boardwalks, viewing platforms, information kiosks, and trail signs.
- Maintenance of existing structures consistent with standards set forth in Section below.
- Emergency work necessary for protection of the public, health, or safety.
- Restoring wetlands not associated with any development proposal, providing such restoration does not affect more than one half acre.

Section 9: Activities Requiring a Permit

All activities in regulated wetlands and associated buffer areas involving filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation or any other alteration or use of a wetland not permitted by section 8 shall require a permit from the Board.

Section 10: Coordination With Other Regulatory Agencies

(Note, this is an optional section. It is designed to help coordinate regulatory reviews and maximize the use of available expertise. Some communities have developed more formal referral or joint permit processing procedures with other regulatory agencies.)

Upon receipt of a permit application, the Board shall coordinate with other planning and regulatory with jurisdiction or potential jurisdiction over the proposed activity. The Board may require that an applicant obtain other federal, state, or local regulatory permits needed for a proposed activity before applying for a wetland permit from the Board. The Board may also provide comments to other agencies in their permitting activities. The following activities may require additional state, federal, or local permits as well as a permit from the Board.

(Note, this section needs to be tailored to state laws and local needs. Additional permits which are required will depend upon the type of activity, the type of wetland affected, and the local government and state regulations in effect. Typical activities requiring a permit from other agencies include the following:)

- Construction of any dam regulated by..... (n*ame of regulatory agency, statutory cite.*)
- Construction, encroachment or placement of any obstruction within a stream channel, lake, or tidal water regulated by.....(n*ame of regulatory agency, statutory cite)*
- Diversion of water including withdrawals in excess of .....gallons per day regulated by.....(n*ame of regulatory agency, statutory cite.*)
- Discharges of fills or pollutants into the waters of the state regulated by..... (n*ame of regulatory agency, statutory cite.)*
- The undertaking of any regulated activity in a floodplain or floodway regulated by.....(n*ame of regulatory agency, statutory site.)*
- The construction of septic tank/soil absorption fields in any wetland or buffer area requiring a permit from.....(n*ame of regulatory agency, statutory site.)*
- Any filling or grading requiring a permit from.....(n*ame of regulatory agency, statutory site.*)
- Any land use, building construction, or subdivision permit required from.....(n*ame of the local regulatory agency, statutory site.*)
- The discharge of fill or dredged material into wetlands and watercourses regulated by the U.S. Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbor Act or Sections 404 and 401 of the Federal Clean Water Act, as amended.)

Section 11: Information to be Provided by the Permit Applicant

Individuals or public or private corporations seeking a permit for a regulated activity within a wetland or wetland buffer area shall apply for a wetland permit from the Board on a permit application form provided by the Board.
All applications shall include the following information in writing, in maps, or in drawings unless exempted in writing by the Board:

- Name, address, telephone number and e-mail address of owner and permit applicant (if different). This should include an appropriate engineer's or land surveyor's stamp if one has been used by the applicant;
- A description of existing uses of the property including any structures, fills, grading, or drainage;
- Photographs of the proposed project site showing the existing condition of the site;
- A description of the proposed activity including the type of proposed activity, its dimensions, distance from any road or water body, and when and how it will be carried out;
- An explanation why this activity cannot be located at an upland location;
- A description of all measures proposed to reduce or compensate for project impacts;
- A wetland map or boundary survey to identify which may be affected by the proposed activity;
- A sketch map showing the entire parcel of land owned by the applicant including lot sizes and property boundaries;
- A description of when the property was acquired and the price paid for the property;
- A description of the zoning classification and restrictions;
- A description of the vegetative cover of the affected area, including dominant species;
- The 100 year flood elevation and floodplain and floodway boundaries at the project site if FEMA or other flood maps are available for the area;
- The sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal that may affect the wetland or buffer area;
- A description of any existing or proposed waste disposal or water supply including septic tanks and soil absorption field and distances to wetlands, wetland buffers and other water bodies;
- A description of restoration vegetation now in existence and proposed for all surfaces; and
- A description of the construction sequencing and timetable for any proposed activities including description of future phases.

The Board may require the permit applicant to submit additional information if the Board deems such information necessary to determine compliance of a proposed regulated activity with the standards and criteria set forth in this ordinance. Such information may include:

- More detailed site plans;
- Description of wetland ecological communities and functions;
- Description how the application will change, diminish, or enhance the ecological functions;
- Engineering reports and analyses where the proposed activity may be subject to flood or erosion hazards or increase such hazards of other types;
- Mapping or more detailed investigation of soil types where onsite waste disposal is proposed;
- Analysis of chemical or physical characteristics of any fill material;
- A stormwater management plan (if applicable);
- A wetland management plan; and
- A compensatory mitigation plan.

In the event that an application requires.....*(name of the community)* to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the community. The applicant shall be notified of the expenses and shall deposit necessary funds prior to the cost being incurred by the community.

Section 12: Public Notice, Hearings

Any person filing a permit application shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. The notice to abutters shall include a copy of the permit application or shall state where copies may be examined and obtained by abutters.

(Note, a community could also require a permit applicant to provide notice to others. For example, a permit applicant could be required to submit a copy of the permit application to the municipal engineer if any portion of the affected area is shown as a floodplain.)

No sooner than 30 days and not later than 60 days after receipt of a permit application and after notice the permit application has been published in one newspaper having general circulation in the area, the Board may hold a public hearing on the application unless the Board finds that the activity is so minor as not to affect wetland functions, values, or acreage or have impact upon public properties or the public at large. All hearings shall be open to the public.

Section 13: Standards and Criteria for Issuance of Wetland/Buffer Area Permits

The Board shall not issue or conditionally issue a permit unless it finds that the proposed activity will not, taking into account individual and cumulative effects, threaten health or safety, result in fraud, cause nuisances, impair public rights in public waters, threaten rare or endangered plant or animal species, violate pollution control standards, or violate other regulations. In addition, the Board shall not issue a permit unless it finds that

- The permit applicant has, to the extent practical, avoided wetland and buffer areas for the proposed activity;
- The permit applicant has, to the extent practical, reduced impacts to the wetland and wetland buffer. The height, width and length of structures will be limited to the minimum dimension necessary to achieve the desired functions;
- The proposed activity will not cause a net loss of wetland functions specified in Section 1 of this ordinance;
- The proposed activity will not cause a net decrease in wetland values or acreage, taking into account the cumulative adverse effects of past and reasonably anticipated future activities;
- The proposed activity will be set back a minimum of 25 feet from the top of the bank of any river, stream, creek, or arroyo. The Board may require a larger setback based upon flooding, erosion, pollution, endangered species, riparian or wetland functions and values, or other relevant factors;
- The proposed activity will, to the extent practical, avoid fragmentation of wetlands and the separation of wetlands from other wetlands, broader aquatic systems, and uplands by activities such as construction of dikes, levees, ditches, roads, structures, and other impediments to movement of water or biota;
- The proposed activity will not increase flood, erosion, subsidence or other hazard on other lands and the proposed activity will not, in itself, be subject to flood and erosion hazards;
- The proposed activity will not result in adverse modification of habitat for or jeopardize plant, animal, or other wildlife species listed as threatened or endangered by the U.S. Fish and Wildlife Service or (*State Wildlife Agency*); and
- The proposed activity will not violate other applicable federal, state, and local water quality, flood loss reduction, fill and grading, coastal zone management, stream protection, water supply protection, comprehensive zoning, sanitary code, and other statutes, regulations and ordinances.

The Board shall consider all relevant facts in making its decision on any application for a permit including but not limited to the following:

- The goals and purposes of the ordinance;
- The environmental impact of the proposed action including
  - Infilling of the wetland or other modification of natural topographic contours,
  - Disturbance or destruction of natural flora and fauna,
  - Influx of sediments or other materials causing increased water turbidity and/or substrate alteration,
  - Removal or disturbance of wetland soils,
  - Reductions in wetland water supply,
  - Interference with wetland water circulation,
  - Damaging reduction or increases in wetland nutrients,

    - Influx of toxic chemicals and/or heavy metals,
    - Damaging thermal changes in wetland water supply, and
    - Destruction of natural aesthetic values.
- The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, and storm barriers,
- Threats to the proposed activity from flooding, erosion, hurricane winds, subsidence, soil limitations and other hazards;
- The impact of the use and existing and reasonably anticipated similar uses upon neighboring land uses;
- The adequacy of water supply and waste disposal for the proposed activity;
- Alternatives to the proposed action and alternative sites for the activity on the applicant's property or other properties;
- Whether all reasonable and practical measures have been taken to minimize the impact of activities; and
- The relationship between short-term uses and long term productivity of the site; and
- The consistency of the activity with local, state, and federal comprehensive land use plans and watershed plans.

The Board shall make written findings on any permit applicant stating the reason why the proposed permit is issued, denied, or conditionally issued or denied. The Board may consider the following in making its decision on the application:

- The application and supporting documentation,
- Public comments, evidence, and testimony
- Reports or comments from other local, state, tribal, or federal agencies and commissions, and
- Comments on the application from regional planning agencies, soil and water conservation districts, or other regional organizations.

Section 14: Conditions Which May Be Attached to Permits

The Board may conditionally approve permits. The following sorts of conditions may be attached to permit approvals:

- Design measures to reduce project impacts;
- Relocation of the proposed activity to reduce project impacts;
- Compensatory mitigation measures to offset losses to wetland acreage, functions, and values;
- Flood and erosion loss reduction measures to prevent hazard losses to both proposed activities and activities on other lands. This may include a requirement that structures be elevated on piles, floodproofed or otherwise protected from hazards including flood heights, velocities, and erosion potential;
- Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;

- Inclusion in the deed for the property a warning that the property contains a wetland and/or wetland buffer area and that any activities in the wetland or buffer are subject to wetland, floodplain and other regulatory requirements;
- Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;
- Set-backs for structures from a river, stream, or other water body of a distance appropriate for the proposed activity and the particular wetland area;
- Erosion control and storm water management measures;
- The clustering of structures or development;
- Erection of wetland area markers and signs including survey stakes delineating the boundary between wetland areas and adjacent lands;
- Long term monitoring and management requirements including control of exotic plant and animal species; and
- Other conditions necessary to protect wetland functions, offset losses, and prevent increased natural hazard losses in the community.

The Board may also require the development of a wetland management plan and/or a compensatory mitigation plan to comply with these standards and criteria. See Sections 15 and 16 below.

Section 15: Wetland Management Plans

The Board may require that a permit applicant submit a wetland management plan to the Board if the Board believes such a plan is needed to meet the goals and standards of this ordinance including conditions attached to the issuance of a wetland permit. In general, plans are need for larger projects involving the manipulation of water levels, control of exotic plant species, or mitigation measures. Such management plans may include the procedures and timing of the proposed project, water level manipulation, removal of exotic species, replanting (if necessary) and other active management activities over time. It may be combined with a compensatory mitigation plan as provided in Section 16 of this ordinance.

The plan shall be consistent with the following:

- The plan shall describe any long term management proposed for the site to minimize or compensate for project impacts, how this management is to be carried out, and who will undertake the management.
- Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance;
- Vegetation and soil removal shall be limited to the minimum amount necessary for the development of the site.
- Vegetation indigenous to the site or plant community shall be restored in areas affected by construction activities. Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent

soil erosion. New planting shall be given sufficient water, fertilizer and protection to insure reestablishment.

Section 16: Compensatory Mitigation

The Board may require that the permit applicant submit a compensatory mitigation plan developed by qualified professionals to achieve no net loss of wetland functions, values, and acreage if the Board believes such a plan is needed to meet the goals and standards of this ordinance including conditions attached to the issuance of a wetland permit. Compensatory mitigation may take the form of wetland and/or buffer area restoration, creation, or enhancement. Such plans shall include design, implementation, maintenance, and monitoring elements.

A mitigation plan shall:

- Describe any residual impacts to functions, values, or acreage;
- Identify riparian, wetland, and watercourse areas that are to be protected and those that will be impacted;
- Provide a plan for compensating for impacts;
- Describe proposed habitat manipulation activities in detail;
- Provide replacement of affected vegetation with appropriate plant species in ratios which will result in simulation of pre-alteration vegetation within five years;
- Specify construction methods;
- Provide for periodic monitoring of mitigation; and
- Provide for the posting of performance bonds or other financial assurances.

In general, compensatory mitigation shall be onsite and in kind. However, the Board may allow use of offsite and out of kind mitigation including the use of mitigation banks if such use will have net ecological benefits, will not cause nuisances, will not violate other laws, and will not result in fragmentation of the wetland ecological system. Use of mitigation banks will be allowed to compensate for impacts only where onsite measures are, in addition, applied to insure that flooding, water pollution, erosion, and other problems do not occur at the original site.

Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity.

There shall be no introduction of any plant or wildlife into a mitigation project for any wetland or wetland buffer which is not native to the area unless authorized by a state or federal permit or approval.

In general the following ratios shall be provided for restoration, creation, and enhancement: 2:1 for restoration, 4:1 for creation, and 6:1 for enhancement. The Board

may increase the ratios if uncertainties exist with regard to the success of the proposed mitigation, a significant period of time will elapse between impact and replication of wetland functions, the mitigation will result in reduced wetland functions relative to the wetland being impacted, or the impact was an unauthorized impact. The Board may decrease rations if the proposed mitigation has a high likelihood of success, the proposed mitigation will provide functions and values significantly greater than the wetland being impacted, or the proposed mitigation is conducted in advance of the impact and has been shown to be successful.

In evaluating the adequacy of proposed compensatory mitigation, the Board shall consider:

- The risk of failure of the proposed mitigation project based upon the difficulty with which this type of wetland is restored, created, or enhanced, the experience and expertise of the individual or individuals proposing to carry out the mitigation, the proposed buffer and other protection measures, and the proposed management, monitoring and maintenance,
- The societal importance of wetland/buffer functions provided by the mitigation plan in contrast with the societal importance of the functions of the original wetland/buffer,
- Whether the proposed mitigation will require long term maintenance and, if so, the adequacy of any proposed maintenance,
- The need for long term monitoring and whether such monitoring will be provided, and
- Whether there will be offsite impacts of the proposed mitigation such as flooding or adjacent property.

Section 17: Variances

The Board may issue variances to the wetland and buffer requirements of this ordinance where the regulations will otherwise deny landowners all economic use of entire properties taking into account existing uses, reasonably anticipated future uses, market values and sales for comparable properties, taxes, special assessments, and other factors. The Board may issue a variance only for the minimum deviations from permit standards, conditions, or mitigation measures which will be consistent with not denying landowners all economic use of their entire properties. The Board shall not authorize variances for activities which will increase flood and erosion losses on other properties, pose threats to public health and welfare such as flash flooding, pollute potable water supplies, or otherwise cause nuisances. The Board shall also not issue a variance for activities which will violate other laws.

Section 18: Nonconforming Uses

All uses and activities that were lawful before the passage of this ordinance but which do not conform with the provisions of the ordinance, may be continued but may not be expanded, changed, enlarged or altered without a permit as provided above.

Nonconforming uses including but not limited to buildings shall not be enlarged or expanded to further encroach into the wetland. No nonconforming activity which has been discontinued for more than two years shall not be resumed. No nonconforming structure which has been destroyed or damaged for more than 50% of its value by flooding, wind, fire, or other natural or man-made force may be rebuilt only with issuance of a permit in conformity with the provisions of this ordinance

Section 19: Bonds and Insurance

Upon approval of the application and prior to issuance of a permit, the Board may require the permit applicant to file a bond with such surety in such amount and in a form approved by the Board.

Release of the bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

The Board may require the applicant to certify that it has public liability insurance against liability which might result form the proposed activity covering any and all damage which might occur within... *(specify)* years of completion of such operations, in an amount commensurate with the regulated activity.

Section 20: Inspections, Display of Permit, Revocations of Permits

Every permit issued pursuant to this ordinance shall allow the Board or it designated employee the right to inspect a project to determine compliance with conditions and the provisions of this ordinance. A permit applicant shall notify the Board at least five days before project construction is to be begin. The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit. All permits shall be valid for a period of one year from the date of issuance unless the Board indicates otherwise. The Board may issue a Stop Work Order if it finds that the permittee is violating provisions of the permit or of other applicable laws, ordinances, and/or regulations. The Board may, on written notice to the permittee, suspend or revoke a permit issued pursuant to this ordinance if the permittee has not complied with any term or condition of the permit or has failed to undertake the project in the manner set forth in the application.

Section 21: Enforcement and Penalties

Any person who commits, takes part in, or assists in any violation of any provision of this ordinance is guilty of a misdemeanor and may be fined not more than.....*(specify)* dollars for each offense and subject to imprisonment not exceeding.....*(specify)* days or both. Each violation of this ordinance shall be a separate offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

The (*community name*)..... shall have jurisdiction to enjoin a violation of this ordinance. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator. The zoning administrator and other governmental officials learning of a violation shall refer the violation to the City Attorney.

In the event of a violation the (*community name*) ..... shall have the power to order restoration of the wetland area. If the responsible person or agent does not complete such restoration within a reasonable time following the order, the authorized local government shall have the authority to restore the affected wetlands to the prior condition and the person or agent responsible for the violation shall be held liable to the (*community name*)..... for the cost of restoration.

Section 22: Appeals

Appeal on actions of the Board shall be made in accordance with provisions of the General Statutes *(specify section)* .....

Section 23: Conflict and Severance

This ordinance shall be construed as not to conflict with any provision of local, state, or federal law. However, the provisions of this ordinance shall control if more restrictive than other local, state, or federal laws.

If any portion of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the ordinance shall continue to be of full force and effect.

Section 24: Application Fees

At the time of a permit application, the applicant shall apply a filing fee of (*specify)* .....if the project will involve less than 5,000 square feet of disturbance to a wetland and/or buffer area and a filing fee of (*specify)*.....if more.

The Board may also require an applicant to pay fee a for reasonable costs and expenses born by the Board including but not limited to verifying wetland boundaries, analyzing resource functions and values including wildlife evaluations, and hydrogeologic and drainage analyses.

PART 6. MODEL RIPARIAN AREA/STREAM BUFFER ORDINANCE

INTRODUCTION

A growing number of communities have adopted riparian area/stream setback ordinances. Such ordinances, like wetland ordinances, may be "stand-alone" ordinances or riparian ordinance provisions integrated into broader river protection and management, shoreland zoning, floodplain zoning, watershed management, or comprehensive planning and zoning regulations.

Critical portions of riparian ordinances are similar to those for a wetland ordinances and include:

- Definition of the regulated riparian area,
- Regulated activities, and
- Standards for issuance of permits and conditions which may be attached.

The Regulated Riparian Area

The definition of the regulated riparian area is, like the definition of wetland in a wetland ordinance, a critical feature of the ordinance because it determines the geographical scope of the regulations.

How should the regulatory riparian area be defined? Should it be confined to a narrow setback area along rivers and streams? Should it include broader riparian corridors? Should the setback or broader riparian corridor be the same for all streams and watercourses? If not, what distinctions should be made and how?

A community has three principal options for defining the regulated riparian area. These include:

- The community defines the riparian area to include lands and waters within a fixed, uniform distance from all rivers, streams, or other watercourses. For example a community may define the regulated riparian area to include all areas within 100 feet of the high water mark of rivers, streams or other watercourses. Definition of the riparian area to include a single, fixed, uniform distance has the advantages of simplicity and uniformity. It has the disadvantage in under-regulating some areas and over-regulated others because rivers, streams and associated riparian areas vary in characteristics including the width of the floodplain, vegetation, and sensitivity to various activities.

- The community may define the riparian area to include an all lands and waters within a number of different fixed distances of various categories of rivers and streams, depending upon the size of the stream, sensitivity to development of other factors. For example a community can define the regulated riparian area to include areas

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within 300 feet or large rivers and streams, 200 feet for middle-sized rivers and streams, and 100 feet for small creeks and watercourses.

- The community may define the riparian area to include all lands within a mapped floodplain or riparian area. Using maps to designate regulated riparian areas permits more careful tailoring of the area to the size and other characteristics of a river or stream and adjacent floodplain and width of riparian vegetation. Riparian area maps may be based upon air photo interpretation of vegetation and/or flood and erosion maps. For example, a community may designate the regulated riparian area to include the full 100 year floodplain as shown on FEMA or other maps. Alternatively, it may include an area defined by soil maps or some combination of data sources.

How wide should the regulated riparian area be? The desired width of a riparian area depends, in part, upon the scientific characteristics of river, stream, and riparian areas including the width of the active floodplain, width of the band of riparian vegetation, and types and sensitivities of wildlife present. For example, a community with a large river and many smaller tributary streams may wish to use FEMA 100 year floodplain maps to establish the riparian zone for the larger river and use distance measurements (e.g. 100 feet, 75 feet) for smaller tributaries lacking such maps.

Another consideration relevant to the width of the riparian zone is restrictiveness of the regulations. If the riparian zone is to be an "inviolate" area, a narrower width may suffice than if a broad range of activities are to be permitted within the riparian area.

Whatever approach is taken, tight regulations are usually appropriate for the area immediately adjacent to a river, stream, creek, arroyo or wash because this area is subject to particularly high velocity flows, deep flooding, and severe erosion. Control of fills and grading and removal of natural vegetation is particularly important to protect flood conveyance and storage and prevent erosion and stream meander. It is also important to protect the water temperature of streams and is and to protect wildlife.

The Center for Watershed Studies in Maryland, recommends a three tiered management approach for riparian areas: streamside area, middle area, and outer area. The City of Suffolk, Virginia has adopted an ordinance with such a three area approach.

The ordinance which follows provides a variable riparian buffer for different sizes/types of rivers, streams, and watercourses.

Definition of Regulated Activities

As with the wetland ordinance, the definition of "regulated activities" is critical to the effectiveness of the ordinance. Typically, a riparian ordinance regulates any activity which will substantially impact the riparian zone including vegetation removal.

Standards for Issuance of Permits and Conditions Which May be Attached

As with a wetland ordinance, riparian ordinances set forth standards for issuance of permits. Often communities require a riparian vegetation management plan if a substantial riparian vegetation will be affected.

MODEL RIPARIAN AREA PROTECTION ORDINANCE

Section 1: Findings of Fact

The legislative body of .....(*community name*) determines that:

- Many of the riparian areas of.....(*community name)* have already been lost to drainage, channelization, levees, fills, grazing, and other activities. Destruction of riparian areas results in increased downstream water pollution, flooding, and erosion. Activities which damage or destroy riparian areas destroy riparian functions.

- Riparian areas function to:

    - Provide flood conveyance and storage which reduce downstream flood hazards by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow;
    - Reduce the need for costly engineering solutions for flooding and erosion such as rip rap, retention basins, and dams;
    - Stabilize the banks of watercourses to reduce bank erosion and downstream transport of sediments eroded from banks;
    - Provide stormwater detention;
    - Provide living, breeding, nesting and feeding environments for many forms of wildlife by maintaining diverse and connected riparian vegetation including waterfowl, shorebirds, salamanders, frogs, and deer;
    - Treat polluted surface/subsurface waters in times of high flows through biological degradation and chemical oxidation;
    - Prevent additional nonpoint pollution of waters by providing pollution buffers;
    - Remove pollutants from urban stormwater;
    - Serve as nursery grounds and sanctuaries for fish during high flows;
    - Provide tree canopy to shade streams;
    - Provide high quality watercourse habitats with shade and food for fish and other wildlife;
    - Provide recreation areas for hiking, bird watching, biking, photography and other recreation uses;
    - Maintain potable water supplies in rivers and streams;
    - Maintain the base flows of streams; and
    - Furnish scenic values and recreational opportunities.

- Activities in riparian areas are also often subject to flood, erosion, and subsidence hazards. Buildings, roads, and other infrastructure located in such areas are often damaged by floods and erosion, requiring emergency rescue and disaster assistance. Such structure and infrastructure also exacerbate hazards on other lands.

- Further loss of riparian buffer areas is contrary to the public health, safety, and welfare,

Section 2: Purposes

The overall goal of this ordinance is to protect and encourage the restoration of the riparian resources of.....(*community name*) in order to protect the public health, safety, and welfare. More specific goals include:

- Restore and maintain the chemical, physical and biological integrity of water resources;
- Achieve no net loss in the quantity, quality, and biological diversity of riparian areas and riparian area functions; goods and services, and values;
- Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of riparian areas;
- Provide an ecologically sound transition between waters and upland areas;
- Replace riparian area functions and acreage where avoidance of activities is not practical and all practical measures have been taken to reduce impacts;
- Prevent increases in flood, erosion, and other natural hazard losses due to destruction of wetland and buffer flood conveyance, flood storage, and erosion control functions, acreages and values;.
- Incorporate riparian area protection into the.....(*local government name*) land use, planning and development approval procedures.

Section 3: Authority

This ordinance has been adopted pursuant to and in accordance with .....(*statutory cite*).

Section 4: Definitions

"Board" means the (*Select one: Riparian Area Review Board, Board of Adjustment,* Planning Board). *(Note the local government must choose the board/commission it wishes to authorize to issue permits. Permits must typically be issued by the Board of Adjustment or Planning Board if state statutes do not specifically allow the creation of a separate board with regulatory powers such as a conservation commission.).*

"**Compensatory mitigation**" means the replacement of riparian area acreage, function, and value to compensate for losses.

"Creation" means a human activity bringing a riparian area into existence at a site in which it did not formerly exist.

"Enhancement" means the manipulating the physical, chemical or biological characteristics of a riparian area to increase or improve specific functions or to change the growth stage or vegetation present.

"Floodplains" mean areas subject to periodic inundation when a river, stream, or other watercourse overflows its banks. They are relatively flat areas or lowlands adjoining the channel of a river, stream or watercourse or other body of water. They include but are not limited to those mapped by the Federal Emergency Management Agency shown as flood hazard areas on the .....*(name of municipal government)* Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program numbered and dated.....

"Floodways" means the channel of any rivers, stream or other watercourse and the portions of the adjoining floodplain required to carry a discharge flood without raising flood waters and velocities more than a defined amount.

"National Wetlands Inventory Maps (NWI)" are a series of maps produced by the U.S. Fish and Wildlife Service showing the general location and classification of wetlands. Some wetlands, particularly smaller wetlands, are not shown on these maps. In addition, the criteria used for mapping wetlands in the NWI does not fully coincide with the definition of wetland provided below. The definition of wetland provided below and field surveys undertaken by the Board or provided by a permit applicant and reviewed and approved by the Board shall provide the basis for more specific and accurate designation of wetlands and wetland boundaries.

"Ordinary High Water Mark" means the point of the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other recognized characteristic.

"Regulated Activities" means all activities in regulated riparian areas involving filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation, or any other alteration or use of a riparian area.

"Restoration" means manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved riparian functions, values, or acreage.

"Riparian Area" means the area adjacent to rivers, streams, creeks, washes, arroyos, and other bodies of water or channels having banks and bed through which waters flow at least periodically. These areas are subject to period flooding and are generally characterized or distinguished by a difference in plant species composition or an increase in the size and/or density of vegetation as compared to upland areas. See more detailed description of regulated riparian areas in Section 4 below.

"Watercourses" mean rivers, streams, intermittent streams, ditches, brooks, channels, lakes, ponds, manmade ponds, estuarine waters, swamps, bogs, vernal pools, playas, and all other bodies of water, natural or artificial, intermittent or permanent, public or private which has defined banks and water at least a portion of each year. These areas are typically shown on United States Geologic Survey topographic maps of the community.

"Wetlands" are areas and waters that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include but are not limited to lands and waters meeting this definition and otherwise often referred to as swamps, marshes, bogs swamps, wetland meadows, ephemeral and tributary streams vernal pools, banks, reservoirs, ponds, lakes, and lands under water bodies. The primary ecological parameters for identifying wetlands include hydric soils, hydrophytic vegetation, and hydrologic conditions reflecting temporary or permanent inundation or saturation. *(Note, we are utilizing the Corps of Engineers wetland definition here. A community may wish to substitute its own definition.)*

"Riparian Area Delineation" means the establishment of riparian area boundaries.

Section 5: Riparian Review Board

(Not, this is an optional section. See commentary for Wetland Review Board in the Wetland Protection Model Ordinance above.)

The.....*(name of community)* Council shall appoint a Riparian Review Board of not more than eight but not less than four members for terms to be specified by the Council. The Board may issue, deny, and conditionally approve riparian area permits consistent with the standards, goals, and criteria set forth in this ordinance. *(Note, the ordinance should vest permitting powers in the Board of Adjustment or Planning Commission if the Riparian Review Board is to be advisory only.)*

The Board may also advise the Council with regard to riparian area policies and activities and may help the Council undertake the following activities:

- The mapping and delineation of riparian areas, wetlands, and floodplains;
- The assessment of riparian area functions and values;
- The location of riparian area boundaries on the ground;
- The acquisition of riparian area and related wildlife or recreation areas; and
- The initiation of riparian area enforcement actions.

Section 6: Riparian Areas Regulated by This Ordinance

Riparian areas subject to the this ordinance include the following areas measured horizontally from the top of the bank of a river, stream, creek, arroyo, wash or other body

of water or channel having banks and bed through which waters flow at least periodically:

• 300 feet of following rivers and streams or to the landward side of the 100 year floodplain identified on FEMA flood maps for these rivers and streams if this distance is greater:
(Note, major regulated rivers and streams should be listed here.)

• 200 feet of the following creeks and streams or to the landward side of the 100 year floodplain identified on FEMA flood maps for these creeks and streams if this distance is greater:
(Note, mid-sized, regulated rivers and streams should be listed here.)

• 100 feet of all other river, stream, creeks, wash, arroyo, or other body of water or channel having banks and bed through which waters flow at least periodically or to the landward side of the 100 year floodplain identified on FEMA flood maps if this distance is greater.

If there is dispute with regard to the boundaries of a riparian area, the Board shall carry out a field investigation to delineate the boundaries of the area. In this determination, the Board may take into account the available maps, the actual character of the land, distribution of soil types, degree of saturation or inundation and overall hydrology, plant species and other features.

Section 7: Coordination With Other Regulatory Agencies

(Note, this is also an optional section. It is designed to help coordinate regulatory reviews and to permit the Board to require that a project applicant obtain other required permits prior before seeking a riparian area permit pursuant to this ordinance. Alternatively, a local government may wish to allow the permit applicant to simultaneously apply for a number of permits. Some communities have developed joint permit processing procedures with other regulatory agencies.)

The Board may require that a permit applicant obtain other federal, state, or local regulatory permits needed for a proposed activity before applying for a riparian permit from the Board. The following activities may require additional state, federal, or local permits:

(Note the following needs to be tailored to state laws and local laws. The additional permits required will depend upon the type of activity, the type of wetland affected, and the local government and state.)

- Construction of any dam regulated by .....(*name of regulatory agency, statutory cite.*)

- Construction, encroachment or placement of any obstruction within a stream channel, lake, or tidal water regulated by .....(*name of regulatory agency, statutory cite.)*
- Diversion of water including withdrawals in excess of .....gallons per day regulated by.....(*name of regulatory agency, statutory cite.)*
- Discharges of fills or pollutants into the waters of the state regulated by..... (*name of regulatory agency, statutory cite.)*
- The undertaking of any regulated activity in a floodplain or floodway regulated by.....(*name of regulatory agency, statutory cite.)*
- The construction of septic tank/soil absorption fields in any wetland or buffer area requiring a permit from.....(*name of regulatory agency, statutory site.)*
- Any filling or grading requiring a permit from.....(*name or regulatory agency, statutory site.*)
- Any land use, building construction, or subdivision permit required from.....(*name of the local regulatory agency, statutory site.*)
- The discharge of fill or dredged material into wetlands and watercourses regulated by the U.S. Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbor Act or Sections 404 and 401 of the Federal Clean Water Act, as amended.

Section 8: Activities Allowed as of Right

The following uses are allowed in riparian areas without a permit providing they do not involve hydrologic modifications or fills:

- Conservation of soil, vegetation, water, fish, and wildlife,
- Private wildlife sanctuaries, woodland preserves,
- Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, trapping, hunting, fishing, shell fishing, cross-country skiing where otherwise legally permitted,
- Grazing, farming, nurseries, gardening and harvesting of crops, providing a minimum setback of 25 feet from all watercourses is maintained. This shall not be construed to include road construction, erection of buildings, or relocation of wetlands or watercourses, clear cutting of timber, or the mining of top soil, peat, sand or gravel from riparian areas without a permit,
- The control of noxious weeds if the control does not involve drainage or fill,
- Open space uses incidental to the enjoyment and maintenance of adjacent residential, commercial and industrial property such as open space for subdivisions and building setback areas,
- Maintenance and repair of existing ditches, watercourses, farm pounds, utilities, roadways providing the activity does not involve the expansion of roadways or related improvements into previously unimpacted areas , and
- The enhancement or restoration of riparian areas less than one acre and not associated with any development proposal

Section 9: Activities Requiring a Permit

All activities in regulated riparian areas involving filling, excavation, dredging, clear-cutting, grading or excavation, construction, removal or peat, sand or gravel, alteration of the water level or water table, disturbance of surface drainage characteristics, sediment patterns, or flood retention characteristics or any other alteration or use of a riparian areas not permitted by Section 8 of this ordinance shall require a permit from the Board.

Any person proposing to carry out an activity which may disturb the natural and indigenous character of a regulated riparian area may, prior to the commencement of the operation, notify the agency on a form provided by it and provide the Board with sufficient information to enable it to determine whether the proposed activity is an activity permitted as of right or an activity requiring a permit. Such a ruling by the Board shall be made in writing within 30 days of submission and a determination by the Board that the application is complete.

Section 10: Information to be Provided by Permit Applicants

The Board shall develop and make available riparian area permit application forms. Individuals or public or private corporations seeking a permit for a regulated activity within a riparian shall fill out and submit this form to the Board. All applications shall include, at the minimum, the following information in writing or on maps or drawings in the form prescribed by the Board:

- Name, address, telephone number, and e-mail address of owner and permit applicant (if different);
- A sketch map and description of the riparian area on the project site or which may be impacted by the proposed activity;
- A description of the proposed activity including the type of proposed activity, its dimensions, distance from any road or water body;
- A description of all grading, filling, and vegetation removal proposed by the project applicant including an estimate of the dimensions of the area which will be affected;
- An explanation why this activity cannot be located at an upland location;
- A description of all measures proposed to reduce or compensate for project impacts;
- Name and location of the nearest road intersection;
- Photographs of the proposed project site showing the existing condition of the site;
- The lot size and size of any adjacent parcels owned by the project applicant;
- Any surface water bodies located on or within 100 feet of the project site;
- Zoning classification and restrictions;
- The 100 year flood elevation and floodplain and floodway boundaries at the project site if FEMA or other flood maps are available;
- A description of proposed restoration or riparian vegetation for all surfaces;
- A map of any wetlands which may be impacted by the proposed activity; and

- A description of the construction sequencing and timetable for any proposed activities including description of future phases of projects.

The Board may also require a permit applicant to submit additional information if the Board deems such information necessary to determine the compliance of a proposed activity with the standards and criteria set forth in the ordinance. Such information may include:

- Description of ecological communities and functions;
- Description how the application will change, diminish, or enhance the ecological communities and functions;
- Name, address, professional status, license number, and phone number of the person who is to prepare the riparian management or mitigation plan;
- More detailed site plans;
- Engineering reports and analyses where the proposed activity may be subject to flood or erosion hazards or increase such hazards of other types;
- Mapping or description of soil types where onsite waste disposal is proposed;
- Analysis of chemical or physical characteristics of any fill material,

In addition, the Board may require the permit applicant to submit a riparian management and/or a compensatory mitigation plan.

Section 11: Public Hearings

Any person filing a permit application shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. The notice to abbuters shall include a copy of the permit application or shall state where copies may be examined and obtained by abutters.

(*Note, a community could require a permit applicant to provide a notice to other agencies. See Section 7 above. For example, a permit applicant could be required to submit a copy of the permit application to the municipal engineer for compliance with floodplain regulations.*)

No sooner than 30 days and not later than 60 days after receipt of a permit application and after notice the permit application has been published in one newspaper having general circulation in the area, the Board may hold a public hearing on the application unless the unless the Board finds that the activity is so minor as not to affect riparian area functions, values, or acreage or have impact upon public properties or the public at large. All hearings shall be open to the public.

Section 12: Standards and Criteria for Issuance of Permits

The Board shall consider all relevant facts in making its decision on any application for a permit including but not limited to the following:

- The goals and purposes of this ordinance;
- The functions and values of the riparian zone (See Section 1);
- The environmental impact of the proposed action;
- Alternatives to the proposed action;
- The relationship between short-term uses and long term productivity;
- Threats to other properties from increases in flooding, erosion, or other hazards;
- The suitability of the activity to the area for which it is proposed including threats from natural hazards; and
- Measures which would mitigate the impact of any aspect of the proposed regulated activity.

The Board shall not issue or conditionally issue a permit unless it finds that the proposed activity will not, taking into account individual and cumulative effects, threaten health or safety, result in fraud, cause nuisances, impair public rights in public waters, violate pollution control standards, or violate other regulations. In addition, the Board shall not issue a permit unless it finds that

- The permit applicant has, to the extent practical, avoided riparian areas;
- The permit applicant has, to the extent practical, reduced impacts to riparian areas;
- The proposed activity will be set back a minimum of 25 feet from the top of the bank of any river, stream, creek, wetland, or arroyo. The Board may require a larger setback based upon flooding, erosion, pollution, endangered species, riparian or wetland functions and values, or other relevant factors;
- The proposed activity will not cause a net loss of riparian area functions, values, or acreage taking in account the cumulative adverse effects of past activities on the riparian buffer area and reasonably anticipated future activities;
- The proposed activity will not increase flood, erosion, subsidence or other hazard on other lands and the proposed activity will not, in itself, be subject to flood and erosion hazards;
- The proposed activity will not result in adverse modification of habitat for or jeopardize plant, animal, or other wildlife species listed as threatened or endangered by the U.S. Fish and Wildlife Service or the state of ..... (*specify*) .Department of Fish and Wildlife or the state of Heritage program; and
- The proposed activity will not violate other applicable federal, state, and local water quality, flood loss reduction, fill and grading, stream protection, water supply protection, comprehensive zoning, sanitary code, and other statutes, regulations and ordinances.

The Board shall make written findings on any permit applicant stating the reason why the proposed permit is issued, denied, or conditionally issued or denied. The Board may consider all relevant information including but not limited to the following in making its decision on the application:

- The application and supporting documentation;
- Public comments, evidence, and testimony;
- Reports or comments from other local, state, tribal, or federal agencies and commissions; and
- Comments on the application from regional planning agencies, soil and water conservation districts, or other regional organizations.

Section 13: Conditions Which May Be Attached to Permits

The Board may conditionally approve permits. The following sorts of conditions may be attached to permit approvals:

- Design measures to further reduce project impacts;
- Relocation of the proposed activity to reduce project impacts;
- Flood and erosion loss reduction measures to prevent hazard losses to activities on other lands;
- Compensatory mitigation measures to offset losses to riparian area acreage, functions, and values;
- A requirement that structures be elevated on piles, floodproofed or otherwise protected from hazards including flood heights, velocities, and erosion potential;
- Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;
- Inclusion in the deed for the property a warning that the property contains a riparian area and that any activities in the riparian areas are subject to the riparian, wetland, floodplain and other regulatory requirements;
- Set backs from the river, stream, or other water body of a size appropriate for the proposed activity and the particular riparian area;
- Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;
- Erosion control and storm water management measures;
- The clustering of structures or development;
- Erection of riparian area markers and signs including survey stakes delineating the boundary between riparian areas and adjacent lands;
- Long term monitoring and management requirements including control of exotic plant and animal species;
- Compensatory mitigation measure to offset losses to riparian acreage, functions, and values; and
- Other conditions necessary to protect riparian area functions, offset losses, and prevent increased natural hazard losses in the community.

Section 14: Riparian Management Plans

The Board may require that a permit applicant submit a riparian management plan to the Board if the Board believes such a plan is needed to meet the goals and standards of this ordinance including conditions attached to permit issuance. Such a management plan may

include the procedures and timing of the proposed project, water level manipulation, removal of exotic species, replanting (if necessary) and other active management activities over time. It may also be combined with a compensatory mitigation plan as provided in Section 15 of this ordinance.

The riparian management plan shall be consistent with the following requirements:

- The plan shall describe all conservation and/or land management techniques that will be used to conserve and restore the riparian area;
- The plan shall specify any activities which will be carried out over time, who will carry out such activities, and how the activities will be carried out;
- The plan shall specify the professional and personnel resources which will be committed to monitoring and managing the riparian area;
- The plan shall specify construction methods that identify and protect riparian habitat that is to be left unaltered;
- Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance;
- Vegetation and soil removal shall be limited to the minimum amount necessary for the development of the site;
- Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New planting shall be given sufficient water, fertilizer and protection to insure reestablishment; and
- If proposed development including grading, dredging and filling would affect the banks of the stream or river, bank stabilization using techniques acceptable to the Board shall be required to prevent erosion.

Section 15: Compensatory Mitigation

The Board may require that the permit applicant submit a compensatory mitigation plan developed by qualified personnel to achieve no net loss of riparian area functions, values, and acreage if the Board believes such a plan is needed to meet the goals and standards of this ordinance including conditions attached to the issuance of a riparian permit. Compensatory mitigation measures may take the form of riparian area restoration creation, or enhancement. Such plans shall include design, implementation, maintenance, and monitoring elements. It shall include description of the compensation area, existing and proposed topography at one foot contour intervals, any proposed fill with the source of the fill, and any stockpiling, and planting (with source of plants).

A compensatory mitigation plan shall also include, at a minimum:

- A description of how long term replacement of riparian functions, values, and acreage will take place that reestablishes as nearly as possible the original riparian area in terms of type, geographic location and setting.
- Plans for any selected clearing and maintenance;
- The restoration of vegetation indigenous to the site or plant community.
- Periodic monitoring of mitigation features;

- Maintenance and replacement of damaged plants; and
- A proposal for posting a performance bond or other financial assurances.

In general, compensatory mitigation shall be onsite and in kind. However, the Board may allow use of offsite and out of kind mitigation including the use of mitigation banks if such use will have net ecological benefits, will not cause nuisances, will not violate other laws, and will not result in fragmentation of the riparian ecological system. Use of mitigation banks will be allowed to compensate for impacts only where onsite measures are in addition applied to insure that flooding, water pollution, erosion, and other problems do not occur at the original site.

Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity.

There shall be no introduction of any plant or wildlife into a mitigation project for any wetland or wetland buffer which is not native to the area unless authorized by a state or federal permit.

In general the following ratios shall be provided for restoration, creation, and enhancement: 2:1 for restoration, 4:1 for creation, and 6:1 for enhancement. The Board may increase the ratios if uncertainties exist with regard to the success of the proposed mitigation, a significant period of time will elapse between impact and replication of riparian area functions, the mitigation will result in reduced riparian area functions, or the impact was an unauthorized impact. The Board may decrease rations if the proposed mitigation has a high likelihood of success, the proposed mitigation will provide functions and values significantly greater than the wetland being impacted, or the proposed mitigation is conducted in advance of the impact and has been shown to be successful.

In evaluating the adequacy of proposed compensatory mitigation, the Board shall consider evaluate its effectiveness in avoiding impacts, minimizing impacts, rectifying the impacts, reducing or eliminating the impacts over time; and compensating for the impacts. It shall consider:

- The risk of failure of the proposed mitigation project based upon the difficulty with which this type of riparian area is restored, created, or enhanced, the experience and expertise of the individual or individuals proposing to carry out the mitigation, the proposed buffer and other protection measures, and the proposed management, monitoring and maintenance,
- The societal importance (value) of riparian functions provided by the mitigation plan in contrast with the societal importance of the functions of the original riparian area;
- Whether the proposed mitigation will require long term maintenance and, if so, the adequacy of any proposed maintenance;

- The need for long term monitoring and whether such monitoring will be provided; and
- Whether there will be offsite impacts of the proposed mitigation such as flooding of adjacent property and how these impacts will be addressed.

There shall be no introduction of any plant or wildlife into a mitigation project for any wetland or wetland buffer which is not native to the area unless authorized by a state or federal permit or approval.

Section 16: Variances

The Board may issue variances to the requirements of this ordinance where the regulations will otherwise deny landowners all economic use of entire properties taking into account existing uses, reasonably anticipated future uses, market values and sales for comparable properties, taxes, special assessments, and other factors. The Board may issue a variance only for the minimum deviations from permit standards, conditions, or mitigation measures, consistent with not denying landowners all economic use of their entire properties. The Board shall not authorize variances for activities which will increase flood and erosion losses on other properties, pose threats to public health and welfare such as flash flooding, pollute potable water supplies, or otherwise cause nuisances. The Board shall also not issue a variance for activities which will violate other laws.

Section 17. Prior Nonconforming Uses

Nonconforming uses including but not limited to buildings shall not be enlarged or expanded to further encroach onto the riparian area or watercourse. No nonconforming activity which has been discontinued for more than two years shall not be resumed. No nonconforming structure which has been destroyed or damaged for more than 50% of its value by flooding, wind, fire, or other natural or man-made force may be rebuilt only with issuance of a permit in conformity with the provisions of this ordinance.

Section 18: Inspections, Display of Permit, Revocations of Permits

Every permit issued pursuant to this ordinance shall allow the Board or its designated employee the right to inspect a project to determine compliance with conditions and the provisions of this ordinance. A permit applicant shall notify the Board at least five days before construction of an authorized project construction is to begin. The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit. All permits shall be valid for a period of one year from the date of issuance unless the Board indicates otherwise. The Board may issue a Stop Work Order if it finds that the permittee is violating provisions of the permit or of other applicable laws, ordinances, and/or regulations. The Board may, on written notice to the permittee, suspend or revoke a permit issued pursuant to this ordinance if the permittee has not complied with any term or condition of the permit or has failed to undertake the project in the manner set forth in the application.

Section 19: Bonds and Insurance

Upon approval of the application and prior to issuance of a permit, the Board may require the permit applicant to file a bond with such surety in such amount and in a form approved by the Board.

Release of the bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

The Board may require the applicant to certify that it has public liability insurance against liability which might result form the proposed activity covering any and all damage which might occur within *(specify)* ....years of completion of such operations, in an amount commensurate with the regulated activity.

Section 20: Enforcement and Penalties

Any person who commits, takes part in, or assists in any violation of any provision of this ordinance is guilty of a misdemeanor and may be fined not more than (*specify*) .....dollars for each offense and subject to imprisonment not exceeding (*specify*) .....days or both. Each violation of this ordinance shall be a separate offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

The (*community name*) ..... shall have jurisdiction to enjoin a violation of this ordinances. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator.

In the event of a violation, the (*community name*)..... shall have the power to order restoration of the riparian area. If the responsible person or agent does not complete such restoration within a reasonable time following the order, the authorized local government shall have the authority to restore the affected wetlands to the prior condition and the person or agent responsible for the violation shall be held liable to the (*community name*) ..... for the cost of restoration.

Section 21: Appeals

Appeal on actions of the Board shall be made in accordance with provisions of the General Statutes (*specify section*).....

Section 22: Conflict and Severance

This ordinance shall be construed as not to conflict with any provision of local, state, or federal law. However, the provisions of this ordinance shall control if more restrictive than other local, state, or federal laws.

If any portion of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the ordinance shall continue to be of full force and effect.

Section 23: Application Fees

At the time of a permit application, the applicant shall apply a filing fee of (*specify*) .....if the project will involve less than 5,000 square feet of disturbance to a riparian area and a filing fee of (*specify*) .....if more.

The Board may also require an applicant to pay fee for reasonable costs and expenses born by the commission including but not limited to verifying wetland boundaries, analyzing resource functions and values including wildlife evaluations, and hydrogeologic and drainage analyses.

PART 7: ADOPTING A COMBINED WETLAND, RIPARIAN AREA, WATERCOURSE PROTECTION ORDINANCE

INTRODUCTION

Some local governments have combined wetland, riparian area, and watercourse protection provisions into a single ordinance. Part 7 sets forth recommendations for such a combined ordinance. For the purposes of brevity, we do not repeat the model ordinance language suggested for wetlands and riparian areas in Parts 5 and 6 above. Not surprisingly, much of the model language and commentary for the model wetland and riparian ordinances in Parts 5 and 6 above are equally applicable to a model combined ordinance.

Examples of localities which have adopted combined or partially combined ordinances pertaining to wetlands, riparian areas, streams, and, in some instances, broader watercourses include:

- Wisconsin. Counties in Wisconsin have adopted state-mandated "shoreland" protection regulations which apply to areas within 1000 feet of lakes and 300 feet of streams or to the landward side of the floodplain. These regulations include wetland regulations, restrictions on vegetation removal for all shoreland areas including riparian areas, setbacks from rivers, lakes and streams, and minimum lot widths and sizes. Counties have also adopted floodplain ordinances.

- Minnesota. Counties and municipalities in Minnesota have adopted state-mandated shoreland protection regulations resembling those in Wisconsin. However, Minnesota counties have classified their lakes, rivers and streams and applied broader range and more severe restrictions including setbacks, wetland regulations, and floodplain regulations.

- Massachusetts. Towns in Massachusetts implement a state wetland protection statute which applies not only to wetlands but to the 100 year floodplain and many watercourses. Many towns have, therefore, adopted combined wetland, river, and floodplain regulations.

- Connecticut. Towns in Connecticut also implement a state statute which applies to wetlands and watercourses. Many Connecticut towns have adopted combined wetland, stream, floodplain and watercourse ordinances.

- Maryland and Virginia. Many communities in Maryland and Virginia have adopted both wetland and stream buffer protection regulations pursuant to wetland protection, coastal zone management, and Chesapeake Bay protection statutes and regulations.

Simultaneous wetland, river, and watercourse regulations are also common in Maine and Vermont which have adopted shoreland zoning statutes. Many communities in

Washington have adopted comprehensive "critical area" and "sensitive" land ordinances pursuant to state "shoreline" and "smart growth" statutes. These ordinances address wetlands, floodplains, and other hazard areas, and provide river setbacks.

Need for Comprehensive Regulation

Simultaneously regulation of wetlands, riparian areas, and watercourses is needed for a number of reasons:

- Wetlands, riparian areas, and watercourses are all essential components of a community's total water resources systems. Regulating only one or two components leaves gaps.
- All collectively store and convey flood waters.
- All are collectively important for water quality protection.
- All are linked by hydrology and hydraulics.
- All collectively form wildlife corridors.
- All serve similar overall functions although there are also differences; and
- Activities in all have the potential for increasing hazards on other lands.

Until the U.S. Supreme Court issued the SWANCC decision in 2001, federal Section 404 Clean Water Act regulations applied to most wetlands, lakes, coastal waters, streams, ditches, arroyos and some riparian areas throughout the U.S.. These waters included most ephemeral streams and isolated wetlands used by migratory waterfowl. However, due the SWANCC decision in 2001 and the Rapanos decision in 2006, many isolated wetlands and smaller ephemeral streams are not longer protected. As a consequence, local adoption of regulations becomes increasingly important to fill the gaps in federal and state regulations

Critical Provisions of Combined Ordinances

Critical provisions of combined ordinances are similar to those for wetlands and riparian areas alone They include:

- Definition of regulated areas,
- Definition of regulated activities, and
- Standards and criteria for issuance of permits including conditions which may be attached to permits.

Definition of Regulated Areas

The combined ordinance suggested below uses several approaches for simultaneously designating for regulatory purposes wetlands, riparian areas, and watercourses:

--"Wetlands": The ordinance incorporates, by reference, National Wetland Inventory (or other) wetland maps to designate regulated wetlands. Other wetlands are regulated by description.

--"Riparian Areas". Distance measurements are used to designate regulated riparian areas.

--"Watercourses". USGS maps are used, in part, to identify regulated watercourses.

Communities with sufficient funding may wish to adopt their own wetland, riparian, and watercourse maps to more precisely define areas subject to regulatory jurisdiction.

Definition of Regulated Activities

The definition of regulated activities in a comprehensive ordinance is similar to that for a wetland or riparian area ordinance. It should encompass all activities which may damage or destroy wetlands, riparian areas, or watercourses.

Standards and Criteria for Issuance of Permits

Not surprisingly, standards and criteria for issuance of permits pursuant to a combined ordinance are similar to those for wetlands and riparian areas with the addition of some special factors relevant to watercourses.

MODEL WETLAND, RIPARIAN AREA AND WATERCOURSE ORDINANCE

For brevity purposes, the following draft refers to language in the model wetland ordinance in Part 5 above rather than repeating this language. Only language which is unique to the wetland, riparian area and watercourse ordinance is set forth below.

Section 1: Findings of Fact

The legislative body of .....(*local government name)* determines that protection of all waters is critical to the health, safety, and welfare of the citizens of ..... (*local government name*) . The intent of this ordinance is to provide an integrated, cooperative approach to the protection of wetlands, riparian areas, and watercourses including but not limited to wetlands, riparian areas, rivers, streams, and coastal/estuarine waters (*include where applicable*). It is the goal to restore and maintain the physical, biological, and chemical integrity of all waters.

Many of the waters of .....(*local government name*) have been degraded by pollution, fills, drainage, channelization, grading, mining, grazing, and other activities. Destruction and degradation of wetlands, riparian areas, and watercourses results in increased downstream water pollution, flooding, and erosion. Protection of wetlands, riparian areas and watercourses is needed to protect functions such as:

- Provide flood conveyance and storage capacity which reduces downstream flood hazards by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow;

- Reduce the need for costly engineering solutions for flooding and erosion such as rip rap, retention basins, and dams;
- Stabilize the banks of watercourses to reduce bank erosion and downstream transport of sediments eroded from watercourse banks;
- Provide stormwater detention and purification;
- Provide living, breeding, nesting and feeding environments for many forms of wildlife by maintaining diverse and connected riparian vegetation including waterfowl, shorebirds, salamanders, frogs, and deer;
- Treat polluted surface/subsurface waters through biological degradation and chemical oxidation;
- Reduce additional nonpoint pollution of waters by providing buffers;
- Protect nursery grounds and sanctuaries for fish;
- Help maintain water temperatures and oxygen levels in rivers, streams, lakes, ponds, and other waters;
- Provide recreation areas for hiking, bird watching, biking, photography and other recreation uses;
- Maintain potable water supplies in rivers and streams; and
- Reduce community flood, erosion, and other natural hazard losses.

- Activities in wetland, riparian areas, and watercourses are often subject to flood and erosion hazards and exacerbate hazards on other lands. Buildings, roads, and other infrastructure located in such areas are often damaged by floods and erosion and require expensive emergency rescue and disaster assistance.

Section 2: Purposes

The purpose of this ordinance is protect the valuable and limited water resources in .....(*local government name*). Loss of waters is contrary to the public health, safety, and welfare. More specific goals include:

- Achieve no net loss in the quantity, quality, functions and biological diversity of wetlands, riparian areas, and watercourses;
- Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands, riparian areas, and watercourses;
- Provide ecologically sound transitions between waters and upland areas;
- Replace wetland, riparian area, and watercourse functions (See Section 1 above) and acreage where avoidance of activities is not practical and all practical measures have been taken to reduce impacts;
- Prevent increases in flood, erosion, and other natural hazard losses due to destruction of wetlands and riparian areas and the filling and drainage of

watercourses and degradation of their flood conveyance, flood storage, and erosion control and other functions.

- Incorporate wetland, riparian, and watercourse protection into the.....*(local government)* land use, planning and development approval procedures.

Section 3: Authority

See authority section in model wetland ordinance in Part 5 above.

Section 4: Definitions

"Board" means (*Note, the local government must choose the board/commission it wishes to authorize to issue permits. Permits must typically be issued by the Board of Adjustment or Planning Board if state statutes do not specifically allow the creation of a separate board with regulatory powers such as a conservation commission. We use the term "Board" generically in this ordinance to mean the selected local regulatory body.)*

"**Compensatory mitigation**" means the replacement of wetland, riparian area, or watercourse acreage, function, and value to compensate for losses.

"Creation" means a human activity bringing a riparian area or wetland into existence at a site in which it did not formerly exist.

"Enhancement" means the manipulating the physical, chemical or biological characteristics of a wetland, riparian area or watercourse to increase or improve specific functions or to change the growth stage or vegetation present.

"Floodplains". *See definition in model wetland ordinance in Part 5 above.*

"Floodways". *See definition in model wetland ordinance in Part 5 above.*

"National Wetlands Inventory Maps (NWI)" . *See definition in model wetland ordinance in Part 5 above.*

"Ordinary High Water Mark". *See definition in model wetland ordinance in Part 5 above.*

"Regulated Activities" means all activities in regulated riparian or wetland areas or watercourses which involving filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation or any other alteration or use of a wetland, riparian area, or watercourse..

"Restoration" means manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved wetland, riparian, or watercourse functions, values, and acreage.

"Riparian Area". *See definition in model wetland ordinance in Part 5 above.*

"Watercourses" mean rivers, streams, intermittent streams, ditches, brooks, channels, lakes, ponds, manmade ponds, estuarine waters, vernal pools, playas, and all other bodies of water, natural or artificial, intermittent or permanent, public or private which have defined banks and water at least a portion of each year. These areas are typically shown on the United States Geologic Survey topographic maps.

"Wetlands". *See definition in model wetland ordinance in Part 5 above.*

Section 5: Wetland, Riparian, and Watercourse Review Board

See wetland, riparian, and watercourse review board requirements in model wetland ordinance in Part 5 above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 6: Wetland, Riparian, Watercourses Subject to This Ordinance

Wetlands, riparian areas, and watercourses subject to the provisions of this ordinance include the following:

- Wetlands identified on National Wetland Inventory Maps series.....*(list numbers with dates)*, all other wetlands meeting the definition of wetland in Section 4 above, and wetland buffer areas within 75 feet of such wetlands.

- Riparian areas measured horizontally from the ordinary high water mark including all lands within

  - 300 feet of following rivers and streams or to the landward side of the 100 year floodplain if this is greater:
    (List)

  - 200 feet of the following creeks and streams or to the landward side of the 100 year floodplain if this is greater:
    (List)

  - 100 feet of all other rivers, streams, creeks, washes, arroyos, or other watercourses having banks and bed through which waters flow at least periodically including watercourses indicated as intermittent and perennial streams on U.S.G.S. topographic maps *(numbers, dates)*.....

- All watercourses shown as intermittent or permanent water bodies on U.S.G.S. topographic maps (*numbers, dates*).....

Section 7: Delineation of Wetland, Riparian, Watercourse Boundaries

See delineation in model wetland ordinance in Part 5 above. Substitute "wetland, riparian, watercourse" for "wetland".

Section 8: Activities Allowed as of Right

The following activities shall be allowed as of right in wetlands, riparian areas, and watercourses providing there is no fill or disturbance of natural hydrology:

See activities allowed as of right in model wetland ordinance above.

Section 9: Activities Requiring a Permit

All activities in a regulated wetland, riparian area, or watercourse involving filling, drainage, grading or excavation, dredging, clear-cutting, removal or peat, sand or gravel, alteration of the water level or water table, disturbance of surface drainage characteristics, sediment patterns, or flood retention characteristics or any other alteration or use of a wetland, riparian area, or watercourse not permitted by Section 8 of this ordinance shall require a permit from the Board.

Section 10: Coordination With Other Regulatory Agencies

The goal of this ordinance is to provide a coordinated and integrated approach to protection and restoration of wetlands, riparian areas, and watercourses. The Board may require that a permit applicant obtain other federal, state, or local regulatory permits needed for a proposed activity before applying for a permit from the Board.

See coordination with other regulatory agencies in model wetland ordinance above.

Section 11: Information to be Provided by Permit Applicants

The Board shall develop and make available Wetland, Riparian Area, and Watercourse permit application forms. Individuals or public or private corporations seeking a permit for a regulated activity shall fill out and submit this form to the Board.

All applications for permits shall include, at the minimum, the following information:

(See required information in model wetland ordinance above.)

Section 12: Public Notice and Hearing

See public notice and hearing requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

The Board shall conduct a public hearing on all permit applications involving disturbance of more than 1000 square feet of wetland or riparian area or more than 50 lineal feet of watercourse.

Section 13: Standards and Criteria for Issuance of Permits

See standards and criteria for issuance of permits in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland". Add the following language to more fully address issues associated with "watercourse":

- Maintain with particular care vegetated bank areas of rivers, streams, and other watercourses because they are often subject to high velocity flows and severe erosion;

- Manage rivers, streams and riparian areas to maintain geomorphic equilibrium to reduce stream bank erosion, loss of habitat and other problems.

- Avoid to the extent practical the culverting of streams and other watercourses which often destroys habitat, increases the velocity of flows, causes erosion, and results in flooding of adjacent lands;

- Reduce the use of riprap or other debris to stabilize stream banks because it often results in erosion of streambanks up and downstream of the riprap. It also often blocks flood flows thereby increasing flood heights and velocities on other lands, and it destroys wildlife;

- Avoid activities which will prevent free passage of fish and other aquatic life; and

- Prevent fills or restrictions on channels which will increase flooding on upstream and downstream properties.

Section 14: Conditions Which May Be Attached to Permits

See conditions which may be attached to permits in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 15: Wetland, Riparian Area, Watercourse Management Plans

The Board may require a permit applicant to prepare a wetland, riparian area, and/or watercourse management plan if the Board determines that such a plan is needed to apply the standards set forth in this ordinance or to achieve the goals and standards of this ordinance. In general, plans are needed where long term and large scale management of a wetland, riparian area, or watercourse is required such as manipulation of water levels, control of exotic plant species, or periodic harvesting of timber. Plans are generally be required for large projects. A plan shall be consistent with the following:

- The plan shall describe any long term management proposed for the site, how this management is to be carried out, and who will undertake such management;

- Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance;

- Vegetation and soil removal shall be limited to the minimum amount necessary for the development of the site.

- If proposed development, including grading, dredging and filling, would affect the banks of a stream, river or other watercourse, bank stabilization using bioengineering or other techniques acceptable to the Board shall be required to prevent erosion.

- Vegetation indigenous to the site or plant community shall be restored in areas affected by construction activities. Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New planting shall be given sufficient water, fertilizer and protection to insure reestablishment.

Section 16: Compensatory Mitigation

See compensatory mitigation requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 17: Variances

See variance requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 18: Prior Nonconforming Uses

See prior nonconforming uses requirements in model wetland above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 19: Bonds and Insurance

See bonds and insurance requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 20: Penalties

See penalty requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 21: Inspections, Display of Permit, Revocations of Permits

See inspections, display of permit, revocations of permit requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 22: Appeals

See appeals requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 23: Conflict and Severance

See conflict and severance requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

Section 24: Application Fees

See application requirements in model wetland ordinance above. Substitute words "wetlands, riparian areas, and watercourses" for "wetland".

PART 8: SUGGESTED READINGS

Burke, D., E. Meyers, R. Tiner, Jr. and H. Groman. 1988. Protecting Nontidal Wetlands. American Planning Association, Washington, D.C. This contains a model wetland protection ordinance.

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U.S. Environmental Protection Agency. 1997. Protecting Wetlands: Tools for Local Governments in the Chesapeake Bay Region. Chesapeake Bay Program Office, Annapolis, Maryland

U.S. Environmental Protection Agency, Region 2. 1993. Wetlands Regulation Guidebook for New York State. Marine and Wetlands Protection Branch, New York, New York

Washington State Department of Ecology. 1986. Wetlands Acquisition & Preservation: A Guide for Landowners and Government Agencies. Shorelands & Coastal Zone Management Program, Wetlands Section

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PART 9: SUGGESTED WEBSITES

http://www.cwp.org/ Center for Watershed Protection. Many excellent publications listed here.

http://www.epa.gov/owow/nps/ordinance/ U.S. Environmental Protection Agency, Model Ordinances to Protect Local Resources. Very useful.

http://www.smartgrowth.org/Default.asp?res=1024 Smart Growth Online resources.

http://www.epa.gov/surf/ U.S. Environmental Protection Agency, Surf Your Watershed. Wetlands, Oceans and Watersheds.

http://www.epa.gov/OWOW/ U.S. Environmental Protection Agency. Wetlands, Oceans and Watersheds Publications.

http://www.eugene-or.gov/portal/server.pt?space=CommunityPage&cached=true&parentname=CommunityPage&parentid=0&in_hi_userid=2&control=SetCommunity&CommunityID=217&PageID=0 Eugene Parks and Open Space. West Eugene Wetlands Plan. Excellent. Lots of detailed information on the plan, wetland links.

http://www.csc.noaa.gov/ NOAA Coastal Services Center. Many helpful links and information.

http://www.crwc.org/programs/watershedmgmt/scwetlands/scwofficials.html Clinton River Watershed Council. Wetland Stewardship for Local Governments. Contains a model ordinance.

http://www.angelfire.com/in4/earthpages/indianawetlands.html A Model Wetlands Ordinance for Indiana Communities.

http://www.co.cass.mn.us/esd/pdfs/ordinance/WETORD98.pdf Cass County Environmental Services. Cass County Wetland Ordinance. Wetland ordinance utilizing wetland functional assessments.

http://www.lta.org/ Land Trust Alliance. Many links. Excellent collection of publications for sale.

www.epa.gov/owow/nps/ordinance/ U.S. Environmental Protection Agency. Collection of model ordinances to protect local resources.

http://www.nrcs.usda.gov/technical/stream_restoration/ Federal Interagency Stream Restoration Working Group, Stream Corridor Restoration: Principles, Processes, and Practices.

http://www.epa.gov/owow/wetlands/restore/links U.S. Environmental Protection Agency, Wetland links by state.

http://www.cicacenter.org/swift.html Construction Industry Compliance Assistance, State Wetland Information Tool.

http://www.tpl.org/tier2_kad.cfm?folder_id=2554#cs8 Trust for Public Lands watershed case studies.

http://aswm.org/wbn/current.htm ASWM, Wetlands Breaking News.

http://www2.eli.org/index.cfm Environmental Law Institute.

www.noaa.gov National Oceanic Atmospheric Administration (NOAA).

http://www.nmfs.noaa.gov/ NOAA - National Marine Fisheries Service.

http://www.sws.org/ Society of Wetland Scientists.

http://www.usace.army.mil/ U.S. Army Corps of Engineers.

http://thomas.loc.gov/ The Library of Congress. Thomas Legislative Information on the Internet.

http://www.pwrc.usgs.gov/wli/ USDA Natural Resources Conservation Service. Wetland Science Institute.

http://www.epa.gov/ U.S. Environmental Protection Agency.

http://www.esri.com/hazards/ Federal Emergency Management Agency flood maps.

http://www.fws.gov/ U.S. Fish and Wildlife Service.

http://wetlands.fws.gov/ U. S. Fish and Wildlife Service. National Wetlands Inventory.

http://www.fws.gov/partners/ U.S. Fish and Wildlife Service, Partners for Fish and Wildlife Program.

An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

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National Guidance Water Quality Standards for Wetlands

Prepared by:

U.S. Environmental Protection Agency
Office of Water Regulations and Standards
Office of Wetlands Protection

*This document is designated as Appendix D of the Water Quality Standard Handbook: Second Edition, August 1994

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EXECUTIVE SUMMARY

Background

This document provides program guidance to States on how to ensure effective application of water quality standards (WQS) to wetlands. This guidance reflects the level of achievement EPA expects the States to accomplish by the end of FY 1993, as defined in the Agency Operating Guidance, FY 1991, Office of Water. The basic requirements for applying State water quality standards to wetlands include the following:

- Include wetlands in the definition of "State waters."
- Designate uses for all wetlands.
- Adopt aesthetic narrative criteria (the "free froms") and appropriate numeric criteria for wetlands.
- Adopt narrative biological criteria for wetlands.
- Apply the State's antidegradation policy and implementation methods to wetlands.

Water quality standards for wetlands are necessary to ensure that the provisions of the Clean Water Act (CWA) applied to other surface waters are also applied to wetlands. Although Federal regulations implementing the CWA include wetlands in the definition of "waters of the U.S." and therefore require water quality standards, a number of States have not developed WQS for wetlands and have not included wetlands in their definitions of "State waters." Applying water quality standards to wetlands is part of an overall effort to protect and enhance the Nation's wetland resources and provides a regulatory basis for a variety of programs to meet this goal. Standards provide the foundation for a broad range of water quality management activities including, but not limited to, monitoring under Section 305(b), permitting under Sections 402 and 404, water quality certification under Section 401, and the control of NPS pollution under Section 319.

With the issuance of this guidance, EPA proposes a two phased approach for the development of WQS for wetlands. Phase 1 activities presented in this guidance include the development of WQS elements for wetlands based upon existing information and science to be implemented within the next triennium. Phase 2 involves the further refinement of these basic elements using new science and program developments. The development of WQS for all surface waters is an iterative process.

Definition

The first, and most important, step in applying water quality standards to wetlands is ensuring that wetlands are legally included in the scope of States' water quality standards programs. States may accomplish this by adopting a regulatory definition of "State waters" at least as inclusive as the Federal definition of "waters of the U.S." and adopting an appropriate definition for "wetlands." States may also need to remove or modify regulatory language that explicitly or implicitly limits the authority of water quality standards over wetlands.

Use Designation

At a minimum, all wetlands must have uses designated which meet the goals of Section 101(a)(2) of the CWA by providing for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water, unless the results of a use attainability analysis (UAA) show that the CWA Section 101(a)(2) goals cannot be achieved. When designating uses for wetlands, States may choose to use their existing general and water specific classification systems or they may set up an entirely different system for wetlands reflecting their unique functions. Two basic pieces of information are useful in classifying wetland uses: (1) the structural types of wetlands and (2) the functions and values associated with such types of wetlands. Generally, wetland functions directly relate to the physical, chemical and biological integrity of wetlands. The protection of these functions through water quality standards also may be needed to attain the uses of waters adjacent to, or downstream of, wetlands.

Criteria

The Water Quality Standards Regulation (40 CFR 131.11(a)(1)) requires States to adopt criteria sufficient to protect designated uses which may include general statements (narrative) and specific numerical values (i.e., concentrations of contaminants and water quality characteristics). Most State water quality

standards already contain many criteria for various water types and designated use classes that may be applicable to wetlands.
Narrative criteria are particularly important in wetlands since many wetland impacts cannot be fully addressed by numeric criteria. Such impacts may result from the discharge of chemicals for which there are no numeric criteria in State standards, nonpoint sources, and activities that may affect the physical and/or biological, rather than the chemical, aspects of water quality (e.g., discharge of dredged and fill material). Narratives should be written to protect the most sensitive designated use and support existing uses under State antidegradation policies. In addition to other narrative criteria, narrative biological criteria provide a further basis for managing a broad range of activities that impact the biological integrity of wetlands and other surface waters, particularly physical and hydrologic modifications. Narrative biological criteria are general statements of attainable or attained conditions of biological integrity and water quality for a given use designation. EPA has published national guidance on developing biological criteria for all surface waters.

Numeric criteria are specific numeric values for chemical constituents, physical parameters or biological conditions that are adopted in State standards. Human health water quality criteria are based on the toxicity of a contaminant and the amount of the contaminant consumed through ingestion of water and fish regardless of the type of water. Therefore, EPA's chemical specific human health criteria are directly applicable to wetlands. EPA also develops chemical specific numeric criteria recommendations for the protection of freshwater and saltwater aquatic life. The numeric aquatic life criteria, although not designed specifically for wetlands, were designed to be protective of aquatic life and are generally applicable to most wetland types. An exception to this are pH dependent criteria, such as ammonia and pentachlorophenol, since wetland pH may be outside the normal range of 6.5-9.0. As in other waters, natural water quality characteristics in some wetlands may be outside the range established for uses designated in State standards. These water quality characteristics may require the development of criteria that reflect the natural background conditions in a specific wetland or wetland type. Examples of some of the wetland characteristics that may fall into this category are dissolved oxygen, pH, turbidity, color, and hydrogen sulfide.

Antidegradation

The antidegradation policies contained in all State standards provide a powerful tool for the protection of wetlands and can be used by States to regulate point and nonpoint source discharges to wetlands in the same way as other surface waters. In conjunction with beneficial uses and narrative criteria, antidegradation can be used to address impacts to wetlands that cannot be fully addressed by chemical criteria, such as physical and hydrologic modifications. With the inclusion of wetlands as "waters of the State," State antidegradation policies and their implementation methods will apply to wetlands in the same way as other surface waters. State antidegradation policies should provide for the protection of existing uses in wetlands and the level of water quality necessary to protect those uses in the same manner as for other surface waters; see Section 131.12(a)(1) of the WQS regulation. In the case of fills, EPA interprets protection of existing uses to be met if there is no significant degradation as defined according to the Section 404(b)(1) guidelines. State antidegradation policies also provide special protection for outstanding natural resource waters.

Implementation

Implementing water quality standards for wetlands will require a coordinated effort between related Federal and State agencies and programs. Many States have begun to make more use of CWA Section 401 certification to manage certain activities that impact their wetland resources on a physical and/or biological basis rather than just chemical impacts. Section 401 gives the States the authority to grant, deny, or condition certification of Federal permits or licenses that may result in a discharge to "waters of the U.S." Such action is taken by the State to ensure compliance with various provisions of the CWA, including the State's water quality standards. Violation of water quality standards is often the basis for denials or conditioning through Section 401 certification.

Natural wetlands are nearly always "waters of the U.S." and are afforded the same level of protection as other surface waters with regard to standards and minimum wastewater treatment requirements. Water quality standards for wetlands can prevent the misuse and overuse of natural wetlands for treatment through adoption of proper uses and criteria and application of State antidegradation policies. The Water Quality Standards Regulation (40 CFR 131.10(a)) states that, "in no case shall a State adopt waste transport or waste assimilation as a designated use for any 'waters of the U.S.'." Certain activities involving the discharge of pollutants to wetlands may be permitted, however, as with other surface waters, the State must ensure, through ambient monitoring, that permitted discharges to wetlands preserve and protect wetland functions and values as defined in State water quality standards. For municipal discharges to natural wetlands, a minimum of secondary treatment is required and applicable water quality standards for the wetland and adjacent waters must be met. EPA anticipates that the policy for storm water discharges to wetlands will have some similarities to the policies for municipal wastewater discharges to wetlands.

Many wetlands, through their assimilative capacity for nutrients and sediment, also serve an important water quality control function for nonpoint source pollution effects on waters adjacent to, or downstream of, the wetlands. Section 319 of the CWA requires the States to complete assessments of nonpoint source (NPS) impacts to State waters, including wetlands, and to prepare management programs to control NPS impacts. Water quality standards for wetlands can form the basis for these assessments and management programs for wetlands.

In addition, States can address physical and hydrological impacts to wetland quality through the application of narrative criteria to protect existing uses and through application of their antidegradation policies. The States should provide a linkage in their water quality standards to the determination of "significant degradation" as required under EPA guidelines (40 CFR 230.10(c)) and other applicable State laws affecting the disposal of dredged or fill materials in wetlands.

Finally, water quality management activities, including the permitting of wastewater and storm water discharges, the assessment and control of NPS pollution, and waste disposal activities (sewage sludge, CERCLA, RCRA) require sufficient monitoring to ensure that the designated and existing uses of "waters of the U.S." are maintained and protected. The inclusion of wetlands in water quality standards provides the basis for conducting both wetland specific and status and trend monitoring of State wetland resources. Monitoring of activities impacting specific wetlands may include several approaches, including biological measurements (i.e., plant, macroinvertebrate and fish) which have shown promise

for monitoring stream quality. The States are encouraged to develop and test the use of biological indicators.

Future Directions

Development of narrative biological criteria are included in the first phase of the development of water quality standards for wetlands. The second phase involves the implementation of numeric biological criteria. This effort requires the detailed evaluation of the components of wetland communities to determine the structure and function of unimpaired wetlands. Wetlands are important habitats for wildlife species. It is therefore also important to consider wildlife in developing criteria which protect the functions and values of wetlands. During the next three years, the Office of Water Regulations and Standards is reviewing aquatic life water quality criteria to determine whether adjustments in the criteria and/or alternative forms of criteria (e.g., tissue concentration criteria) are needed to adequately protect wildlife species using wetland resources. EPA's Office of Water Regulations and Standards is also developing guidance for EPA and State surface water monitoring programs that will be issued by the end of FY 1990. Other technical guidance and support for the development of State water quality standards will be forthcoming from EPA in the next triennium.

1.0_Introduction

Our understanding of the many benefits that wetlands provide has evolved rapidly over the last 20 to 30 years. Recently, programs have been developed to restore and protect wetland resources at the local, State and Federal levels of government. At the Federal level, the President of the United States established the goal of "no net loss" of wetlands, adapted from the National Wetlands Policy Forum recommendations (The Conservation Foundation 1988). Applying water quality standards to wetlands is part of an overall effort to protect the Nation's wetland resources and provides a regulatory basis for a variety of programs for managing wetlands to meet this goal.

As the link between land and water, wetlands play a vital role in water quality management programs. Wetlands provide a wide array of functions including shoreline stabilization, nonpoint source runoff filtration, and erosion control, which directly benefit adjacent and downstream waters. In addition, wetlands provide important biological habitat, including nursery areas for aquatic life and wildlife, and other benefits such as groundwater recharge and recreation. Wetlands comprise a wide variety of aquatic vegetated systems including, but not limited to, sloughs, prairies potholes, wet meadows, bogs, fens, vernal pools, and marshes. The basic elements of water quality standards (WQS), including designated uses, criteria, and an antidegradation policy, provide a sound legal basis for protecting wetland resources through State water quality management programs.

Water quality standards traditionally have been applied to waters such as rivers, lakes, estuaries, and oceans, and have been applied tangentially, if at all, to wetlands by applying the same uses and criteria to wetlands as to adjacent perennial waters. Isolated wetlands not directly associated with perennial waters generally have not been addressed in State water quality standards. A recent review of State water quality standards (USEPA 1989d) shows that only half of

the States specifically refer to wetlands, or use similar terminology, in their water quality standards. Even where wetlands are referenced, standards may not be tailored to reflect the unique characteristics of wetlands.

Water quality standards specifically tailored to wetlands provide a consistent basis for the development of policies and technical procedures for managing activities that impact wetlands. Such water quality standards provide the goals for Federal and State programs that regulate discharges to wetlands, particularly those under CWA Sections 402 and 404 as well as other regulatory programs (e.g., Sections 307, 318, and 405) and non-regulatory programs (e.g., Sections 314, 319, and 320). In addition, standards play a critical role in the State 401 certification process by providing the basis for approving, conditioning or denying Federal permits and licenses, as appropriate. Finally, standards provide a benchmark against which to assess the many activities that impact wetlands.

1.1 Objectives

The objective of this document is to assist States in applying their water quality standards regulations to wetlands in accordance with the Agency Operating Guidance (USEPA 1990a), which states:

By September 30, 1993, States and qualified Indian Tribes must adopt narrative water quality standards that apply directly to wetlands. Those Standards shall be established in accordance with either the National Guidance, Water Quality Standards for Wetlands ... or some other scientifically valid method. In adopting water quality standards for wetlands, States and qualified Indian Tribes, at a minimum, shall: (1) define wetlands as "State waters"; (2) designate uses that protect the structure and function of wetlands; (3) adopt aesthetic narrative criteria (the "free froms") and appropriate numeric criteria in the standards to protect the designated uses; (4) adopt narrative biological criteria in the standards; and (5) extend the antidegradation policy and implementation methods to wetlands. Unless results of a use attainability analysis show that the section 101(a) goals cannot be achieved, States and qualified Indian Tribes shall designate uses for wetlands that provide for the protection of fish, shellfish, wildlife, and recreation. When extending the antidegradation policy and implementation methods to wetlands, consideration should be given to designating critical wetlands as Outstanding National Resource Waters. As necessary, the antidegradation policy should be revised to reflect the unique characteristics of wetlands.

This level of achievement is based upon existing science and information, and therefore can be completed within the FY 91-93 triennial review cycle.

Initial development of water quality standards for wetlands over the next three years will provide the foundation for the development of more detailed water quality standards for wetlands in the future based on further research and policy development (see Section 7.0.). Activities defined in this guidance are referred to as Phase 1 activities, while those to be developed over the longer term are referred to as Phase 2 activities. Developing water quality standards is an iterative process.

This guidance is not regulatory nor is it designed to dictate specific approaches needed in State water quality standards. The document addresses the minimum requirements set out in the Operating Guidance, and should be used as a guide to

the modifications that may be needed in State standards. EPA recognizes that State water quality standards regulations vary greatly from State to State as do wetland resources. This guidance suggest approaches States may wish to use and allows for State flexibility and innovation.

1.2 Organization

Each section of this document provides guidance on a particular element of Phase 1 wetland water quality standards that EPA expects States to undertake during the next triennial review period (i.e., by September 30, 1993). For each section, a discussion of what EPA considers to be minimally acceptable is followed by subsections that provide information that may be used to meet, and go beyond, the minimum requirements during Phase 1. Documents referenced in this guidance provide further information on specific topics and may be obtained from the sources listed in the "References" Section. The following paragraphs introduce each of the sections of this guidance.

Most wetlands fall within the definition of "waters of the U.S." and thus require water quality standards. EPA expects States by the end of FY 1993 to include wetlands in their definition of "State waters" consistent with the Federal definition of "waters of the U.S." Guidance on the inclusion of wetlands in the definition of "State waters" is contained in Section 2.0.

The application of water quality standards to wetlands requires that States designate appropriate uses consistent with Sections 101(a)(2) and 303(c)(2) of the Clean Water Act (CWA). EPA expects States by the end of FY 1993 to establish designated uses for all wetlands. Discussion of designated uses is contained in Section 3.0.

The WQS regulation (40 CFR 131) requires States to adopt water quality criteria sufficient to protect designated uses. EPA expects the States, by the end of FY 1993, to adopt aesthetic narrative criteria (the "free froms"), appropriate numeric criteria and narrative biological criteria for wetlands. Narrative criteria are particularly important for wetlands since many activities may impact upon the physical and biological, as well as chemical, components of water quality. Section 4.0 discusses the application of narrative and numeric criteria to wetlands.

EPA also expects States to fully apply antidegradation policies and implementation methods to wetlands by the end of FY 1993. Antidegradation can provide a powerful tool for the protection of wetlands, especially through the requirement for full protection of existing uses as well as the States' option of designating wetlands as outstanding national resource waters. Guidance on the application of State antidegradation policies to wetlands is contained in Section 5.0.

Many State water quality standards contain policies affecting the application and implementation of water quality standards (e.g., variances, mixing zones, etc.). Unless otherwise specified, such policies are presumed to apply to wetlands in the same manner as to other waters of the State. States should consider whether such policies should be modified to reflect the characteristics of wetlands. Guidance on the implementation of water quality standards for wetlands is contained in Section 6.0.

Application of standards to wetlands will be an iterative process with both EPA

and the States refining their approach based on new scientific information as well as experience developed through State programs. Section 7.0 outlines Phase 2 wetland standards activities for which EPA is planning additional research and program development.

1.3 Legal Authority

The Clean Water Act requires States to develop water quality standards, which include designated uses and criteria to support those uses, for "navigable waters". CWA Section 502(7) defines "navigable waters" as "waters of the U.S." "Waters of the U.S" are, in turn, defined in Federal regulations developed for the National Pollution Discharge Elimination System (40 CFR 122.2) and permits for the discharge of dredged or fill material (40 CFR 230.3 and 232.2). "Waters of the U.S." include waters subject to the ebb and flow of the tide, interstate waters (including interstate wetlands), intrastate waters (including wetlands), the use, destruction, or degradation of which could affect interstate commerce, tributaries of the above, and wetlands adjacent to the above waters (other than waters which are themselves waters). See Appendix B for a complete definition.

The term "wetlands" is defined in 40 CFR 232.2(r) as:

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

This definition of "waters of the U.S.", which includes most wetlands, has been debated in Congress and upheld by the courts. In 1977, a proposal to delete CWA jurisdiction over most wetlands for the purpose of the Section 404 permit program, was defeated in the Senate. The debate on the amendment shows a strong Congressional awareness of the value of wetlands and the importance of retaining them under the statutory scheme. Various courts have also upheld the application of the CWA to wetlands. See e.g., United States v. Riverside Bayview Homes, 474 U.S. 121(1985); United States v. Byrd, 609 F.2d 1204 (7th Cir. 1979); Avoyelles Sportsmen's League v. Marsh, 715 F.2d 897 (5th Cir. 1983); United States v. Leslie Salt [1990 decision]. The practical effect is to make nearly all wetlands "waters of the U.S."

Created wastewater treatment wetlands which are designed, built and operated solely as wastewater treatment systems are generally not considered to be waters of the U.S. Water quality standards which apply to natural wetlands generally do not apply to such created wastewater treatment wetlands. There are, however, many created wetlands which are designed, built and operated to provide, in addition to wastewater treatment, functions and values similar to those provided by natural wetlands. Under certain circumstances such created multiple use wetlands may be considered waters of the U.S. and as such would require water quality standards. This determination must be made on a case-by-case basis, and may consider factors such as the size and degree of isolation of the created wetlands and other appropriate factors.

2.0 INCLUSION OF WETLANDS IN THE DEFINITION OF STATE WATERS

The first, and most important, step in applying water quality standards to wetlands is ensuring that wetlands are legally included in the scope of States' water quality standards programs. EPA expects States' water quality standards to include wetlands in the definition of "State waters" by the end of FY 1993. States may accomplish this by adopting a regulatory definition of "State waters" at least as inclusive as the Federal definition of "waters of the U.S." and adopting an appropriate definition for "wetlands." For example, one State includes the following definitions in their water quality standards:

"Surface waters of the State"... means all streams,... lakes..., ponds, marshes, wetlands or other waterways...

"Wetlands" means areas of land where the water table is at, near or above the land surface long enough each year to result in the formation of characteristically wet (hydric) soil types, and support the growth of water dependent (hydrophytic) vegetation. Wetlands include, but are not limited to, marshes, swamps, bogs, and other such low-lying areas.

States may also need to remove or modify regulatory language that explicitly or implicitly limits the authority of water quality standards over wetlands. In certain instances, such as when water quality standards are statutory or where a statute defines or limits regulatory authority over wetlands, statutory changes may be needed.

The CWA does not preclude States from adopting, under State law, a more expansive definition of "waters of the State" in order to meet the goals of the Act. Additional areas that could be covered include riparian areas, flood plains, vegetated buffer areas or any other critical areas identified by the State. Riparian areas and flood plains are important and severely threatened ecosystems, particularly in the arid and semi-arid West. Often it is technically difficult to separate, jurisdictionally, wetlands subject to the provisions of the CWA from other areas within the riparian or flood plain complex.

States may choose to include riparian or flood plain ecosystems as a whole in the definition of "waters of the State" or designate these areas for special protection in their water quality standards through several mechanisms including definitions, use classifications and antidegradation. For example, the regulatory definition of "waters of the State" in one State includes:

...The flood plain of free flowing waters determined by the Department... on the basis of the 100-year flood frequency.

In another State, the definition of a use classification states:

This beneficial use is a combination of the characteristics of the watershed expressed in the water quality and the riparian area.

And in a third State, the antidegradation protection for high quality waters provides that:

These waters shall not be lowered in quality... unless it is determined by the commission that such lowering will not do any of the following:

...(b)ecome injurious to the value or utility of riparian lands...

3.0 USE CLASSIFICATION

At a minimum, EPA expects States by the end of FY 1993 to designate uses for all wetlands, and to meet the same minimum requirements of the WQS regulation (40 CFR 131.10) that are applied to other waters. Uses for wetlands must meet the goals of Section 101(a)(2) of the CWA by providing for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water, unless the results of a use attainability analysis (UAA) show that the CWA Section 101(a)(2) goals cannot be achieved. The Water Quality Standards Regulation (40 CFR 131.10(c)) allows for the designation of sub-categories of a use, an activity that may be appropriate for wetlands. Pursuant to the WQS Regulation (40 CFR 131.10(i)), States must designate any uses that are presently being attained in the wetland. A technical support document is currently being developed by the Office of Water Regulations and Standards for conducting use attainability analyses for wetlands.

The propagation of aquatic life and wildlife is an attainable use in virtually all wetlands. Aquatic life protection need not refer only to year-round fish and aquatic life. Wetlands often provide valuable seasonal habitat for fish and other aquatic life, amphibians, and migratory bird reproduction and migration. States should ensure that aquatic life and wildlife uses are designated for wetlands even if a limited habitat is available or the use is attained only seasonally.

Recreation in and on the water, on the other hand, may not be attainable in certain wetlands that do not have sufficient water, at least seasonally. However, States are also encouraged to recognize and protect recreational uses that do not directly involve contact with water; e.g., hiking, camping, bird watching, etc.

The WQS regulation requires a UAA wherever a State designates a use that does not include the uses specified in Section 101(a)(2) of the CWA; see 40 CFR Part 131.10(j). This need not be an onerous task for States when deciding whether certain recreational uses are attainable. States may conduct generic UAAs for entire classes or types of wetlands based on the demonstrations in 40 CFR Part 131.10(g)(2). States must, however, designate CWA goal uses wherever these are attainable even where attainment may be seasonal.

When designating uses for wetlands, States may choose to use their existing general and water specific classification systems or they may set up an entirely different system for wetlands. Each of these approaches has advantages and disadvantages, as discussed below.

Some States stipulate that wetlands are designated for the same uses as the adjacent waters. States may also apply their existing general classification system to designate uses for specific wetlands or groups of wetlands. The advantage of these approaches is that they do not require States to expend additional effort to develop specific wetland uses, or determine specific functions and values, and can be generally used to designate the CWA goal uses for wetlands. However, since wetland attributes may be significantly different than those of other waters, States with general wetland use designations will need to review the uses for individual wetlands in more detail when assessing activities that may impair the specific "existing uses" (e.g., functions and values). In addition, the "adjacent" approach does not produce uses for "isolated" wetlands.

Due to these differences in attributes, States should strongly consider adopting a separate use classification system for wetlands based on wetland type and/or beneficial use (function and value). This approach initially requires more effort in developing use categories (and specific criteria that may be needed for them), as well as determining what uses to assign to specific wetlands or groups of wetlands. The greater the specificity in designating uses, however, the easier it is for States to justify regulatory controls to protect those uses. States may wish to designate beneficial uses for individually named wetlands, including outstanding wetlands (see Section 6.3), although, this approach may be practical only for a limited number of wetlands. For the majority of their wetlands, States may wish to designate generalized uses for groups of wetlands based on region or wetland type.

Two basic pieces of information are useful in classifying wetland uses: (1) the structural types of wetlands and (2) the functions and values associated with such types of wetlands. The functions and values of wetlands are often defined based upon structural type and location within the landscape or watershed. The understanding of the various wetland types within the State and their functions and values provides the basis for a comprehensive classification system applicable to all wetlands and all wetland uses. As with other waters, both general and waterbody-specific classifications may be needed to ensure that uses are appropriately assigned to all wetlands in the State. Appropriate and definitive use designations allow water quality standards to more accurately reflect both the "existing" uses as well as the States' goals for their wetland resources, and allow standards to be a more powerful tool in protecting State wetlands. Sections 3.1 through 3.3 provide further information of wetland types, functions and values, and how these can be used to designate uses for wetlands.

3.1 Wetland Types

A detailed understanding of the various wetland types within the State provides the basis for a comprehensive classification system. The classification system most often cited and used by Federal and State wetland permit programs was developed by Cowardin et al. (1979) for the U.S. Fish and Wildlife Service (FWS); see Figure 1. This system provides the basis for wetland related activities within the FWS. The Cowardin system is hierarchical and thus can provide several levels of detail in classifying wetlands. The "System" and "Subsystem" levels of detail appear to be the most promising for water quality standards. The "Class" level may be useful for designating uses for specific wetlands or wetland types. Section 3.3 gives an example of how one State uses the Cowardin system to generate designated uses for wetlands.

Under the Emergency Wetlands Resources Act of 1986, the FWS is required to complete the mapping of wetlands within the lower 48 States by 1998 through the National Wetlands Inventory (NWI) and to assess the status of the nation's wetland resources every ten years. The maps and status and trend reports may help States understand the extent of their wetlands and wetland types and ensure that all wetlands are assigned appropriate uses. To date, over 30,000 detailed 1:24,000 scale maps have been completed, covering approximately 60 percent of the coterminous United States and 16 percent of Alaska.

In some States, wetland maps developed under the NWI program have been digitized and are available for use with geographic information systems (GIS). To

date, more than 5,700 wetland maps representing 10.5 percent of the coterminous U.S. have been digitized. Statewide digital databases have been developed for New Jersey, Delaware, Illinois, Maryland and Washington and are in progress in Indiana and Virginia. NWI digital data files also are available for portions of 20 other States. NWI data files are sold at cost in 7.5 minute quadrangle units. The data are provided on magnetic tape in MOSS export, DLG3 optional, ELAS and IGES formats. Digital wetlands data may expedite assigning uses to wetlands for both general and wetland specific classifications.

The classification of wetlands may benefit from the use of salinity concentrations. The Cowardin classification system uses a salinity criterion of 0.5 ppt ocean-derived salinity to differentiate between estuarine and freshwater wetlands. Differences in salinity are reflected in the species composition of plants and animals. The use of salinity in the classification of wetlands may be useful in restricting activities that would alter the salinity of a wetland to such a degree that the wetland type would change. These activities include, for example, the construction of dikes to convert a saltwater marsh to a freshwater marsh or the dredging of channels that would deliver saltwater to freshwater wetlands.

3.2 Wetland Functions and Values

Many approaches have been developed for identifying wetland functions and values. Wetland evaluation techniques developed prior to 1983 have been summarized by Lonard and Clairain (1985) and EPA has summarized assessment methodologies developed since 1983 (see Appendix C). EPA has also developed guidance on the selection of a methodology for activities under the Section 404 program entitled: Draft Guidance to EPA Regional Offices on the Use of Advance Identification Authorities Under Section 404 of the Clean Water Act (USEPA 1989a). States may develop their own techniques for assessing the functions and values of their wetlands.

Generally, wetland functions that directly relate to the physical, chemical and biological integrity of wetlands are listed below. The protection of these functions through water quality standards also may be needed to attain the uses of waters adjacent to, or downstream of, wetlands.

o Groundwater Recharge/Discharge
o Flood Flow Alteration
o Sediment Stabilization
o Sediment/Toxic Retention
o Nutrient Removal/Transformation
o Wildlife Diversity/Abundance
o Aquatic Diversity/Abundance
o Recreation

Methodologies that are flexible with regard to data requirements and include several levels of detail have the greatest potential for application to standards. One such methodology is the Wetland Evaluation Technique developed by Adamus, et al. (1987) for the U.S. Army Corps of Engineers and the Department of Transportation. The Wetland Evaluation Technique was designed for conducting an initial rapid assessment of wetland functions and values in terms of social significance, effectiveness, and opportunity. Social significance assesses the value of a wetland to society in terms of its special designation, potential economic value, and strategic location. Effectiveness assesses the capability of a

wetland to perform a function because of its physical, chemical or biological characteristics. Opportunity assesses the [opportunity] of a wetland to perform a function to its level of capability. This assessment results in "high", "moderate" or "low" ratings for eleven wetland functions in the context of social significance, effectiveness, and opportunity. This technique also may be useful in identifying outstanding wetlands for protection under State antidegradation policies; see Section 5.3.

The FWS maintains a Wetlands Values Database that also may be useful in identifying wetland functions and in designating wetland uses.The data are keyed to the Cowardin-based wetland codes identified on the National Wetland Inventory maps. The database contains scientific literature on wetland functions and values. It is computerized and contains over 18,000 citations of which 8,000 are annotated. For further information, contact the NWI Program (see Section 3.1) or the FWS National Ecology Research Center3. In addition, State wetland programs, EPA Regional wetland coordinators and FWS Regional wetland coordinators can provide information on wetland functions and values on a State or regional basis; see Appendix D.

3.3 Designating Wetland Uses

The functions and values of specifically identified and named wetlands, including those identified within the State's water specific classification system and outstanding national resource water (ONRW) category, may be defined using the Wetland Evaluation Technique or similar methodology. For the general classification of wetlands, however, States may choose to evaluate wetland function and values for all the wetlands within the State based on wetland type (using Cowardin (1979) - Figure 1). One State applies its general use classifications to different wetland types based on Cowardin's system level of detail as illustrated in Figure 2. Note that the State's uses are based on function and the designation approach links specific wetland functions to a given wetland type. The State evaluates wetlands on a case-by-case basis as individual permit decisions arise to ensure designated uses are being protected and have reflected existing uses.

Alternatively, a third method may use the location of wetlands within the landscape as the basis for establishing general functions and values applicable to all the wetlands within a defined region. EPA has developed guidance entitled Regionalization as a Tool for Managing Environmental Resources (USEPA 1989c). The guidance illustrates how various regionalization techniques have been used in water quality management, including the use of the ecoregions developed by EPA's Office of Research and Development, to direct State water quality standards and monitoring programs. These approaches also may be useful in the classification of wetlands.

EPA's Office of Research and Development is currently refining a draft document which will provide useful information to States related to use classification methodologies (Adamus and Brandt - Draft). There are likely many other approaches for designating uses for wetlands, and the States are encouraged to develop comprehensive classification systems tailored to their wetland resources. As with other surface waters, many wetlands are currently degraded by natural and anthropogenic activities. The classification of wetlands should reflect the potential uses attainable for a particular wetland, wetland type or class of wetland.

4.0 CRITERIA

The Water Quality Standards Regulation (40 CFR 131.11(a)(1)) requires States to adopt criteria sufficient to protect designated uses. These criteria may include general statements (narrative) and specific numerical values (i.e., concentrations of contaminants and water quality characteristics). At a minimum, EPA expects States to apply aesthetic narrative criteria (the "free froms") and appropriate numeric criteria to wetlands and adopt narrative biological criteria for wetlands by the end of FY 1993. Most State water quality standards already contain many criteria for various water types and designated use classes, including narrative criteria, and numeric criteria to protect human health and freshwater and saltwater aquatic life, that may be applicable to wetlands.

In many cases it may be necessary to use a combination of numeric and narrative criteria to ensure that wetland functions and values are adequately protected. Section 4.1 describes the application of narrative criteria to wetlands and Section 4.2 discusses application of numeric criteria for protection of human health and aquatic life.

4.1 Narrative Criteria

Narrative criteria are general statements designed to protect a specific designated use or set of uses. They can be statements prohibiting certain actions or conditions (e.g., "free from substances that produce undesirable or nuisance aquatic life") or positive statements about what is expected to occur in the water (e.g.,"water quality and aquatic life shall be as it naturally occurs"). Narrative criteria are used to identify impacts to designated uses and as a regulatory basis for controlling a variety of impacts to State waters. Narrative criteria are particularly important in wetlands since many wetland impacts cannot be fully addressed by numeric criteria. Such impacts may result from the discharge of chemicals for which there are no numeric criteria in State standards, nonpoint sources, and activities that may affect the physical and/or biological, rather than the chemical, aspects of water quality (e.g., discharge of dredged and fill material). The Water Quality Standards Regulation (40 CFR 131.11(b)) states that "States should ... include narrative criteria in their standards where numeric criteria cannot be established or to supplement numeric criteria."

4.1.1 General Narrative Criteria

Narrative criteria within the water quality standards program date back to at least 1968 when five "free froms" were included in Water Quality Criteria (the Green Book), (FWPCA 1968). These "free froms" have been included as "aesthetic criteria" in EPA's most recent Section 304(a) criteria summary document, Quality Criteria for Water - 1986 (USEPA 1987a). The narrative criteria from these documents state:

All waters [shall be] free from substances attributable to wastewater or other discharge that:

(1) settle to form objectionable deposits;

(2) float as debris, scum, oil, or other matter to form nuisances;

(3) produce objectionable color, odor, taste, or turbidity;

(4) injure or are toxic or produce adverse physiological responses in humans, animals or plants; and

(5) produce undesirable or nuisance aquatic life.

The Water Quality Standards Handbook (USEPA 1983b) recommends that States apply narrative criteria to all waters of the United States. If these or similar criteria are already applied to all State waters in a State's standards, the inclusion of wetlands in the definition of "waters of the State" will apply these criteria to wetlands.

4.1.2 Narrative Biological Criteria

Narrative biological criteria are general statements of attainable or attained conditions of biological integrity and water quality for a given use designation. Narrative biological criteria can take a number of forms. As a sixth "free from" the criteria could read "free from activities that would substantially impair the biological community as it naturally occurs due to physical, chemical and hydrologic changes", or the criteria may be positive statements about the biological community existing or attainable in wetlands.
Narrative biological criteria should contain attributes that support the goals of the Clean Water Act, which provide for the protection and propagation of fish, shellfish, and wildlife. Therefore, narrative criteria should include specific language about community characteristics which (1) must exist in a wetland to meet a particular designated aquatic life/wildlife use, and (2) are quantifiable. Supporting statements for the criteria should promote water quality to protect the most natural community associated with the designated use. Mechanisms should be established in the standard to address potentially conflicting multiple uses. Narratives should be written to protect the most sensitive designated use and support existing uses under State antidegradation policies.

In addition to other narrative criteria, narrative biological criteria provide a further basis for managing a broad range of activities that impact the biological integrity of wetlands and other surface waters, particularly physical and hydrologic modifications. For instance, hydrologic criteria are one particularly important but often overlooked component to include in water quality standards to help maintain wetlands quality. Hydrology is the primary factor influencing the type and location of wetlands. Maintaining appropriate hydrologic conditions in wetlands is critical to the maintenance of wetland functions and values. Hydrologic manipulations to wetlands have occurred nationwide in the form of flow alterations and diversions, disposal of dredged or fill material, dredging of canals through wetlands, and construction of levees or dikes. Changes in base flow or flow regime can severely alter the plant and animal species composition of a wetland, and destroy the entire wetland system if the change is great enough. States should consider the establishment of criteria to regulate hydrologic alterations to wetlands. One State has adopted the following language and criteria to maintain and protect the natural hydrologic conditions and values of wetlands:

Natural hydrological conditions necessary to support the biological and physical characteristics naturally present in wetlands shall be protected to prevent significant adverse impacts on:

(1) Water currents, erosion or sedimentation patterns;

(2) Natural water temperature variations;

(3) The chemical, nutrient and dissolved oxygen regime of the wetland;

(4) The normal movement of aquatic fauna;

(5) The pH of the wetland; and

(6) Normal water levels or elevations.

One source of information for developing more quantifiable hydrologic criteria is the Instream Flow Program of the U.S. Fish and Wildlife Service, which can provide technical guidance on the minimum flows necessary to attain various water uses.

Narrative criteria, in conjunction with antidegradation policies, can provide the basis for determining the impacts of activities (such as hydrologic modifications) on designated and existing uses. EPA has published national guidance on developing biological criteria for all surface waters (USEPA 1990b). EPA's Office of Research and Development also has produced a literature synthesis of wetland biomonitoring data on a State-by-State basis which is intended to support the development of narrative biological criteria (Adamus and Brandt - Draft).

4.2 Numeric Criteria

Numeric criteria are specific numeric values for chemical constituents, physical parameters or biological conditions that are adopted in State standards. These may be values not to be exceeded (e.g., toxics), values that must be exceeded (e.g., dissolved oxygen), or a combination of the two (e.g., pH). As with all criteria, numeric criteria are adopted to protect one or more designated uses. Under Section 304(a) of the Clean Water Act, EPA publishes numeric national criteria recommendations which are designed to protect aquatic organisms and human health. These criteria are summarized in Quality Criteria for Water -1986, (USEPA 1987a). These criteria serve as guidelines from which States can develop their own numeric criteria taking into account the particular uses designated by the State.

4.2.1 Numeric Criteria - Human Health

Human health water quality criteria are based on the toxicity of a contaminant and the amount of the contaminant consumed through ingestion of water and fish regardless of the type of water. Therefore, EPA's chemical specific human health criteria are directly applicable to wetlands. A summary of EPA human health criteria recommendations is contained in Quality Criteria for Water - 1986.

Few wetlands are used directly for drinking water supplies. Where drinking water is a designated or existing use for a wetland or for adjacent waters affected by the wetland, however, States must provide criteria sufficient to protect human health based on water consumption (as well as aquatic life consumption if appropriate). When assessing the potential for water consumption, States should also evaluate the wetland's groundwater recharge function to assure protection of drinking

water supplies from that source as well.

The application of human health criteria, based on consumption of aquatic life, to wetlands is a function of the level of detail in the States' designated uses. If all wetlands are designated under the State's general "aquatic life/wildlife" designation, consumption of that aquatic life is assumed to be an included use and the State's human health criteria based on consumption of aquatic life will apply throughout. However, States that adopt a more detailed use classification system for wetlands (or wish to derive site specific human health criteria for wetlands) may wish to selectively apply human health criteria to those wetlands where consumption of aquatic life is designated or likely to occur (note that a UAA will be required where CWA goal uses are not designated). States may also wish to adjust the exposure assumptions used in deriving human health criteria. Where it is known that exposure to individuals at a certain site, or within a certain category of wetland, is likely to be different from the assumed exposure underlying the States' criteria, States may wish to consider a reasonable estimate of the actual exposure and take this estimate into account when calculating the criteria for the site.

4.2.2 Numeric Criteria - Aquatic life

EPA develops chemical specific numeric criteria recommendations for the protection of freshwater and saltwater aquatic life. These criteria may be divided into two basic categories: (1) chemicals that cause toxicity to aquatic life such as metals, ammonia, chlorine and organics, and (2) other water quality characteristics such as dissolved oxygen, alkalinity, salinity, pH, and temperature. These criteria are currently applied directly to a broad range of surface waters in State standards, including lakes, impoundments, ephemeral and perennial rivers and streams, estuaries, the oceans, and in some instances, wetlands. A summary of EPA's aquatic life criteria recommendations is published in Quality Criteria for Water - 1986. The numeric aquatic life criteria, although not designed specifically for wetlands, were designed to be protective of aquatic life and are generally applicable to most wetland types.

EPA's aquatic life criteria are most often based upon toxicological testing under controlled conditions in the laboratory. The EPA guidelines for the development of such criteria (Stephan et al. 1985) require the testing of plant, invertebrate, and fish species. Generally, these criteria are supported by toxicity tests on invertebrate and early life stage fish commonly found in many wetlands. Adjustments based on natural conditions, water chemistry and biological community conditions may be appropriate for certain criteria as discussed below. EPA's Office of Research and Development is currently finalizing a draft document which provides additional technical guidance on this topic, including site-specific adjustments of criteria (Hagley and Taylor - Draft).

As in other waters, natural water quality characteristics in some wetlands may be outside the range established for uses designated in State standards. These water quality characteristics may require the development of criteria that reflect the natural background conditions in a specific wetland or wetland type. States routinely set criteria for specific waters based on natural conditions. Examples of some of the wetland characteristics that may fall into this category are dissolved oxygen, pH, turbidity, color, and hydrogen sulfide.

Many of EPA's aquatic life criteria are based on equations that take into account

salinity, pH, temperature and/or hardness. These may be directly applied to wetlands in the same way as other water types with adjustments in the criteria to reflect these water quality characteristics. However, two national criteria that are pH dependent, ammonia and pentachlorophenol, present a different situation. The pH in some wetlands may be outside the pH range of 6.5-9.0 units for which these criteria were derived. It is recommended that States conduct additional toxicity testing if they wish to derive criteria for ammonia and pentachlorophenol outside the 6.5-9.0 pH range, unless data are already available.

States may also develop scientifically defensible site- specific criteria for parameters whose State-wide values may be inappropriate. Site-specific adjustments may be made based on the water quality and biological conditions in a specific water, or in waters within a particular region or ecoregion. EPA has developed guidance on the site-specific adjustment of the national criteria (USEPA 1983b). These methods are applicable to wetlands and should be used in the same manner as States use them for other waters. As defined in the Handbook, there are three procedures for developing site-specific criteria:
(1) recalculation, (2) indicator species and (3) resident species procedures. These procedures may be used to develop site-specific numeric criteria for specific wetlands or wetland types. The recalculation procedure is used to make adjustments based upon differences between the toxicity to resident organisms and those used to derive national criteria. The indicator species procedure is used to account for differences in the bioavailability and/or toxicity of a contaminant based upon the physical and chemical characteristics of site water. The resident species procedure accounts for differences in both species sensitivity and water quality characteristics.

5.0 ANTIDEGRADATION

The antidegradation policies contained in all State standards provide a powerful tool for the protection of wetlands and can be used by States to regulate point and nonpoint source discharges to wetlands in the same way as other surface waters. In conjunction with beneficial uses and narrative criteria, antidegradation can be used to address impacts to wetlands that cannot be fully addressed by chemical criteria, such as physical and hydrologic modifications. The implications of antidegradation to the disposal of dredged and fill material is discussed in Section 5.1 below. At a minimum, EPA expects States to fully apply their antidegradation policies and implementation method to wetlands by the end of FY 1993. No changes to State policies are required if they are fully consistent with the Federal policy. With the inclusion of wetlands as "waters of the State," State antidegradation policies and their implementation methods will apply to wetlands in the same way as other surface waters. The WQS regulation describes the requirements for State antidegradation policies which include full protection of existing uses (functions and values), maintenance of water quality in high quality waters and a prohibition against lowering water quality in outstanding national resource waters. EPA guidance on the implementation of antidegradation policies is contained in the Water Quality Standards Handbook and Questions and Answers on Antidegradation (USEPA 1985a).

5.1 Protection of Existing Uses

State antidegradation policies should provide for the protection of existing uses in wetlands and the level of water quality necessary to protect those uses in the same manner as for other surface waters; see Section 131.12(a)(1) of the WQS

regulation. The existing use can be determined by demonstrating that the use or uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow the use to be attained. This is the basis of EPA's antidegradation policy and is important in the wetland protection effort. States, especially those that adopt less detailed use classifications for wetlands, will need to use the existing use protection in their antidegradation policies to ensure protection of wetland values and functions.

Determination of an existing aquatic life and wildlife use may require physical, chemical, and biological evaluations through a waterbody survey and assessment. Waterbody survey and assessment guidance may be found in three volumes entitled Technical Support Manual for Conducting Use Attainability Analyses (USEPA 1983b, 1984a, 1984b). A technical support manual for conducting use attainability analyses for wetlands is currently under development by the Office of Water Regulations and Standards.

In the case of wetland fills, EPA allows a slightly different interpretation of existing uses under the antidegradation policy. This interpretation has been addressed in the answer to question #13 in "Questions and Answers on: Antidegradation", (USEPA 1985a) and is presented below.

Since a literal interpretation of the antidegradation policy could result in preventing the issuance of any wetland fill permit under Section 404 of the Clean Water Act, and it is logical to assume that Congress intended some such permits to be granted within the framework of the Act, EPA interprets 40 CFR 131.12(a)(l) of the antidegradation policy to be satisfied with regard to fills in wetlands if the discharge did not result in "significant degradation" to the aquatic ecosystem as defined under Section 230.10(c) of the Section 404(b)(l) guidelines. If any wetlands were found to have better water quality than "fishable/ swimmable", the State would be allowed to lower water quality to the no significant degradation level as long as the requirements of Section 131.12(a)(2) were followed. As for the ONRW provision of antidegradation (131.12(a)(3)), there is no difference in the way it applies to wetlands and other waterbodies.

The Section 404(b)(1) Guidelines state that the following effects contribute to significant degradation, either individually or collectively:

...significant adverse effects on (1) human health or welfare, including effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites (e.g., wetlands); (2) on the life stages of aquatic life and other wildlife dependant on aquatic ecosystems, including the transfer, concentration or spread of pollutants or their byproducts beyond the site through biological, physical, or chemical process; (3) on ecosystem diversity, productivity and stability, including loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water or reduce wave energy; or (4) on recreational, aesthetic, and economic values.

These Guidelines may be used by States to determine "significant degradation" for wetland fills. Of course, the States are free to adopt stricter requirements for wetland fills in their own antidegradation policies, just as they may adopt any

other requirements more stringent than Federal law requires. For additional information on the linkage between water quality standards and the Section 404 program, see Section 6.2.

5.2 Protection of High Quality Wetlands

State antidegradation policies should provide for water quality in "high quality wetlands" to be maintained and protected, as prescribed in Section 131.12(a)(2) of the WQS regulation. State implementation method requiring alternatives analyses, social and economic justifications, point and nonpoint source control and public participation are to be applied to wetlands in the same manner as other surface waters.

5.3 Protection of Outstanding Wetlands

Outstanding national resource waters (ONRW) designations offer special protection (i.e., no degradation) for designated waters, including wetlands. These are areas of exceptional water quality or recreational/ecological significance. State antidegradation policies should provide special protection to wetlands designated as outstanding national resource waters in the same manner as other surface waters; see Section 131.12(a)(3) of the WQS regulation and EPA guidance (Water Quality Standards Handbook (USEPA 1983b), and Questions and Answers on: Antidegradation (USEPA 1985a)). Activities that might trigger a State analysis of a wetland for possible designation as an ONRW are no different for wetlands than for other waters.

The following list provides general information on wetlands which are likely candidates for protection as ONRWs. It also may be used to identify specific wetlands for use designation under the State's wetland classification system; see Section 4.0. Some of these information sources are discussed in greater detail in EPA's guidance entitled Wetlands and Section 401 Certification: Opportunities and Guidelines for States and Eligible Indian Tribes (USEPA 1989f); see Section 6.1.

o Parks, wildlife management areas, refuges, wild and scenic rivers, and estuarine sanctuaries;

o Wetlands adjacent to ONRWs or other high quality waters (e.g., lakes, estuaries shellfish beds, etc.);

o Priority wetlands identified under the Emergency Wetlands Resources Act of 1986 through Statewide Outdoor Recreation Plans (SORP) and Wetland Priority Conservation Plans;

o Sites within joint venture project areas under the North American Waterfowl Management Plan;

o Sites under the Ramsar (Iran) Treaty on Wetlands of International Importance;

o Biosphere reserve sites identified as part of the "Man and the Biosphere" Program sponsored by the United Nations;

o Natural heritage areas and other similar designations established by the State or private organizations (e.g., Nature Conservancy);

o Priority wetlands identified as part of comprehensive planning efforts conducted at the local, State, Regional or Federal levels of government; e.g., Advance Identification (ADID) program under Section 404 and Special Area Management Plans (SAMPs) under the 1980 Coastal Zone Management Act.

The Wetland Evaluation Technique; Volume II: Methodology (Adamus et al. 1987) provides additional guidance on the identification of wetlands with high ecological and social value; see Section 3.2.

6.0 IMPLEMENTATION

Implementing water quality standards for wetlands will require a coordinated effort between related Federal and State agencies and programs. In addition to the Section 401 certification for Federal permits and licenses, standards have other potential applications for State programs including landfill siting, fish and wildlife management and aquisition decisions, and best management practices to control nonpoint source pollution. Many coastal States have wetland permit programs, coastal zone management programs, and National Estuary Programs; and the development of water quality standards should utilize data, information and expertise from these programs. For all States, information and expertise is available nationwide from EPA and the Corps of Engineers as part of the Federal 404 permit program. State wildlife and fisheries departments can also provide data, advice and expertise related to wetlands. Finally, the FWS can provide information on wetlands as part of the National Wetlands Inventory program, the Fish and Wildlife Enhancement Program, the Endangered Species and Habitat Conservation Program, the North American Waterfowl Management Program and the National Wildlife Refuge program. EPA and FWS wetland program contacts are included in Appendix B.

This section provides information on certain elements of standards (e.g., mixing zones) and the relationship between wetland standards and other water related activities and programs (e.g., monitoring and CWA Sections 401, 402, 404 and 319). As information is developed by EPA and the States, EPA will periodically transfer it nationwide through workshops and program summaries. EPA's Office of Water Regulations and Standards has developed an outreach program for providing this information.

6.1 Section 401 Certification

Many States have begun to make more use of CWA Section 401 certification to manage certain activities that impact their wetland resources. Section 401 gives the States the authority to grant, deny, or condition certification of Federal permits or licenses (e.g., CWA Section 404 permits issued by the U.S. Army Corps of Engineers, Federal Energy Regulatory Commission licenses, some Rivers and Harbors Act Sections 9 and 10 permits, and CWA Section 402 permits where issued by EPA) that may result in a discharge to "waters of the U.S." Such action is taken by the State to ensure compliance with various provisions of the CWA. Violation of water quality standards is often the basis for denials or conditioning through Section 401 certification. In the absence of wetland-specific standards, States have based decisions on their general narrative criteria and antidegradation policies. The Office of Wetlands Protection has developed a handbook for States entitled Wetlands and 401 Certification: Opportunities and Guidelines for States and Eligible Indian Tribes (USEPA 1989g) on the use of Section 401 certification

to protect wetlands. This document provides several examples where States have applied their water quality standards to wetlands, one example of which is included in Appendix E.

The development of explicit water quality standards for wetlands, including wetlands in the definition of "State waters," uses, criteria and antidegradation policies, can provide a strong and consistent basis for State 401 certifications.

6.2 Discharges to Wetlands

The Water Quality Standards Regulation (40 CFR 131.10(a)) states that, "in no case shall a State adopt waste transport or waste assimilation as a designated use for any 'waters of the U.S.'." This prohibition extends to wetlands since they are included in the definition of "waters of the U.S." Certain activities involving the discharge of pollutants to wetlands may be permitted, as with other water types, providing a determination is made that the designated and existing uses of the wetlands and downstream waters will be maintained and protected. As with other surface waters, the State must ensure, through ambient monitoring, that permitted discharges to wetlands preserve and protect wetland functions and values as defined in State water quality standards; see Section 6.4.

Created wastewater treatment wetlands that are not impounded from waters of the U.S. and are designed, built and operated solely as wastewater treatment systems, are a special case, and are not generally considered waters of the U.S. Some such created wetlands, however, also provide other functions and values similar to those provided by natural wetlands. Under certain circumstances, such created, multiple use wetlands may be considered "waters of the U.S.," and as such, would be subject to the same protection and restrictions on use as natural wetlands (see Report on the Use of Wetlands for Municipal Wastewater Treatment and Disposal (USEPA 1987b)). This determination must be made on a case-by-case basis, and may consider factors such as the size and degree of isolation of the created wetland.

6.2.1 Municipal Wastewater Treatment

State standards should be consistent with the document developed by the Office of Municipal Pollution Control entitled Report on the Use of Wetlands for Municipal Wastewater Treatment and Disposal (USEPA 1987b), on the use of wetlands for municipal wastewater treatment. This document outlines minimum treatment and other requirements under the CWA for discharges to natural wetlands and those specifically created and used for the purpose of wastewater treatment.

The following is a brief summary of the above referenced document. For municipal discharges to natural wetlands, a minimum of secondary treatment is required and applicable water quality standards for the wetland and adjacent waters must be met. Natural wetlands are nearly always "waters of the U.S." and are afforded the same level of protection as other surface waters with regard to standards and minimum treatment requirement. There are no minimum treatment requirements for wetlands created solely for the purpose of wastewater treatment which do not qualify as "waters of the U.S." The discharge from the created wetlands which do not qualify as "waters of the U.S." must meet applicable standards for the receiving water. EPA encourages the expansion of wetland resources through the creation of engineered wetlands while allowing the use of

natural wetlands for wastewater treatment only under limited conditions. Water quality standards for wetlands can prevent the misuse and overuse of natural wetlands for treatment through adoption of proper uses and criteria and application of State antidegradation policies.

6.2.2 Storm Water Treatment

Storm water discharges to wetlands can provide an important component of the fresh water supply to wetlands. However, storm water discharges from various land use activities can also contain a significant amount of pollutants. Section 402(p)(2) of the Clean Water Act requires that EPA, or States with authorized National Pollutant Discharge Elimination System (NPDES) programs, issue NPDES permits for certain types of storm water discharges. EPA is in the process of developing regulations defining the scope of this program as well as developing permits for these discharges. Storm water permits can be used to require controls that reduce the pollutants that are discharged to wetlands as well as other waters of the United States. In addition, some of the storm water management controls anticipated in permits will require creation of wetlands or structures with some of the attributes of wetlands for the single purpose of water treatment.

EPA anticipates that the policy for storm water discharges to wetlands will have some similarities to the policies for municipal wastewater discharges to wetlands. Natural wetlands are "waters of the United States" and are afforded a level of protection with regard to water quality standards and technology-based treatment requirements. The discharge from created wetlands must meet applicable water quality standards for the receiving waters. EPA will issue technical guidance on permitting storm water discharges, including permitting storm water discharges to wetlands, over the next few years.

6.2.3 Fills

Section 404 of the CWA regulates the discharge of dredged and fill material into "waters of the U.S." The Corps of Engineers' regulations for the 404 program are contained in 33 CFR Parts 320-330 while EPA's regulations for the 404 program are contained in 40 CFR Part 230-33.

One State uses the following guidelines for fills in their internal Section 401 review guidelines:

(a) if the project is not water dependent, certification is denied;

(b) if the project is water dependent, certification is denied if there is a viable alternative (e.g., available upland nearby is viable alternative);

(c) if no viable alternatives exist and impacts to wetland cannot be made acceptable through conditions on certification (e.g., fish movement criteria, creation of floodways to bypass oxbows, flow through criteria), certification is denied.

Some modification of this may be incorporated into States' water quality standards. The States are encouraged to provide a linkage in their water quality standards to the determination of "significant degradation" as required under EPA guidelines (40 CFR 230.10(c)) and other applicable State laws affecting the

disposal of dredged or fill materials in wetlands; see Section 5.1.

6.2.4 Nonpoint Source Assessment and Control

Wetlands, as with other waters, are impacted by nonpoint sources of pollution. Many wetlands, through their assimilative capacity for nutrients and sediment, also can serve an important water quality control function for nonpoint source pollution effects on waters adjacent to, or downstream of, the wetlands. Water quality standards play a pivotal role in both of the above. First, Section 319 of the CWA requires the States to complete assessments of nonpoint source (NPS) impacts to State waters, including wetlands, and to prepare management programs to control NPS impacts. Water quality standards for wetlands can form the basis for these assessments and management programs for wetlands. Second, water quality standards requirements for other surface waters such as rivers, lakes and estuaries can provide an impetus for States to protect, enhance and restore wetlands to help achieve nonpoint source control and water quality standards objectives for adjacent and downstream waters. The Office of Water Regulations and Standards and the Office of Wetlands Protection have developed guidance on the coordination of wetland and NPS control programs entitled National Guidance - Wetlands and Nonpoint Source Control Programs (USEPA 1990c).

6.3 Monitoring

Water quality management activities, including the permitting of wastewater and storm water discharges, the assessment and control of NPS pollution, and waste disposal activities (sewage sludge, CERCLA, RCRA) require sufficient monitoring to ensure that the designated and existing uses of "waters of the U.S." are maintained and protected. In addition, Section 305(b) of the CWA requires States to report on the overall status of their waters in attaining water quality standards. The inclusion of wetlands in water quality standards provides the basis for conducting both wetland specific and status and trend monitoring of State wetland resources. Information gathered from the 305(b) reports may also be used to update and refine the designated wetland uses. The monitoring of wetlands is made difficult by limitations in State resources. Where regulated activities impact wetlands or other surface waters, States should provide regulatory incentives and negotiate monitoring responsibilities of the party conducting the regulated activity.

Monitoring of activities impacting specific wetlands may include several approaches. Monitoring methods involving biological measurements, such as plant, macroinvertebrate and fish (e.g., biomass and diversity indices), have shown promise for monitoring stream quality (Plafkin, et al. 1989). These types of indicators have not been widely tested for wetlands; see Section 7.1. However, the State of Florida has developed biological criteria as part of their regulations governing the discharge of municipal wastewater to wetlands.5 The States are encouraged to develop and test the use of biological indicators. Other more traditional methods currently applied to other surface waters, including but not limited to the use of water quality criteria, sediment quality criteria and whole effluent toxicity, are also available for conducting monitoring of specific wetlands.

Discharges involving persistent or bioaccumulative contaminants may necessitate the monitoring of the fate of such contaminants through wetlands and their impacts on aquatic life and wildlife. The exposure of birds and mammals to these

contaminants is accentuated by the frequent use of wetlands by wildlife and the concentration of contaminants in wetlands through sedimentation and other processes. States should conduct monitoring of these contaminants in wetlands, and may require such monitoring as part of regulatory activities involving these contaminants.

Status and trend monitoring of the wetland resources overall, may require additional approaches; see Section 3.1. Given current gaps in scientific knowledge concerning indicators of wetland quality, monitoring of wetlands over the next few years may focus on the spatial extent (i.e., quantity) and physical structure (e.g., plant types, diversity and distribution) of wetland resources. The tracking of wetland acreage and plant communities using aerial photography can provide information that can augment the data collected on specific activities impacting wetlands, as discussed above.

EPA has developed guidance on the reporting of wetland conditions for the Section 305(b) program entitled Guidelines for the Preparation of the 1990 State Water Quality Assessment 305(b) Report, (USEPA 1989b). When assessing individual specific wetlands, assessment information should be managed in an automated data system compatible with the Section 305(b) Waterbody System. In addition, the NWI program provides technical procedures and protocols for tracking the spatial extent of wetlands for the U.S. and subregions of the U.S. These sources provide the framework for reporting on the status and trends of State wetland resources.

6.4 Mixing Zones and Variances

The guidance on mixing zones in the Water Quality Standards Handbook and the Technical Support Document for Water Quality-based Toxics Control (TSD) (USEPA 1985b) applies to all surface waters, including wetlands. This includes the point of application of acute and chronic criteria. As with other surface waters, mixing zones may be granted only when water is present, and may be developed specifically for different water types. Just as mixing zone procedures are often different for different water types and flow regimes (e.g., free flowing streams versus lakes and estuaries), separate procedures also may be developed specifically for wetlands. Such procedures should meet the requirements contained in the TSD.

As in other State waters, variances may be granted to discharges to wetlands. Variances must meet one or more of the six requirements for the removal of a designated use (40 CFR Part 131.10(g)) and must fully protect any existing uses of the wetland.

7.0 FUTURE DIRECTIONS

EPA's Office of Water Regulations and Standards' planning document (Water Quality Standards Framework, (USEPA Draft 1989e)) identifies the major objectives for the program and the activities necessary to meet these objectives. Activities related to the development of water quality standards for wetlands are separated into two phases: (1) phase 1 activities to be developed by the States by the end of FY 1993, discussed above, and (2) phase 2 activities that will require additional research and program development, which are discussed below.

7.1 Numeric Biological Criteria for Wetlands

Development of narrative biological criteria are included in the first phase of the development of water quality standards for wetlands; see Section 5.1.2. The second phase involves the implementation of numeric biological criteria. This effort requires the detailed evaluation of the components of wetland communities to determine the structure and function of unimpaired wetlands. These measures serve as reference conditions for evaluating the integrity of other wetlands. Regulatory activities involving discharges to wetlands (e.g., CWA Sections 402 and 404) can provide monitoring data to augment data collected by the States for the development of numeric biological criteria; see Section 7.4. The development of numeric biological criteria for wetlands will require additional research and field testing over the next several years.

Biological criteria are based on local and regional biotic characteristics. This is in contrast to the nationally based chemical specific aquatic life criteria developed by EPA under controlled laboratory conditions. The States will have primary responsibility for developing and implementing biological criteria for their surface waters, including wetlands, to reflect local and regional differences in resident biological communities. EPA will work closely with the States and the EPA Office of Research and Development to develop and test numeric biological criteria for wetlands. Updates on this work will be provided through the Office of Water Regulations and Standards, Criteria and Standards Division's regular newsletter.

7.2 Wildlife Criteria

Wetlands are important habitats for wildlife species. It is therefore important to consider wildlife in developing criteria which protect the functions and values of wetlands. Existing chemical specific aquatic life criteria are derived by testing selected aquatic organisms by exposing them to contaminants in water. Although considered protective of aquatic life, these criteria often do not account for the bioaccumulation of these contaminants, which may cause a major impact on wildlife using wetland resources. Except for criteria for PCB, DDT, selenium and mercury, wildlife have not been included during the development of the national aquatic life criteria.

During the next three years, the Office of Water Regulations and Standards is reviewing aquatic life water quality criteria to determine whether adjustments in the criteria and/or alternative forms of criteria (e.g., tissue concentration criteria) are needed to adequately protect wildlife species using wetland resources. Since wetlands may not have open surface waters during all or parts of the year, alternative tissue based criteria based on contaminant concentrations in wildlife species and their food sources may become important criteria for evaluating contaminant impacts in wetlands; particularly those that bioaccumulate. Based on evaluations of current criteria and wildlife at risk in wetlands, national criteria may be developed.

7.3 Wetlands Monitoring

EPA's Office of Water Regulations and Standards is developing guidance for EPA and State surface water monitoring programs that will be issued by the end of FY 1990. This guidance will (1) encourage States to use monitoring data in a variety

of program areas to support water quality management decisions, and (2) provide examples of innovative monitoring techniques through the use of case studies. The uses of data pertinent to wetlands that will be discussed include:

o refining use classification systems by developing physical, chemical and biological water quality criteria, goals and standards that account for regional variation in attainable conditions,

o identifying high-quality waters deserving special protection,

o using remote sensing data,

o using integrated assessments to detect subtle ecological impacts, and

o identifying significant nonpoint sources of pollution that will prevent attainment of uses.

One or more case studies will address efforts to quantify the extent of a State's wetlands and to identify sensitive wetlands through their advance identification (USEPA 1989a).

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1 Lonard, R.I. and E.J. Clairain. 1986. Identification of Methodologies for the Assessment of Wetland Functions and Values, Proceeding of the National Wetland Assessment Symposium, Association of Wetland Managers, Berne, NY. pp. 66-72.

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4 _____. 1983b. Water Quality Standards Handbook. Office of Water Regulations and Standards, Washington, DC.

4 _____. 1984a. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. Vol II. Estuarine Systems. Office of Water Regulations and Standards, Washington, DC.

4 _____. 1984b. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. Vol III. Lake Systems. Office of Water Regulations and Standards, Washington, DC.

4 _____. 1985a. Questions and Answers on:Antidegradation. Office of Water Regulations and Standards, Washington, DC.

5 _____. 1985b. Technical Support Document for Water Quality-based Toxics Control. Office of Water Enforcement and Permits, Washington, DC.

6b _____. 1987a. Quality Criteria for Water - 1986. Office of Water Regulations and Standards, Washington, DC. EPA 440/5-86-001.

9 _____. 1987b. Report on the Use of Wetlands for Municipal Wastewater Treatment and Disposal. Office of Municipal Pollution Control, Washington, DC. (with Attachment D, September 20, 1988). EPA 430/09-88-005.

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2 _____. 1990c. National Guidance, Wetlands and Nonpoint Source Control Programs. Office of Water Regulations and Standards, Washington, DC.

Sources of Documents

1 USEPA, Office of Wetlands Protection
Wetlands Strategies and State Programs Division
401 M St., S.W. (A-104F)
Washington, DC 20460
(202) 382-5048

2 USEPA, Office of Water Regulations and Standards
Assessment and Watershed Protection Division
401 M St., S.W. (WH-553)
Washington, DC 20460
(202) 382-7040

3 National Technical Information Service (NTIS)
5285 Front Royal Road
Springfield, VA 22116
(703) 487-4650

4 USEPA, Office of Water Regulations and Standards
Criteria and Standards Division
401 M St., S.W. (WH-585)
Washington, DC 20460
(202) 475-7315

5 Out of print. A revised Technical Support Document for Water Quality-based Toxics Control will be available October 1990 from:
Office of Water Enforcement and Permits
Permits Division
401 M St., S.W. (EN-336)
Washington, DC 20460

6 U.S. Government Printing Office
North Capitol St., N.W.
Washington, DC 20401
(202) 783-3238
aOrder No. 024-010-00524-6
bOrder No. 955-002-0000-8

7 USEPA, Water Policy Office
401 M St., S.W. (WH-556)
Washington, DC 20460
(202) 382-5818

8 USEPA, Office of Research and Development
Environmental Research Laboratory200 SW 35th St.
Corvallis, OR 97333
(503) 420-4666

9 USEPA, Office of Municipal Pollution Control
401 M St., S.W. (WH-546)
Washington, DC 20460
(202) 382-5850

10 The Conservation Foundation
1250 Twenty-Fourth St., N.W.
Washington, DC 20037
(202) 293-4800

11 U.S. Army, Corps of Engineers
Wetlands Research Program
(601) 634-3774

12 USEPA, Office of Research and Development
Environmental Research Laboratory
Duluth, MN 55804
(218) 780-5549

APPENDIX A - GLOSSARY

Ambient Monitoring - Monitoring within natural systems (e.g., lakes, rivers, estuaries, wetlands) to determine existing conditions.

Created Wetland - A wetland at a site where it did not formerly occur. Created wetlands are designed to meet a variety of human benefits including, but not limited to, the treatment of water pollution discharges (e.g., municipal wastewater, storm water, etc.) and the mitigation of wetland losses permitted under Section 404 of the Clean Water Act. This term encompasses the term "constructed wetland" as used in other EPA guidance and documents.

Enhancement - An activity increasing one or more natural or artificial wetland functions. For example, the removal of a point source discharge impacting a wetland.

Functions - The role wetlands serve which are of value to society or the environment.

Habitat - The environment occupied by individuals of a particular species, population or community.

Hydrology - The science dealing with the properties, distribution and circulation of water both on the surface and under the earth.

Restoration - An activity returning a wetland from a disturbed or altered condition with lesser acreage or functions to a previous condition with greater wetland acreage or functions. For example, restoration might involve the plugging of a drainage ditch to restore the hydrology to an area that was a wetland before the installation of the drainage ditch.

Riparian - Areas next to or substantially influenced by water. These may include areas adjacent to rivers, lakes, or estuaries. These areas often include wetlands.

Upland - Any area that does not qualify as wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands, or is defined as open waters.

Waters of the U.S. - See Appendix B for Federal definition; 40 CFR Parts 122.2, 230.3, and 232.2.

Wetlands - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland generally include swamps, marshes, bogs and similar areas. See Federal definition contained in Federal regulations: 40 CFR Parts 122.2, 230.3, and 232.2.

APPENDIX B

The federal definition of "waters of the United States" (40 CFR Section 232.2(q)) is:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
(2) All interstate waters including interstate wetlands;
(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which would or could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

(ii) From which fish or shellfish could be taken and sold in interstate or foreign commerce;

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;*

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;
(5) Tributaries of waters identified in paragraphs 1-4.
(6) The territorial sea;
(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in 1-6; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet criteria in this definition) are not waters of the United States.

(* Note: EPA has clarified that waters of the U.S. under the commerce connection in (3) above also include, for example, waters:

Which are or would be used as habitat by birds protected by Migratory Bird Treaties or migratory birds which cross State lines;

Which are or would be used as habitat for endangered species;

Used to irrigate crops sold in interstate commerce.)

APPENDIX C

INFORMATION ON THE ASSESSMENT OF WETLAND FUNCTIONS AND VALUES

Summary of Methodologies Prior to 1983
(Leonard and Clairain 1986)

Wetland Assessment Techniques Developed Since 1983
(USEPA 1989a)

- Wetlands Evaluation Technique (Adamus, et al. 1987). This nationally-applicable procedure has been used in at least 6 ADID's to date, mostly in its original form (known popularly as the "FHWA" or "Adamus" method). It has since been extensively revised and is available at no cost (with simple software) from the Corps of Engineers Wetlands Research Program (contact: Buddy Clairain, 601-634-3774). Future revisions are anticipated.

- Bottomland Hardwoods WET (Adamus 1987). This is a simplified, regionalized version of WET, applicable to EPA Regions 4 and 6. It is available from OWP (contact: Joe DaVia at 202-475-8795). Supporting software is being developed, and future revisions are anticipated.

- Southeastern Alaska WET (Adamus Resource Assessment 1987). This is also a simplified, regionalized version of WET.

- Minnesota Method (U.S. Army Corps of Engineers-St.Paul, 1988). This was a joint State-federal effort that involved considerable adaptation of

WET. A similar effort is underway in Wisconsin.

- Onondaga County Method (SUNY-Syracuse 1987). This was adapted from WET by Smardon and others at the State University of New York.

- Hollands-Magee Method. This is a scoring technique developed by two consultants and applied to hundreds of wetlands in New England and part of Wisconsin (contact: Dennis Magee at 603-472-5191). Supporting software is available.

- Ontario Method (Euler et al. 1983). This is also a scoring technique, and was extensively peer-reviewed in Canada. (Contact: Valanne Glooschenko, 416-965-7641).

- Connecticut Method (Amman et al. 1986). This is a scoring technique developed for inland municipal wetland agencies.

- Marble-Gross Method (Marble and Gross 1984). This was developed for a local application in Connecticut.

- Habitat Evaluation System (HES) (Tennessee Dept. of Conservation 1987). This is a revised version of a Corps sponsored method used to evaluate Lower Mississippi wildlife habitat.

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APPENDIX D

Regional Wetland Program Coordinators,
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26 Federal Plaza
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841 Chestnut Street
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USEPA, **Region 9**
Water Management Division
Wetlands, Oceans and Estuarine Branch
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San Francisco, California 94103
(FTS) 464-2187
(415) 744-2180

Bill Riley, Wetlands Coordinator
USEPA, **Region 10**
Water Management Division
Environmental Evaluation Branch
1200 Sixth Avenue
Seattle, Washington 98101

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(206) 422-1412

Regional Wetland Program Coordinators,
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Idaho, Nevada, USFWS, Region 1
Oregon, Washington Fish and Wildlife Enhancement
1002 N.E. Holladay Street
RWC: Dennis Peters Portland, Oregon 97232-4181
ASST: Howard Browers COM:503/231-6154
FTS: 429-6154

Region 2 Arizona, New Mexico Regional Wetland Coordinator
Oklahoma, Texas USFWS, Region 2
Room 4012
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FTS: 474-2914

Region 3 Illinois, Indiana, Regional Wetland Coordinator
Iowa, Michigan, USFWS, Region 3
Minnesota, Missouri, Fish and Wildlife Enhancement
Ohio, Wisconsin Federal Building, Ft Snelling
RWC: Ron Erickson Twin Cities, Minnesota 55111
ASST: John Anderson COM: 612/725-3536
FTS: 725-3536

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RWC: Ralph Tiner
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North Dakota, Fish and Wildlife Enhancement
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Utah, Wyoming Denver Federal Center
Denver, Colorado 80225
RWC: Chuck Elliott COM: 303/236-8180
ASST: Bill Pearson FTS: 776-8180

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USFWS, Region 7
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ASST: David Dall Anchorage, Alaska 99503
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FTS: (8) 907/786-3403

APPENDIX E

EXAMPLE OF STATE CERTIFICATION ACTION INVOLVING WETLANDS UNDER CWA SECTION 401

The dam proposed by the City of Harrisburg was to be 3,000 feet long and 17 feet high. The dam was to consist of 32 bottom hinged flap gates. The dam would have created an impoundment with a surface area of 3,800 acres, a total storage capacity of 35,000 acre feet, and a pool elevation of 306.5 feet. The backwater would have extended approximately eight miles upstream on the Susquehanna River and approximately three miles upstream on the Conodoguinet Creek.

The project was to be a run-of-the-river facility, using the head difference created by the dam to create electricity. Maximum turbine flow would have been 10,000 cfs (at a nethead of 12.5) and minimum flow would have been 2,000 cfs. Under normal conditions, all flows up to 40,000 cfs would have passed through the turbines.

The public notice denying 401 certification for this project stated as follows:

1. The construction and operation of the project will result in the significant loss of wetlands and related aquatic habitat and acreage. More specifically:

a. The destruction of the wetlands will have an adverse impact on the local river ecosystem because of the integral role wetlands play in maintaining that ecosystem.

b. The destruction of the wetlands will cause the loss of beds of emergent aquatic vegetation that serve as habitat for juvenile fish. Loss of this habitat will adversely affect the relative abundance of juvenile and adult fish (especially smallmouth bass).

c. The wetlands which will be lost are critical habitat for, among other species, the yellow crowned night heron, black crowned night heron, marsh wren and great egret. In addition, the yellow crowned night heron is a proposed State threatened species, and the marsh wren and great egret are candidate species of special concern.

d. All affected wetlands areas are important and, to the extent that the loss of these wetlands can be mitigated, the applicant has failed to demonstrate that the mitigation proposed is adequate. To the extent that adequate mitigation is possible, mitigation must include replacement in the river system.

e. Proposed riprapping of the shoreline could further reduce wetland acreage. The applicant has failed to demonstrate that there will not be an adverse water quality and related habitat impact resulting from riprapping.

f. Based upon information received by the Department, the applicant has underestimated the total wetland acreage affected.

2. The applicant has failed to demonstrate that there will be no adverse water quality impacts from increased groundwater levels resulting from the project. The ground water model used by the applicant is not acceptable due to erroneous assumptions and the lack of a sensitivity analysis. The applicant has not provided sufficient information concerning the impact of increased groundwater levels on existing sites of subsurface contamination, adequacy of subsurface sewage system replacement areas and the impact of potential increased surface flooding. Additionally, information was not provided to adequately assess the effect of raised groundwater on sewer system laterals, effectiveness of sewer rehabilitation measures and potential for increased flows at the Harrisburg wastewater plant.

3. The applicant has failed to demonstrate that there will not be a dissolved oxygen problem as a result of the impoundment. Present information indicates the existing river system in the area is sensitive to diurnal, dissolved oxygen fluctuation. Sufficient information was not provided to allow the Department to conclude that dissolved oxygen standards will be met in the pool area. Additionally, the applicant failed to adequately address the issue of anticipated dissolved oxygen levels below the dam.

4. The proposed impoundment will create a backwater on the lower three miles of the Conodoguinet Creek. Water quality in the Creek is currently adversely affected by nutrient problems. The applicant has failed to demonstrate that there will not be water quality degradation as a result of the impoundment.

5. The applicant has failed to demonstrate that there will not be an adverse water quality impact resulting from combined sewer overflows.

6. The applicant has failed to demonstrate that there will not be an adverse water quality impact to the 150 acre area downstream of the proposed dam and upstream from the existing Dock Street dam.

7. The applicant has failed to demonstrate that the construction and operation of the proposed dam will not have an adverse impact on the aquatic resources upstream from the proposed impoundment. For example, the suitability of the impoundment for smallmouth bass spawning relative to the frequency of turbid

conditions during spawning was not adequately addressed and construction of the dam and impoundment will result in a decrease in the diversity and density of the macroinvertebrate community in the impoundment area.

8. Construction of the dam will have an adverse impact on upstream and downstream migration of migratory fish (especially shad). Even with the construction of fish passageways for upstream and downstream migration, significant declines in the numbers of fish successfully negotiating the obstruction are anticipated.

9. The applicant has failed to demonstrate that there will not be an adverse water quality impact related to sedimentation within the pool area.

1 Different offices within EPA use different terminology (e.g., "created" or "constructed") to describe wastewater treatment wetlands. This terminology is evolving; for purposes of this guidance document, the terms are interchangeable in meaning.

2 Information on the availability of draft and final maps may be obtained for the coterminous U.S. by calling 1-800-USA-MAPS or (703) 860-6045 in Virginia. In Alaska, the number is (907) 271- 4159 and in Hawaii the number is (808) 548-2861. Further information on the FWS National Wetlands Inventory (NWI) may be obtained from the FWS Regional Coordinators listed in Appendix D.

3 For additional information on digital wetland data contact:
USFWS; National Wetlands Inventory Program
9720 Executive Center Drive, Monroe Building, Suite 101
St. Petersburg, FL, 33702, (813) 893-3624, FTS 826-3624

4 USFWS; Wetlands Values Database, National Ecology Research Center, 4512 McMurray, Ft. Collins CO, 80522; (303) 226-9407.

5 Florida Department of Environmental Regulations; State Regulations Part I, "Domestic Wastewater Facilities", Subpart C, "Design/Performance Considerations", 17-6.055, "Wetlands Applications".

Information Redacted pursuant to
5 U.S.C. Section 552 (b)(5), Exemption 5,
Privileged Inter/Intra Agency Document
SpecificPrivilege: Deliberative Process Privilege

Habitat Assessment

Stream Habitat

Available Habitat is a Key Limiting Factor for Species Diversity

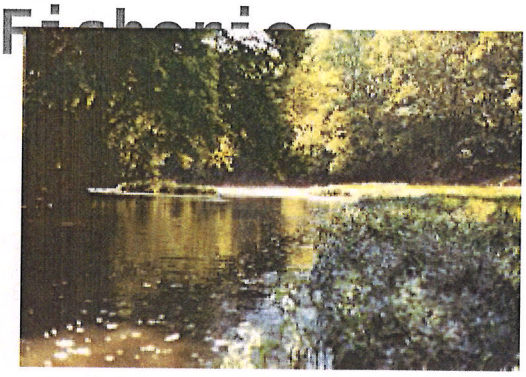
Assessing stream habitat is an important step in biomonitoring and restoration projects. Almost every project has a habitat evaluation component because it can be a critical limiting factor for species diversity, therefore cost and effort can be minimized by first assessing habitat.

EnviroScience has a decade of experience evaluating in-stream and riparian habitat. EnviroScience can evaluate stream habitat from small headwater streams to major river systems like the Allegheny and Ohio rivers. Oftentimes, habitat can vary greatly, even within a few feet. Therefore, EnviroScience incorporates the latest technology, such as underwater video and GIS / GPS mapping, in conjunction with standard evaluation forms such as the Qualitative Habitat Evaluation Index (QHEI) to provide a visual and descriptive analysis of project area habitat.

Our biologists can assess stream habitat by several innovative methods including:

- GIS / GPS mapping
- Rosgen Stream Classification
- Aquatic and shoreline vegetative surveys
- SCUBA surveys
- Bottom contour mapping
- Bottom typing using hydroacoustics
- Underwater video
- Habitat assessment forms (per state / federal regulatory agency)

Lake Habitat and Lake Fisheries



Habitat is a broad term used to describe the environment where organisms live and breed. Habitat in reference to aquatic ecosystems generally refers to overhanging vegetation, aquatic plants, woody debris, rock, substrate and water depth. The quality and distribution of these structures directly influence the living organisms and the entire lake ecosystem.

Conducting a habitat inventory with a fishery analysis can effectively guide management decisions concerning recreational fishing, boating, fish stocking and water quality.

Our biologists can assess lake and aquatic ecosystems habitat by several innovative methods including;

- GPS/GIS mapping
- Aquatic and shoreline vegetative surveys
- SCUBA surveys
- Bottom contour mapping
- Bottom typing using hydroacoustics
- Underwater video

A common recommendation given to many lake managers is the enhancement of structures by both artificial and natural means. EnviroScience can aid in the assessment and application of habitat restoration and enhancement programs.

Habitat can be artificially enhanced by man-made structures which are cost effective and easy to construct. EnviroScience can assist in design and installation of these structures as well as facilitate any associated permitting requirements.

log structures and brush piles.

A common natural restoration activity requires land owners to cease mowing activities near shorelines and allow the growth of a natural buffer. Reseeding shorelines with natural vegetation is one simple way to decrease shoreline erosion and provide shade and cover for juvenile fish. EnviroScience can design an aesthetic natural buffer zone using native plants in a process called Lakescaping.

Need help with your project?

Our experts are here to discuss your needs and how we can help you move your project forward. Fill out the form below for more information on our services or to request a quote and we'll get back to you within 24 hours. If you need a response within an hour or less, please call us at 800-940-4025.

Your Name (required)

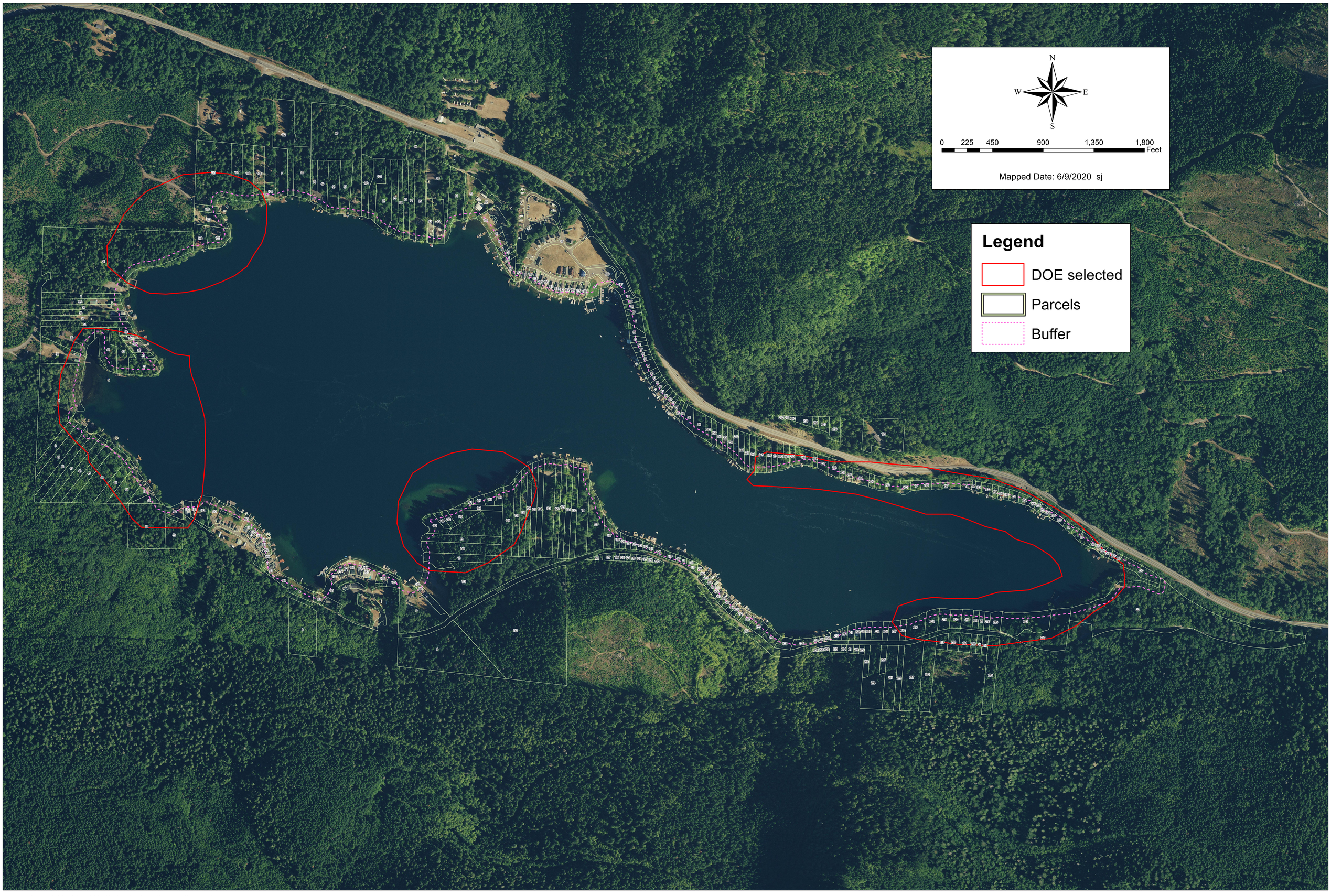
Your Email (required)

Subject

Your Message

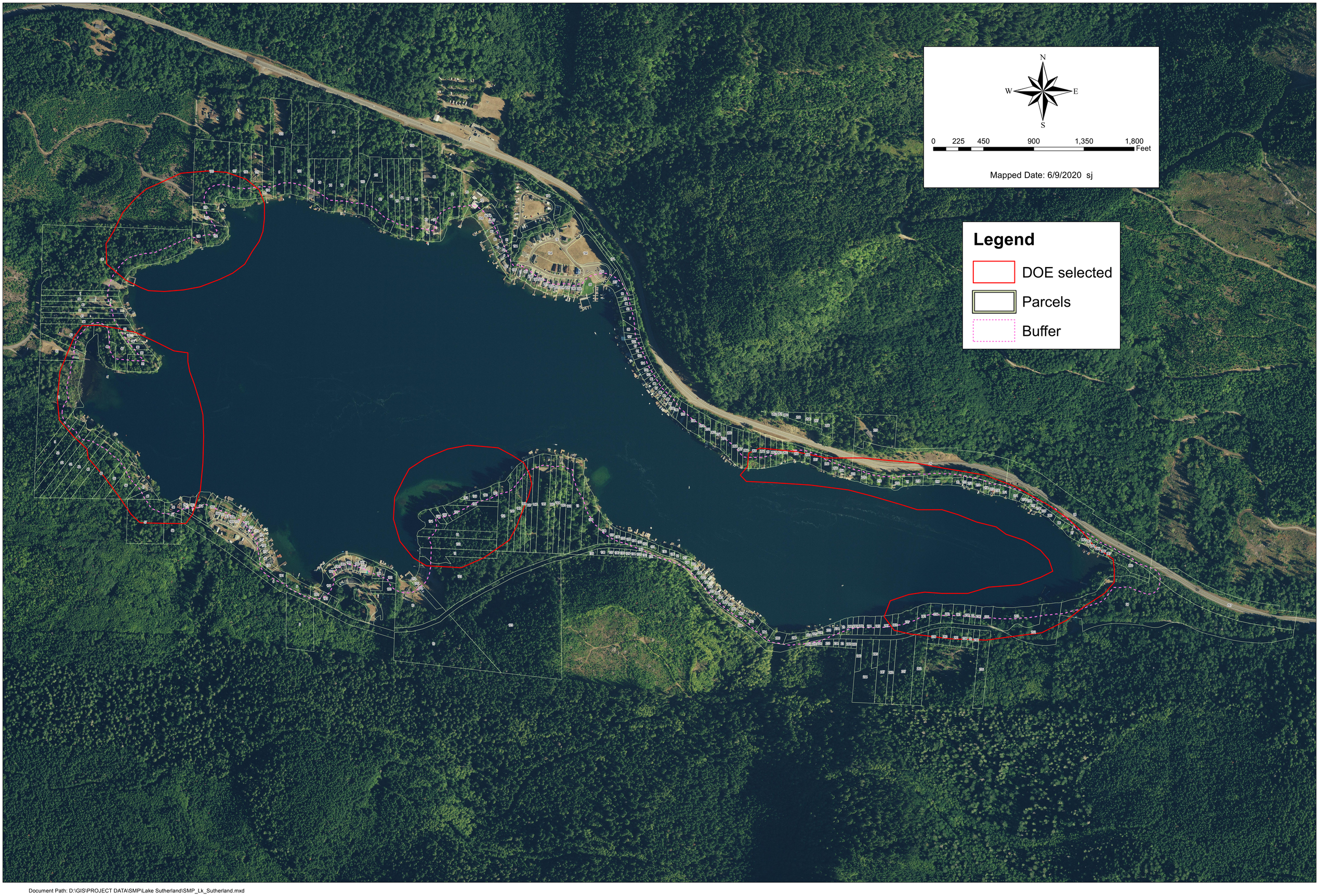
Send

Lake Sutherland - 50 ft Buffer



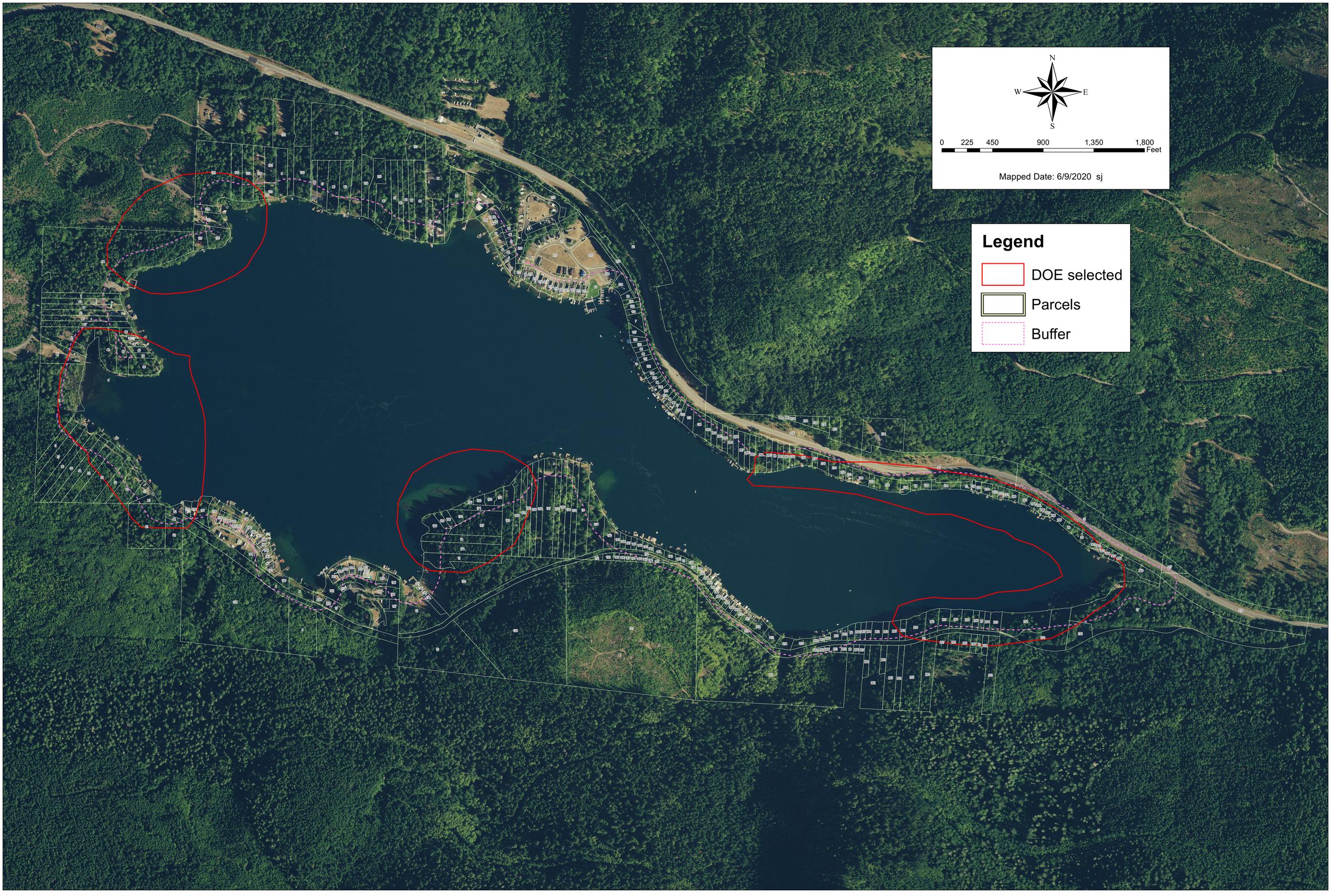
Document Path: D:\GIS\PROJECT DATA\SMP\Lake Sutherland\SMP_Lk_Sutherland.mxd

Lake Sutherland - 100 ft Buffer



Document Path: D:\GIS\PROJECT DATA\SMP\Lake Sutherland\SMP_Lk_Sutherland.mxd

Lake Sutherland - 150 ft Buffer



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Date:	Monday, June 03, 2019 1:55:38 PM
Attachments:	SHR2013-09 McColl Pier Dec final highlights.doc DCD approval of reivsed site plan III.pdf McColl 2006.pdf McColl 2016.pdf

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LAKE Sutherland Discussion

Clallam County Shoreline Master Program Update
Shoreline Master Program Advisory Committee
Notes from Shoreline Committee Meeting February 28, 2012

SMPC attendees:

Andy Stevenson	Jeffree Stewart	Matt Beirne
Arnold Schouten	Jo Anne Estes	Matt Heins
Bob Vreeland	John Cambalik	Michael Blanton
Carol Johnson	Judy Larson	Pearl Rains Hewett
Chris Burns	Katie Krueger	Pete Schroeder
Coleman Byrnes	Mary Pfaff-Pierce	Randy Johnson
Darlene Schanfeld	Harry Bell	Ron Gilles
George Eastman	Karl Spees	Theresa Nation
Jay Petersen	Kevin MacCartney	

County Staff & Consultants:

Margaret Clancy	Ann Seiter	Steve Gray
Jim Kramer	Sheila Miller	Cathy Lear

Public Attendees
Cindy Kelly, Dry Creek Water District
BMC Seth Hunt, USCG Port Angeles
Shawn Hankins
Connie Beauvais, Crescent Water District
Jess Waknitz, Port of PA

A. PRELIMINARY COMMENTS AND ANNOUNCEMENTS:

- Next meetings are March 6 and March 27. Aquaculture has been moved to March 27.
- It was suggested that committee members forward questions to County in advance of meetings if possible. Comments should be addressed to: SMPC@co.clallam.wa.us
- Written comments from the committee about the overall Shoreline Master Program framework are requested by the end of March. These perspectives will be used for public meetings in April, and will not be the last opportunity for the committee to comment.

B. OVERVIEW OF THE DRAFT SHORELINE MASTER PROGRAM: Consultant Presentation

- Proposed updates to the SMP are intended to provide certainty/predictability as well as flexibility.
- Ten Shoreline Designations have been identified. The designations have been tailored to Clallam County's conditions to address the range of variability that is present here. (Flow chart summary presented).
- The updated Shoreline Master Program will integrate regulations for Critical Areas and their buffers. This option has been recommended by staff and consultants to enable the County to have one set of rules that is fully integrated. Critical areas within and immediately adjacent to shoreline jurisdiction will be regulated under the updated SMP; critical areas

outside/away from the shorelines of the state will be regulated under the Critical Area Ordinance.

- Consultants are still working to integrate WRIA 20 work with the new shoreline environment designations. It was noted that the WRIA 20 group will need adequate time to review.
- Consultants are also finishing the revisions to the Inventory and Characterization Report.
- The draft Restoration Plan, Cumulative Impacts Analysis and no net loss report will be completed in April.
- Public meetings will be held in mid-April and prior to the last meeting of the Advisory Committee on April 27th.
- A question was raised about the water ward extent of shoreline jurisdiction relative to the meander line. The Consultants will research this issue and get clarification.

C. SHORELINE ENVIRONMENT DESIGNATIONS AND MAPS

1. Consultant overview:
   - Development on hazardous marine bluffs has had further analysis. Consultant's geologist re-reviewed the designations for specific areas including Sequim Bay and Dungeness Bay in response to questions from committee members—these areas need another look to ensure that concerns have been addressed.
   - The following changes were made to the designations since the Advisory Committee meeting in December:
     - *Changed stream mouths (if >100' wide or so) along high bank shorelines to lowland/estuary*
     - *Removed designations from tribal lands (e.g., Lower Elwha tribal trust lands)*
     - *Armored feeder bluffs east of PA—changed from high bank to feeder bluff*
     - *Fixed minor errors at Dungeness delta and Clallam River mouth*
     - *Extended modified lowland designation at Whiskey Creek*

2. Shoreline Environment Designations: Committee Discussion

   The committee members generally support the new system of Shoreline Environmental Designations with the following discussion and concerns.

   a. Transitional areas: Many of the committee members were concerned about the abrupt transition between different shoreline designations in some areas. Boundaries between different designations may create situations where adjacent parcels have very different standards. Geological conditions are seldom that abrupt. There were several suggestions for how to address the issue: allow an administrative process to adjust the regulations if the conditions of the site don't fit the Shoreline Environmental Designation criteria; allow for some transitional area between or adjust the regulations so there is not such a pronounced difference between some of the designations. Some Committee members want the County to retain authority for making changes/determination about designations and do not want these left up to Ecology.

b. There is still concern about the High Bank/Rocky Shore Designation. Committee members identified areas where there are significant unstable geologic conditions as well as stable conditions. The unstable areas can be just as hazardous as the Priority Feeder Bluffs.

c. A question was raised about how the statements regarding discouraging certain developments (in the Purpose section of the designations) would be implemented.

d. Specific areas of concern about shoreline designations:
   - Washington Harbor: Concern that the Lowland / Estuary designation implies the area is pristine when in fact it is bisected by a major outfall pipeline that is armored.
   - Sequim Bay—Concern that low feeder bluffs that nourish South Spit and Chicken Coop Spit are designated Bay.
   - Some Modified Lowlands and high bank rocky shore designations in the western Strait of Juan de Fuca. Highway 112 has exemplified the mass scale of movement of the landscape out there.
   - Assess consistency with adjacent jurisdictions (Port Angeles and Sequim)
   - Need consistency of definitions (in the designation criteria), especially with respect to density of development.
   - The draft SMP is missing designation maps for the Pysht River and Lake Sutherland

e. There was a discussion of the pros and cons of having 10 Shoreline Environment Designations when the state guidelines have 6. Although the proposed system may add some complexity, it has been recommended to address the variability along Clallam shorelines and provide more management flexibility.

D. OVERVIEW OF SMP SECTIONS 4.2 and 4.8: BUFFERS AND SETBACKS

1. Overview of buffers: The integration of the Shoreline Master Program and Critical Areas regulations provides more clarity on development requirements where there may be overlapping buffers. The proposed shoreline buffers in the draft SMP are generally larger than in the current County SMP. However in many cases the CAO buffer will be the more restrictive and CAO buffers are not substantially changed from the current County regulations. The main changes to buffers are along feeder bluffs and high bank marine areas. Buffer requirements apply to everything except forestry and agriculture. Development on migrating rivers and the risks related to channel migration and flooding have been considered further. New information on Channel Migration Zone maps from the Department of Ecology has been incorporated into the buffer recommendations. It was noted that in areas where Critical Areas occur within the Shoreline jurisdiction, the SMP takes precedence as defined in state law.
2. Overview of vegetation requirements: If a property owner meets the buffer requirements, they have usually met the vegetation conservation requirements in the shoreline jurisdiction. The County may require site designs that minimize clearing of mature vegetation in areas governed by the SMP that are outside of the shoreline buffer.
3. Clearing and grading/water quality:
   - Most new homes would require a temporary erosion plan and compliance with small project drainage manual.
   - Larger developments will require compliance with Ecology's "new" 2005 stormwater manual for Puget Sound.

4. Case Studies: The Consultants presented 5 examples to show how the buffers work:
    - Morse Creek: Freshwater residential shoreline combined with Channel Meander Zone. Morse Creek designations are affected by the new Channel Migration Zone maps, and a combined analysis of several parcels may be needed to consider development potential, factoring in the effect of levees.
    - Dungeness Bluffs: Priority feeder bluff shoreline combined with hazard zone buffer creates a larger setback than presently in the code.
    - Dungeness Bluffs #2 - Priority feeder bluff residential on a small lot where it is not possible to meet the buffer requirements. Relies on common line setback.
    - Dungeness River: Freshwater conservancy situation: River + floodplain+ CMZ + wetland.
    - Lake Sutherland: buffers increase from 35 feet to 50 in new SMP

E. COMMITTEE COMMENTS ON BUFFERS AND SETBACKS

1. Economic impacts: Some committee members expressed concern about potential taking of private property, impact of buffers and setbacks to assessed value, and reasonable use of the property as an RV or recreation site in light of the potential risk. Some committee members indicated that any economic analysis should also consider the impact to shellfish growers from degraded water quality, the public cost of environmental cleanup, loss of recreation opportunity, and the value of natural systems and fish & wildlife resources.
2. Local amendment or variance process: Some committee members advocated for a way to change shoreline designations and/or buffer requirements at the county level without having to amend the entire SMP or obtain Ecology approval. There were other comments that a local process, if adopted, should have a default to the more stringent set of standards in order to protect human safety and the environment, unless the landowner demonstrates a substantial case why the standards should not be applied.
3. Vegetation and building setbacks:
    a. A number of committee members supported the new buffer recommendations and several members don't necessarily agree the buffers need to be changed. Many members wanted to know the basis for the recommended widths (why 150-ft in Resource and 175-ft in Conservancy, for example).
    b. Someone noted that there was a inconsistency regarding the buffer for the Bay designation—is it 50 ft or 100 ft?
    c. There was a comment that landowners are required to remove noxious weeds at their own expense, but vegetation that is considered to be "good" or native vegetation must be left within the buffer. This creates a disparity with respect to economic and aesthetic impact to the property owner. The issue of noxious weed removal within buffer areas was discussed.
    d. There was a question why a 10 foot building setback is added on to the buffer requirements. The building setback is for accessing and maintaining the house. In the building setback, landowners may remove vegetation, bring in equipment for building repair, or have overhangs and walkways, but not within the buffer.
    e. There was a discussion about where the buffer requirements would create a major financial impairment for property owners. The proposed SMP would allow some clearing for access to the shoreline and for views. Staff encouraged committee members to look at the buffer regulations for clearing to determine if they think it is the appropriate level of protection and use.

f. There was a question about how the armoring requirements work with the proposed designations and the common line setback. This will be discussed when we cover stabilization.

g. There were comments about vegetation maintenance: that it would not be advisable to irrigate landscaping in a feeder bluff /landslide buffer situation, discourage the use of biosolids, pesticides and herbicides in the shoreline.

h. There was a comment that landslide hazards have been difficult to identify, regulate and manage under the Forest Practices requirements, and site-specific information and management flexibility is needed. Consultants indicated that landslide hazards have been identified on a broad scale through recent geological analysis, and that the provisions of the new SMP offer an option of using geotechnical analysis for site-specific design and management.

i. There was a question about whether property owners would be able to locate a well or septic system in any part of the shoreline buffer.

j. A question was raised about the value of having limits on impervious surfaces in the jurisdiction of the shoreline.

k. It was questioned by the buffer on Lake Sutherland should be increased from 35 to 50 feet since the lake is in good condition after 40 years with the smaller buffer.

4. Development in Hazardous Areas and Geotechnical Studies: There was a significant discussion of whether development should be allowed in channel migration zones of rivers and along highly erosive and unstable marine bluffs. There were mixed perspectives on requirements for geotechnical studies, and whether these should be required in different types of shorelines. Comments generally indicated that a requirement for such studies is advisable in hazard areas. Many committee members indicated that there should be criteria for what the studies must cover and the qualifications of the person who conducts the study. There were comments that geotech studies should have a 100-year design window and be accompanied by notice to title. Therese was considerable discussion about the utility of requiring individual property owners to do a geotech study in places like Morse Creek where there are many small lots in the potential CMZ—this does not seem practical or prudent. Committee members discussed several options if a study showed a property is in a hazardous area:
    - Allow the property owner to develop if they sign a waiver of liability to the County, put notice of the hazard on the deed and have proof of insurance. There were comments that a cleanup plan should accompany any such waiver.
    - Only allow portable facilities for recreational purposes.
    - Don't allow development because of the safety hazard.
5. Common line setbacks: There were mixed perspectives on using common line setbacks. Some committee members thought that this was a reasonable approach for areas that are already largely developed, like low bank development. Others said that it makes no sense to use a common line setback and allow a house between two houses that are already in a hazardous situation. Some committee members commented that this should be restricted to non-conforming lots.
6. Lowland shorelines, buffers, and elevation requirements: Some committee members stated that the proposed Modified Lowland buffer of 50 feet is not adequate to address health and

safety issues where there is a risk of coastal flooding, and there should be requirement to elevate structures to reduce the hazard. Others indicated that landowners should be able to build if the risk is clearly communicated via notice to title. Some committee members commented that Modified Lowland marine shorelines are likely to present a hazard over the 100-year life expectancy of a structure, particularly in light of climate change, and 50 foot buffers are inadequate, even coupled with elevation requirements. Additionally, impact to water quality and nutrient loading from septic systems needs consideration; it is unclear that this is adequately addressed via health department review. Modified Lowland buffers may need some additional review. It was noted that modified lowlands may be limited to a few areas in the County and it may be useful to look at these areas on a case by case basis.

7. Other comments:
   - Need good linkages between multiple sections, especially the buffers for non-conforming lots. Example 4.2-9 and 4.35. People may misinterpret what is required.
   - Some committee members requested the science behind expansion of buffers outside of priority feeder bluffs (mixed opinions whether buffers are too large or too small)
   - Buffer size in specific areas were cited as concerns (both as being too small and too big): Sequim Bay, Highway 112, Lake Sutherland

F. **WRAP UP**
   - Questions raised in the above discussion will be resolved to the extent possible at the Committee's final meeting to discuss the draft SMP on March 27.
   - How will landowners and the public be notified about the proposals? County staff will present at next meeting. Will include press release, newspaper insert with maps, mailing personal notice to landowners for public forums in April.

G. **PUBLIC COMMENT:** none from outside of the committee

FINAL

CUMULATIVE IMPACTS ANALYSIS AND NO NET LOSS REPORT

Clallam County Shoreline Master Program Update

Ecology Grant No. G1000062
EPA Grant No. PO-00J08801

October 2014 (Revised June 2017)

Prepared by:

Environmental Science Associates (ESA) with support from Kramer Consulting, Coastal Geologic Services and Ann Seiter

Feature	Description
Necessary Restoration to Account for Potential Impacts	Implementation of identified opportunities as shoreline development and redevelopment occurs; focus on ensuring riparian areas are enhanced when buffer averaging is proposed; and encouraging or incentivizing voluntary buffer enhancement landward of feeder bluffs. Need for additional restoration of River shoreline (removal of unnecessary shoreline stabilization) if new stabilization is permitted.

Table 5-15. Reasonably foreseeable future development – Lake Sutherland Analysis Area

Feature	Description
Analysis Area: Lake Sutherland (Figure 5-2)	
Zoning	mostly R1
Existing Shoreline Condition	>50% forested, many overwater structures, extent of existing shoreline modification is unknown, however appears common from review of aerial photography. Setbacks vary (30 feet to more than 100 feet).
Proposed Shoreline Environment Designation	Shoreline Residential – Intensive
Development Potential	**Existing Parcel Pattern and Subdivision Potential:** 267 total parcels in the Analysis Area, 203 of which have existing residential development, 32 are undeveloped (1 nonresidential parcel). This analysis area has limited subdivision potential (18 new lots possible). Potential view / shoreline access clearing impacts are limited to 10.5% of total parcels). **Developed Parcels:** Of the 234 parcels developed with residential use, 159 have existing structures within proposed shoreline habitat buffer. **Vacant Parcel:** Of the 27 vacant parcels, only 5 would be dimensionally constrained by proposed 35-foot minimum buffer. Of these, 4 parcels have existing intact riparian buffer (that would be impacted if development were to occur). **Potential for New Shoreline Stabilization**: None apparent Potential for New Residential Docks: Substantial potential (47 parcels; 17% of total parcels)
Summary of Anticipated Future Development	Moderate potential for development on existing vacant lots; however, majority would occur outside of required standard buffers. Substantial potential for riparian and shoreline impacts associated with intensified use on residential lots (redevelopment, resulting in more impervious surface, vegetation impacts); Substantial potential for additional future overwater structures (residential docks)

Feature	Description
Potential Impacts Associated with Anticipated Development	The majority of anticipated development, including future parcels created through subdivision, would occur consistent with proposed SMP habitat buffer provisions, limiting potential impacts to riparian vegetation, channel migration, and floodplain processes. Intensified use and limited new development on vacant parcels would increase potential impacts to lake water quality and riparian condition. Overwater coverage and associated modification to shoreline (habitat impacts; related water quality impacts)
Identified Restoration Opportunities	Shoreline stewardship information programs
	Septic system maintenance/remediation
	Revegetate disturbed riparian areas along Lake Sutherland, where possible
Necessary Restoration to Account for Potential Impacts	Implementation of identified opportunities as shoreline development and redevelopment occurs; focus on ensuring riparian areas are enhanced when buffer averaging is proposed; and encouraging or incentivizing voluntary buffer enhancement landward of feeder bluffs.

Table 5-16. Reasonably foreseeable future development – Salt Creek Analysis Area

Feature	Description
Analysis Area: Salt Creek (Figure 5-2)	
Zoning	R5, RLM
Existing Shoreline Condition	>80% forested, setbacks generally more than 200 from the stream shoreline
Proposed Shoreline Environment Designation	Shoreline Residential – Conservancy
Development Potential	**Existing Parcel Pattern and Subdivision Potential:** 16 total parcels in the Analysis Area, 8 of which have existing residential development, 8 are undeveloped. 7 new lots could be created through future subdivision potential. **Developed Parcels:** Of the 8 parcels developed with residential use, none have existing structures within proposed SMP buffer areas. **Vacant Parcel:** Of the 8 vacant parcels, only 1 would be dimensionally constrained by proposed SMP buffer areas. **Floodplain / CMZ Development on Existing Vacant Lots:** No apparent potential for future residential floodplain or CMZ development. **Potential for New Shoreline Stabilization**: No apparent potential for new stabilization related to minor (residential) development
Summary of Anticipated Future Development	Substantial potential for development on existing vacant lots; however majority would occur outside of required standard buffers.

In general, areas that are currently designated as Natural (such as Dungeness Spit and the lower Elwha River) are also designated as Natural under the proposed SMP, with the exception of shorelands zoned and managed as commercial forests (which are proposed to be designated as Resource Conservancy). Areas currently designated as Conservancy (such as upper Morse Creek and Deep Creek) are generally proposed to be designated as Resource Conservancy or Shoreline Residential-Conservancy, depending upon the underlying zoning and current land uses.

Areas currently designated as Rural (such as Freshwater Bay and the Dungeness River) are generally proposed to be designated as Shoreline Residential-Conservancy except in areas where smaller-lot development is prevalent (such as Diamond Point); these areas are proposed to be designated as Shoreline Residential-Intensive. Areas generally designated as Suburban are (such as Lake Sutherland) are generally proposed to be designated as Shoreline Residential-Intensive. Areas currently designated as Urban are generally proposed to be designated as Shoreline Residential-Intensive as well, with the exception of the Clallam Bay-Sekiu marine waterfront (which is proposed to be designated as Marine Waterfront).

7.3 Shoreline Buffers and Vegetation Conservation

In addition to limiting the types of uses allowed, each shoreline environment designation has corresponding shoreline habitat buffers and safety buffers (Table 7-4). The intent of establishing shoreline habitat buffers and safety buffers for each designation is to ensure that structures in the shoreline area are placed a suitable distance from the ordinary high water mark to protect existing ecological functions and maintain public safety. Buffers also provide physical separation from marine waters or freshwater and proposed development, which reduces need for shoreline stabilization and helps retain riparian vegetation.

Table 7-4. Summary of Shoreline Buffer Requirements (See SMP Section 6.3, Table 6-1 and 6-2)

	Marine Waterfront	Shoreline Residential – Intensive	Shoreline Residential – Conservancy	Resource Conservancy	Natural
Standard Buffer (measured from the ordinary high water mark)					
Minor New Development[1] *(Buffer varies depending on lot depth)*	50-75 feet	50-75 feet	100-125 feet	150 feet	175 feet
Major New Development[2] and Land Divisions	100 feet	100 feet	150 feet	150 feet	175 feet
Additional Buffer for Safety					
Freshwater Shorelines *(Applies to areas located in mapped*	N/A	Landslide Hazard Area: 50 feet Channel Migration Zone: *Based upon stream- or site-specific assessment*			

	Marine Waterfront	Shoreline Residential – Intensive	Shoreline Residential – Conservancy	Resource Conservancy	Natural
channel migration zones. *Buffers measured from the outer edge of the standard buffer.)*					
Marine Shorelines *(Buffer measured from the top of the bluff- varies based on the type of bluff.)*	Feeder Bluff Exceptional: 150 feet Feed Bluff or Feeder Bluff Talus: 100 feet Other Landslide Hazard Area: 50 feet				
Shoreline-specific Buffer					
Lake Sutherland	New development must be at least 35 feet landward of the OHWM.				

[1]Minor new development applies to single-family development or low intensity, water-dependent recreational use on existing lots of record. To be considered minor new development, the proposal must be below certain thresholds for clearing, impervious surface and structural footprint areas.

[2]Major new development applies to any development that does not qualify as minor new development.

To ensure that the buffers protect the full range of shoreline habitat, water quality and hydrologic functions, buffers must be maintained in a predominantly well vegetated and undisturbed condition. The SMP defines this to mean an average density of at least 150 woody stems per acre or 55 percent areal cover of woody vegetation. The vegetated areas must comprise at least 80 percent of the buffer area. The remaining 20 percent, or at least fifteen linear feet of the water frontage, whichever is greater, may be retained as an 'active use' area (meaning its primary purpose is for the enjoyment and use of the property owners not protection of the habitat or hazard area).

To minimize conflicts between vegetation conservation and the desire to have expansive shorelinebs, the SMP states that development proposals that involve extensive vegetation removal to create views or expansive lawns should not be allowed and that property owners should not assume that an unobstructed view of the water is guaranteed.

The SMP allows limited and selective tree removal, pruning, and/or limbing in the buffer to create a view of the shoreline, as long as the buffer condition following selective clearing conforms to the stem density and/or percent cover targets defined in the SMP. The Administrator may approve a greater area or amount of clearing if the development proponent provides a view clearance plan prepared by a qualified ecologist, forester, arborist, or landscape architect. The view clearance plan must identify and describe the location and extent of the proposed tree removal, pruning, or limbing.

For properties within designated landslide or erosion hazard areas, the view clearance plan must be prepared by an engineering geologist or geotechnical engineer to ensure that the proposed

removal, pruning, and/or limbing will not cause or exacerbate hazards associated with soil or slope instability.

Because the same buffers will apply to a wide variety of parcel conditions and land configurations (even within the same shoreline designation), the SMP allows some flexibility in administering the buffer requirements. There are a limited set of circumstances under which the County can allow buffer modifications without requiring a shoreline variance or additional compensatory mitigation. The flexibility is available only when: 1) that the amount and extent of buffer modification is the minimum necessary to accommodate the allowed use; and 2) the modification is located within pre-existing disturbed areas with low habitat value (meaning areas that have been cleared or altered, areas dominated by invasive species, areas that do not support priority habitats or species, etc.) or within the allowed active use area; and 3) will not impact geologically hazardous areas.

One type of flexibility is buffer averaging. Shoreline buffers may be averaged provided the total area of buffer remains the same and the buffer meets the stem density or percent cover targets described above. If the existing vegetation conditions do not meet the stem density or percent cover targets, then the buffer would need to be enhanced though planting. To minimize impacts on shoreline functions, the SMP limits the extent of the buffer than can be reduced through averaging to 40 percent of the buffer length along the shore frontage and the width of the buffer can only be reduced by up to 25 percent. Even with some allowance for averaging, the remaining buffers are sufficiently wide to protect the habitat functions of the adjacent shorelines. (the smallest minimum buffer through averaging ranges from 25 to 131 feet).

Shoreline safety buffers may also be averaged. Standards differ for marine and freshwater shorelines:

- Marine shorelines – the total area of buffer must remain the same and the buffer must meet the required stem density or percent cover targets. If the existing vegetation conditions do not meet the stem density or percent cover targets, then the buffer would need to be enhanced accordingly. The applicant must submit a geotechnical report and a geologist's estimate of when the residence would be undermined. The reduced portion of the buffer is limited to 40 percent of the buffer length along the shore frontage. The width of the buffer can be reduced for single-family residence equivalent to the estimated annual rate of erosion times 75 plus allowance for bank recession equal to the largest documented landslide in the vicinity. In no instances can the safety buffer be reduced to less than 50 feet.

- Freshwater shorelines – the same requirements for averaging safety buffers along marine shorelines apply to freshwater shorelines except that instead of a geotechnical report and geologist's estimate of when the residence would be undermined, documentation is required showing that the parcel is protected from channel movement or the risk of channel migration during the next 100 years is minimal. Estimating annual rates of erosion is not required for freshwater shorelines.

The common-line setback is another type of buffer flexibility. With the common-line setback, new residences on vacant lots with legally established residences on both sides may be set back

from the ordinary high water mark to a common line drawn between the nearest corners of the adjacent residences (instead of following the standard habitat buffer requirement). A similar allowance is provided when a legally established residence is only present on one side of the proposed site. Parcels located in mapped channel migration zones, or in landslide or erosion hazard areas are not eligible for the common line buffer. This option cannot be used to deviate from wetland or non-SMA stream buffers.

Certain modifications may be made within shoreline buffers as long as they conform to the dimensions and design specifications prescribed in the SMP (Table 7-5). The specifications are intended to limit the size and scale of these features and ensure they are located and constructed in the least environmentally damaging ways.

- View corridors;
- Private pathways;
- Hazard tree removal;
- Invasive species management;
- Boat launches, docks, piers and floats accessory to an approved single-family residential development;
- Boathouses accessory to an approved recreational development;
- Public trails and public access improvements; and
- Utilities and essential public facilities that are water-dependent or water-related.

Table 7-5.Summary of Modifications allowed in Shoreline Buffers (See SMP Chapter 6)

Allowed Modification	Rationale for Allowance	Summary of Potential Impacts
Clearing for view corridors (not more than 20% of the buffer)	It reasonable to provide property owners an allowance for views. By specifying a reasonable threshold, the goal is to promote compliance and minimize unauthorized view clearing.	See Chapter 5 of this document for detailed discussion
Private pathways	It is reasonable to provide property owners a way to access the water. Providing some accommodate promotes compliance and unauthorized trail constriction.	Pathways must be located within the active use area and cannot exceed 6 feet in width and be made of pervious material. These specifications limit impacts to a minimal level.
Hazard tree removal	Hazard tree removals are typically isolated or infrequent instances that are triggered by	SMP contains requirements to document presence of the hazard to prevent abuse of the allowance

PH May 6th, 2020

DEPARTMENT OF ECOLOGY
State of Washington

Chapter 4
No Net Loss of Shoreline Ecological Functions

All phases
Shoreline Master Program Planning Process

Introduction

The Shoreline Management Act (SMA) provides a broad policy framework for protecting the natural resources and ecology of the shoreline environment. The SMP Guidelines establish the standard of "no net loss" of shoreline ecological functions as the means of implementing that framework through shoreline master programs. WAC 173-26-186(8) directs that master programs "include policies and regulations designed to achieve no net loss of those ecological functions." (The specific sections of the Guidelines addressing the NNL requirement are included at the end of this chapter.)

RCW 90.58.020: The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation…This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life…

The SMP Guidelines, adopted in 2003, constitute the first actual rule (WAC) in Washington State to incorporate the no net loss requirement. The concept of no net loss in this State originated with earlier efforts to protect wetlands. In 1989, Governor Booth Gardner signed an Executive Order establishing a statewide goal regarding wetlands protection. "It is the interim goal...to achieve no overall net loss in acreage and function of Washington's remaining wetlands base. It is further the long-term goal to increase the quantity and quality of Washington's wetlands resource base." (E.O. 89-10).

What does no net loss mean?

Over time, the existing condition of shoreline ecological functions should remain the same as the SMP is implemented. Simply stated, the no net loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from new development. Both protection and restoration are needed to achieve no net loss. Restoration activities also may result in improvements to shoreline ecological functions over time.

Local governments must achieve this standard through both the SMP planning process and by appropriately regulating individual developments as they are proposed in the future. No net loss

NO BUFFER
Change
Instead

Reasonable
restrictions
Directly related TO
Preserving FISH
Development

This would
greatly undercut
claim of
TAKINGS/
Due Process
VIOLATIONS

should be achieved over time by establishing environment designations, implementing SMP policies and regulations that protect the shoreline, and restoring sections of the shoreline. Based on past practice, current science tells us that most, if not all, shoreline development produces some impact to ecological functions. However, the recognition that future development will occur is basic to the no net loss standard. The challenge is in maintaining shoreline ecological functions while allowing appropriate new development, ensuring adequate land for preferred shoreline uses and public access. With due diligence, local governments can properly locate and design development projects and require conditions to avoid or minimize impacts.

No net loss incorporates the following concepts:

- The existing condition of shoreline ecological functions should not deteriorate due to permitted development. The existing condition or baseline is documented in the shoreline inventory and characterization. (See Chapter 7.) Shoreline functions may improve through shoreline restoration.
- New adverse impacts to the shoreline environment that result from planned development should be avoided. When this is not possible, impacts should be minimized through mitigation sequencing.
- Mitigation for development projects alone cannot prevent all cumulative adverse impacts to the shoreline environment, so restoration is also needed. *

Practices that help achieve no net loss

The following SMP update practices will help to meet the no net loss requirement:

- **Locate, design and mitigate development within a watershed context.** During the SMP update process, use the characterization of ecosystem processes and functions to identify the best areas for future development and mitigation. The characterization can provide important information regarding areas that have a high potential for restoration and can be used for offsite mitigation. Such an approach can use a combination of onsite and offsite mitigation that helps restore critical processes and generates a greater "lift" in ecosystem functions.
- **Prohibit uses** that are not water-dependent or preferred shoreline uses. For example, office and multi-family housing buildings are not water-dependent or preferred uses. There is no requirement to provide a place for all types of uses within shoreline jurisdiction.
- **Require that all future shoreline development**, including water-dependent and preferred uses, is carried out in a manner that limits further degradation of the shoreline environment. No uses or activities, including preferred uses, are exempt from the requirement to protect shoreline ecological functions.
- **Require buffers and setbacks.** Vegetated buffers and building setbacks from those buffers reduce the impacts of development on the shoreline environment.
- **Establish appropriate shoreline environment designations.** The environment designations must reflect the inventory and characterization. A shoreline landscape that is relatively unaltered should be designated Natural and protected from any use that would

degrade the natural character of the shoreline. (In practice, this would avoid future impacts, the first objective of no net loss.) New shoreline development in such environs is limited, resulting in avoidance of new impacts.)

- **Establish strong policies and regulations.** Policies and regulations will define what type of development can occur in each shoreline environment designation, determine the level of review required through the type of shoreline permit, and set up mitigation measures and restoration requirements.
- **Develop policies and requirements for restoration.** These should be consistent with the shoreline restoration plan prepared during the SMP planning process.
- **Recommend actions outside shoreline jurisdiction.** The master program or an SMP supporting document can recommend actions for properties that are outside shoreline jurisdiction but have impacts on shorelands. For example, the SMP could call for improved stormwater treatment of runoff from roads, or replacement of septic systems with sewers. Recommending these actions could help create awareness of problems and provide support for them, although outside the authority of the SMP. Such recommendations could be included in the shoreline management strategy or in a brief chapter within the SMP. This would also satisfy the SMA adjacent lands policy (RCW 90-58.340) that local governments are obligated to meet.
- **In all cases, require mitigation sequencing**. The SMP must include regulations that require developers to follow mitigation sequencing: avoid impacts, minimize impacts, rectify impacts, reduce impacts over time, compensate for impacts, monitor impacts and take corrective measures. Avoiding impacts means not taking an action or part of an action in order to prevent impacts to ecological functions. Impacts can be avoided in many different ways: structures may be sited further from properly functioning shoreline areas; different landscaping plants or techniques may be used; a less impactful use may be substituted; or a proposal may be redesigned altogether.

How to demonstrate no net loss

Local governments demonstrate no net loss at two levels -- through the comprehensive SMP update planning process and over time, during the project review and permitting processes (in other words, during SMP implementation).

No net loss in the SMP planning process

The following graphic provides a visual description of the role of the SMP update in achieving no net loss. Through mitigation and restoration, a jurisdiction would achieve no net loss of shoreline ecological functions.

SMP updates: Achieving no net loss of ecological function

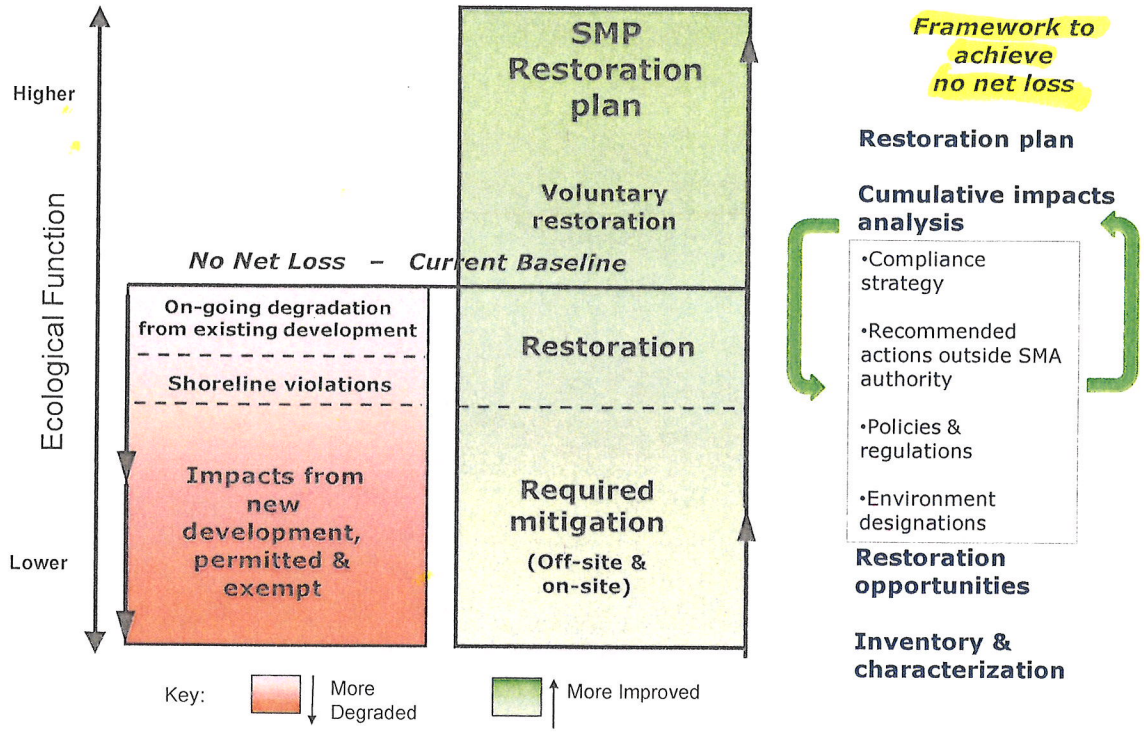


Figure 4-1: During the SMP update process, local governments should use existing shoreline conditions as the baseline for measuring no net loss of shoreline ecological functions.

Local governments show that their updated SMP will result in no net loss of ecological function by completing several tasks in the comprehensive SMP update process, including:

- **Shoreline inventory and characterization**. The shoreline inventory documents shoreline baseline conditions and the characterization analyzes shoreline functions and processes. (See SMP Handbook Chapter 7.
- **Shoreline use analysis.** The use analysis estimates the future demand for shoreline space and potential use conflicts over a minimum 20-year planning period and projects future trends.
- **Shoreline management recommendations.** Management recommendations translate the inventory and characterization findings into SMP policies, regulations, environment designations and protection strategies for each shoreline planning unit.
- **Restoration plan.** The restoration plan includes restoration opportunities, priorities and timelines for shoreline restoration.
- **Cumulative impacts analysis.** This analysis assesses the cumulative impacts on shoreline ecological functions from "reasonably foreseeable future development" allowed by the SMP, considering at a minimum habitat, hydrology and water quality functions.

Analyzing cumulative impacts is necessary to identify and compensate for the total predictable, incremental effects on shoreline functions after applying mitigation measures and restoration.

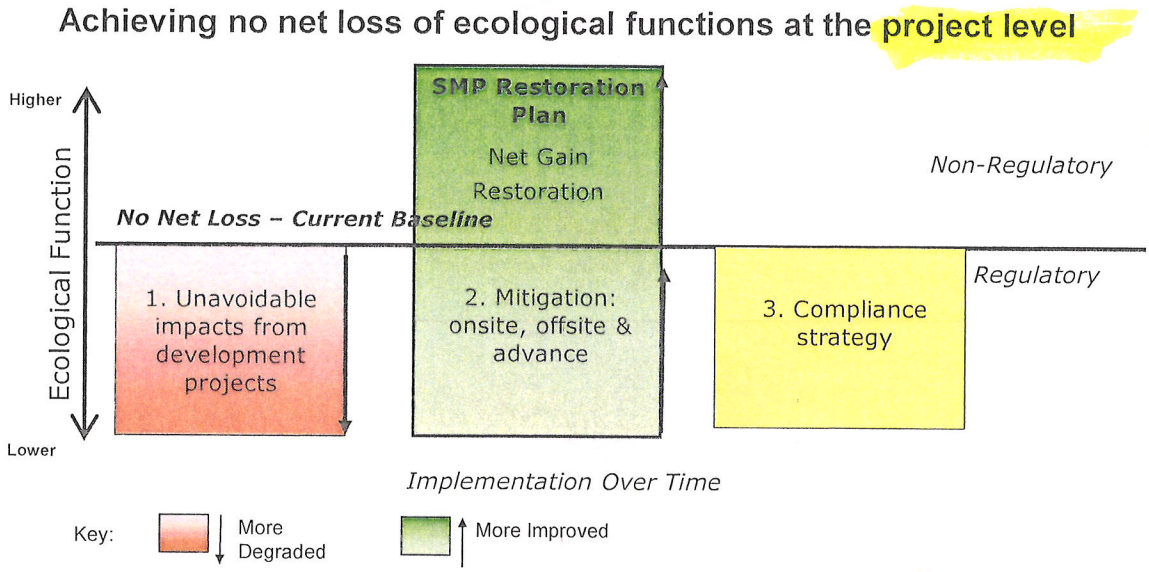
- **No net loss summary.** This narrative provides an overall picture of how the jurisdiction will meet the NNL requirement. This "executive summary" will explain how information from the supporting documents listed above was applied in developing and revising policies and regulations within the updated SMP. The summary should compare the conclusions of the supporting documents with the environment designations and use regulations to demonstrate how these provisions avoid, reduce, and mitigate reasonably foreseeable impacts in order to achieve NNL. This summary should provide a general chronology of the update while providing reference to the specific chronology captured in the SMP checklist. The purpose of this summary and other supporting documents is to ensure that the SMP environment designations, policies, regulations and shoreline restoration plan are based on the findings of the inventory and characterization and the cumulative impacts analysis and will achieve NNL. Documentation of this information will also provide a record of the jurisdiction's decisions on SMP policies and regulations in relation to NNL.

To approve a comprehensive SMP update, Ecology's Director must formally conclude that the proposed SMP, when implemented over its planning horizon, typically 20 years, will result in "no net loss of ecological functions necessary to sustain shoreline natural resources." This conclusion will be based upon the documents listed above, a completed SMP submittal checklist and supporting map portfolio.

No net loss in the permit process

When the SMP goes into effect, careful and thorough implementation will be necessary to achieve no net loss. For example, if the SMP prohibits office buildings and condominiums in the Conservancy environment, then your jurisdiction should not approve these uses in that environment. The cumulative impacts analysis would have shown that no net loss would be achieved if office buildings and condominiums are prohibited in the Conservancy environment. Allowing offices and condominiums under this scenario would result in a loss of shoreline functions.

When implementing the updated SMP, no net loss principles (first avoiding, then minimizing and compensating for ecological impacts) are applied again as individual shoreline project applications are reviewed and approved, conditioned, or denied. The following graphic demonstrates how the no net loss requirement is partially achieved during the permit process.



1. Impacts from shoreline development projects, after mitigation and restoration measures. SMP should encourage appropriate use of innovative measures such as clustering, TDRs, site specific BMPs, etc. to reduce impacts.

2. On-site, off-site and advance mitigation. SMPs should lay out the conditions when off-site mitigation will be allowed or preferred. Innovative techniques such as wetland banking (advance mitigation) should be addressed in SMPs. SMP restoration plans should help identify priority sites and types of sites for the most effective off-site restoration activities.

3. A compliance strategy should include a mechanism to document project review actions and a method to periodically evaluate the cumulative effects of authorized shoreline development. The compliance strategy should include inspection of development projects, and identify priorities for enforcement to improve protection of the most significant shoreline features and functions.

Figure 4-2: SMPs must include regulations that require developers to follow mitigation sequencing. Restoration will also be needed in order to achieve no net loss.

During the planning process, incomplete information about a potential future development and its impacts limits your ability to address no net loss. To close this information gap, unanticipated development impacts are identified through more detailed, site-specific information received at the permit review level.

Project review completes the Guidelines' combined planning and permit review framework for achieving no net loss. It assures that unanticipated impacts will still be subject to a cumulative impacts evaluation as applications for shoreline exemptions, conditional uses, and shoreline permits are reviewed.

WAC 173-26-201(3)(d)(iii):For development projects that may have unanticipatable or uncommon impacts that cannot be reasonably identified at the time of master program development, the master program policies and regulations should use the permitting or conditional use permitting processes to ensure that all impacts are addressed and that there is no net loss of ecological function of the shoreline after mitigation.

One way to comply with the SMP Guidelines requirement is to apply an established mitigation sequence such as that in the State

Environmental Policy Act (*SEPA - WAC 197-11-768*) on a case-by-case basis during project review.

Another way is through a conditional use permit (CUP). CUPs are automatically required for unanticipated types of development ("unclassified" uses). The SMP also may require CUPS for developments in which the impacts cannot be fully known at the planning level. Through the CUP review process, "consideration shall be given to the cumulative impact of additional requests for like actions in the area" [*WAC 173-27-160(2)*].

Potential no net loss indicators

Local planners working on SMP updates have asked for a tool to measure no net loss. In response, Ecology staff scientists and planners, with input from several state agencies and local governments, developed a list of potential No Net Loss indicators for Shoreline Master Programs (Table 4-1, below). This table of indicators can be used by local governments to help track the status of shoreline functions. Tracking several indicators can help to meet the "no net loss" of shoreline ecological functions standard of the SMP Guidelines.

The table shows 15 potential indicators and the type of measurement for each, such as acres, linear feet, number, percent cover, etc. The table shows the shoreline functions – water quality, water quantity and habitat – that are affected by the indicator, as well as specific impairments related to the indicator. Other columns include limitations for using the indicators, where the indicators are best used, and the availability of data. The indicators are limited to the area within shoreline jurisdiction where SMP regulations are implemented.

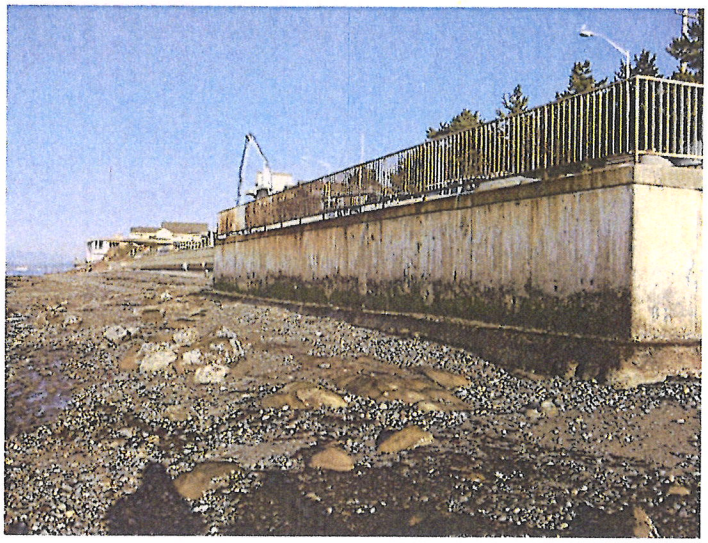


Figure 4-3: The linear length or area of bulkheads may be used as an indicator of no net loss of shoreline ecological functions. Photo by Hugh Shipman.

Measuring and continuing to track these indicators can give you a picture of shoreline conditions and ecological functions. The indicators can be measured to track loss or gain. For example, the length of shoreline stabilization may increase or decrease, or the acreage of riparian vegetation may increase or decrease. As conditions change over time, you may need to make changes to your SMP if tracking the indicators shows that your community is not achieving "no net loss" of shoreline ecological functions.

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected - key categories - water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
Forest cover: Acres converted from forest land to other land uses.	Water quality-sediment, nutrients & toxic filtration, conversion, and/or retention; temperature regulation. Water quantity-flow regulation. Habitat-structure for habitat life needs; input of organics & LWM*.	Reduces forest buffers and decreases filtering, conversion, and/or retention of pollutants from surface & subsurface flow; increases quantity of pollutants to aquatic habitats. Alters the delivery and timing of water to aquatic areas, increasing quantity of water delivered to aquatic habitats during high and low flows, which affects habitat structures. Increases water temperature. Loss of nesting sites, rearing, refuge & foraging areas.	Doesn't identify future land use. May be difficult to determine acres in shoreline jurisdiction without finer scale analysis.	Rural.***	Details of application available from DNR and local government. Class IV forest practice applications. CCAP data.
Shoreline stabilization: Linear length or area of bulkheads, revetments, bioengineering, seawalls, groins, retaining walls,	Habitat-Riparian and aquatic habitat, sediment supply. Input of organics, prey base, & LWM. Structure for habitat life needs.	Interrupts habitat-forming processes, such as beaches & channel migration, by impacting sediment supply and transport. Loss of nesting sites, rearing, refuge & foraging areas. Loss of prey base with	Combines different types of stabilization measures into one general category; impacts may vary.	Rural, urban.	Is data available from local government, including permits & SDP exempt projects? Can locals track over time? HPA information can supplement other data, but is not sufficient on

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected – key categories – water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
gabions. (Includes decrease in length, change to soft structure.)		associated loss of riparian vegetation.			its own. Detailed aerial photos may also show stabilization changes.
Marine & freshwater riparian vegetation: Linear measurement of mature native riparian vegetation of a given width (buffer width) or percent cover of different vegetation classes.	Water quality-sediment, phosphorus & toxic filtration, conversion, and/or retention; temperature regulation. Water quantity-flow regulation. Habitat-input of organics, prey base, & LWM. Structure for habitat life needs.	Removes capacity of riparian vegetation to filter surface flows, sediment, phosphorous and toxics; subsurface removal or conversion of nitrogen, pathogens. Increases overland and subsurface flows. Increases water temperature. Reduces prey base. Loss of LWM that provides instream structure. Loss of nesting sites, rearing, refuge & foraging areas.	No permit, so no record of change. Focused project needed to track. Useful only if a baseline exists. Methodology needs to be able to measure change. May be difficult to measure over short time frame.	Rural, urban.	Can locals measure and track? Use sample areas, aerial photos. Puget Sound LIDAR consortium has some data.
Acres of permanently protected areas, with no or limited development: Public ownership, current use/PBRS, conservation	Water quality-sediment, phosphorus & toxic filtration, conversion, and/or retention; temperature regulation. Water quantity-flow regulation.	Loss of nesting sites, rearing, refuge & foraging areas.	How measure degree of protection? Limit to protected areas with no development? Difficult to connect with specific functions.	Rural, urban.	Need info on ownership, PBRS, easements. Other info available from county auditor and assessor? Land trusts. NRCS and state agencies are also

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected - key categories - water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
easements, fee ownerships, NGOs.	Habitat- Riparian and aquatic habitat, sediment supply. Input of organics, prey base, & LWM. Structure for habitat life needs.				sources for permanently protected lands.
Piers/docks/floats, overwater structures: Number of structures, square footage of new and replacement. Or track grating, piling, construction materials.	Habitat. Water quality-toxics.	Increase in predation, reduction in light and aquatic vegetation and simplification of food web.	All docks not same - i.e. grating, materials vary, location affects impacts. New docks partially mitigate impacts.	Rural, urban.	Is data available from local government, including permits and SDP exempt projects? Can locals track over time? Use DNR data - number of and area over water. HPA information can supplement other data, but is not sufficient on its own. Good to monitor late spring/early summer.
Road lengths (feet) within 200 feet of water body.	Water quantity. Water quality. Habitat- connectivity.	Intercepts and changes timing of flows to aquatic habitat. Increases sediment and toxics.	Is there much new road development in shoreline jurisdiction?	Rural, urban.	Data available from DNR, local governments and WSDOT. CCAP data needs analysis to provide relevant information.
Number of road crossings of water bodies -bridges, culverts.	Habitat - Instream functions. Water quality.	Simplifies stream habitat structure, increases channel confinement and interrupts habitat forming processes.	Is there much new road development in shoreline jurisdiction? Distinguishing between fish friendly crossings	Rural, urban.	Culvert inventories vary in quality. WDFW has fish passage barrier data, but it is incomplete. Remote sensing data? SHIAPP

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected - key categories - water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
		Increases delivery of pollutants.	and others. Combining broad range of activities.		data? CCAP data needs analysis to provide relevant information.
Water quality: 303(d) list. All water quality parameters such as temperature, dissolved oxygen, fecal coliform, heavy metals, toxics, organics and biological indices (e.g., Biological Index of Biotic Integrity). Shellfish listings closures.	Water quality.	Impairment is specific to type of listed 303(d) issue (e.g. increased temperature, low dissolved oxygen, increased fecal coliform, heavy metals and toxic organics.)	How relate to functions? Some impacts from outside shoreline jurisdiction. Only impaired waters are listed & measured; no WQ improvement project in place. No criteria to remove from list. Sampling methodology changes, not always comparable. Marine & fresh water lists updated in alternating 2-year cycles. Some impacts from outside shoreline jurisdiction and municipality. Emergency closures updated regularly. Uneven data. Changes may be too frequent for NNL purposes. Limited to	Rural, urban.	Accessible data from Ecology. Is water body on or off list? In some cases, only a portion (e.g., reach) of a water body is listed. 303(d) - comprehensive, Dept of Health Shellfish Program.

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected - key categories - water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
			fecal coliform. Reflects impacts on human health, not shellfish health.		
Levees/dikes: Linear feet, floodplain area gained from levee setbacks.	Water quality -sediment removal, temperature regulation. Water quantity-water storage, flooding. Habitat-structure for habitat life needs (e.g., low LWM, stream bed aggradation, river mouth progradation).	Impairs natural flooding regime. Reduces floodplain sediment retention, denitrification and hyporheic functions. Decreases groundwater storage and base flows. Interferes with formation of habitat structure such as distributary channels in tidal and riparian and in-channel and off-channel habitat in freshwater settings. Removes habitat structure for nesting, rearing, refuge and foraging.	Can change in habitat quality as a result of levee/dikes be easily measured? Various types and locations of levees & dikes are lumped together. Types of openings in levees and dikes vary; impacts may vary.	Rural, urban.	Measure increase/decrease in lineal feet, quality of levee related to riparian vegetation & slope. Is data from local governments or FEMA?
Floodplain area: Acres allowed to flood -tidal and river (lack of flood control and lack of other structures such as houses.)	Water quality - removal of toxics, sediment, phosphorous and pathogens through adsorption, filtration and retention. Removal of nitrogen through	Impairment similar to that for levees & dikes with loss of floodplain from diking & filling.	Availability of data, maintenance of data.	Rural, urban.	Do local governments measure this for shoreline inventory? FEMA floodplain info available.

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TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected - key categories - water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
	denitrification. Temperature regulation. Water quantity - water storage and flow regulation and reduction in downstream flooding. Habitat - formation of habitat structure from LWM, vegetation communities and sediment type/channel configuration that support habitat life needs. Input of organics and prey base.				
Number of bald eagle & osprey nests & roosts & great blue heron rookeries.	Habitat - structure for habitat life needs.	Indicator of impaired habitat.	More suitable for counties than cities.	Rural.	WDFW data - most up-to-date for eagles.
Percent cover of invasive species in riparian zones.	Habitat - Riparian and aquatic habitat, sediment supply. Input of organics & LWM. Structure for habitat life needs.	Overwhelms native plants, compromising ecosystem. Potential effect on physical structure and food web dynamics.	Requires field work. May be useful if data set is available. Use Noxious Weeds list to define invasive species?	Rural, urban.	Is data available? Conservation districts? WA Invasive Species Council? (working on baseline assessment due in May 2011)
Impervious surface area.	Water quality - removal of toxics, sediment, phosphorous and	Reduces vegetative buffers and decreases filtering of	Covered by other indicators? Percentage increase in developed	Urban	Aerial photos or other remote sensing techniques show

DCD 8805 - 027

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected – key categories – water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
	pathogens through adsorption, filtration and retention. Removal of nitrogen through denitrification. Temperature regulation. Water quantity - water storage and flow regulation and reduction in downstream flooding. Habitat - formation of habitat structure from LWM, vegetation communities and sediment type/channel configuration that support habitat life needs. Input of organics.	pollutants from surface & subsurface flow. Alters the delivery and timing of water to aquatic areas, increasing quantity of water and pollutants delivered to aquatic habitats during high and low flows, which affects habitat structure. Increases water temperature Reduces prey base (by associated removal of vegetation) Loss of nesting sites, rearing, refuge & foraging areas.	urban areas would be small and may not be useful indicator. Some land surface cover layers are inaccurate, e.g. showing impervious for clearcut forest.		impervious cover. Local governments require new impervious information in permit applications.
Wetlands <u>acreage:</u> Fill of natural wetlands and constructed or engineered wetlands. This includes nearshore tidal estuaries.	Water Quality - Wetlands filter pollutants and store sediment. Water Quantity - Affect groundwater storage and flow regulation. Habitat - Affects habitat structure, results in loss of wetland vegetation	Changes to natural hydrological, chemical, and physical regimes affect the production and succession of a wetland's ecology, and therefore its functions and values.	Difficult to track. Could be covered in other indicators (impervious surface and water quality), however other indicators don't get at wetland conversion to non-impervious land use such as landscaping or	Rural, urban	Is data available? Local permit tracking? Ecology? Core of Engineers?

DCD 8805 - 028

TABLE 4-1: POTENTIAL NO NET LOSS INDICATORS for SHORELINE MASTER PROGRAMS

Indicator (all in shoreline jurisdiction)	Functions affected – key categories – water quality, water quantity and habitat	Type of Impairment**	Limitations of indicator	Where	Is data available or reasonable to obtain
	communities that support habitat life needs.		agriculture. May require field work.		
Area of seagrasses, kelp and emergent aquatic vegetation.	Habitat – structure for habitat life needs, including food and shelter for many species.	Decreases in aquatic vegetation such as eelgrass and kelp results in loss of food and shelter for many species.	Multiple factors affect growth and sustainability of aquatic vegetation.	Aquatic	Seagrass, kelp and emergent aquatic vegetation data along shoreline available from DNR Shorezone. (1994-2000) More recent local data available at those sites that are among the stratified randomly sampled sites.

* LWM – Large Woody Material

** For some indicators, decreasing the length or area of the indicator would result in a benefit to shoreline functions (e.g., shoreline stabilization, piers & docks.) For other indicators, increasing the length or area of the indicator would result in a benefit to functions (e.g. forest cover, riparian vegetation.)

*** Rural includes rural residential, agricultural and forestry areas.

CCAP – Coastal Change Analysis Program

NGO – Non-government organization

PBRS – Public Benefit Rating System

NRCS – National Resource Conservation Service

Inventory provides baseline

A baseline of shoreline ecological conditions is necessary in order to use indicators. You need a starting point. Fortunately, the shoreline inventory and characterization provide the baseline for measuring no net loss. The best time to collect data related to the indicators is during the shoreline inventory.

Some local governments have completed their inventory, and don't plan on collecting new data in the near future. Existing inventory data should provide good information for some of the indicators – impervious surfaces, levees and dikes, shoreline stabilization, floodplains, vegetation, overwater structures – as they are required as part of the inventory, to the extent that such information is available.

If you are working on the inventory now or will be in the future

Look at the indicators list. Consider what you now know about your shorelines. Are you aware of extensive riparian vegetation, a large number of eagle nests, water quality problems or limited shoreline armoring? Would these indicators be able to be counted as part of the inventory and tracked over time? What about other indicators? As you work on the inventory, keep the potential indicators in mind. If you find out there aren't any eagle nests, they would not be a good indicator for your community. If you learn there are many feet of roads in shoreline jurisdiction, and there are also long-term plans to remove some road lengths, road length may be a good indicator. Keep in mind that data about the indicators needs to be available now and in the future.

If your inventory is complete

Look at the indicators list. Consider your shoreline conditions and the inventory information that you have available. Are several of the indicators on the list reflected in your inventory? Does your inventory include the amount of shoreline stabilization or overwater structures such as piers and docks (this information is commonly included in inventories.) If so, you can choose several indicators from the list. If Ecology's potential indicators are not applicable to your shorelines, what inventory information could be useful as one or more indicators?

Selecting other indicators

If Ecology's potential indicators are not appropriate for your shoreline, you may develop your own. Your local government may have data specific to your shorelines that could be useful for indicators. These indicators should be relevant to the regulatory authority that your local government has over factors that affect the indicators. If an upstream city's activities have significant effects on water quality along your shoreline, then water quality is not an appropriate indicator to measure net loss or gain that can be attributed to your local government's actions. When determining what indicators to use, consider the following criteria:

- Data are available, reliable and can be gathered in a consistent manner over time. Note that data may be specific for some areas and not available for other areas

within your jurisdiction. Example, current eelgrass data are available for some nearshore areas and not others.

- The data selected for measurement provide an indication of ecological function within shoreline jurisdiction.
- Indicators are relevant to implementation of local policies and regulations. The number of orcas that pass by offshore is not a reflection of your local SMP's effectiveness, as orcas can range through the waters of many jurisdictions, even going out of state or country.
- Data have the potential to show change over a relatively short time period.
- Indicators are used by other agencies such as the Puget Sound Partnership.

An indicator may be present throughout your shoreline jurisdiction, such as impervious surfaces in urban areas, or limited to one or several shoreline reaches, such as freshwater riparian vegetation. A small percent reduction of impervious surfaces throughout shoreline jurisdiction could have significant positive effects on shoreline functions. On the other hand, the loss of riparian vegetation in one or several reaches could have significant detrimental impacts on shoreline functions. You could choose one or two indicators that occur throughout shoreline jurisdiction and several other indicators that occur in one or several reaches where a gain or loss represents a substantial change to shoreline functions.

Choosing appropriate indicators

Choose indicators that represent habitat, water quantity and water quality in your community. For example, shoreline stabilization affects habitat; forest cover affects habitat, water quantity and water quality; and the 303(d) list reflects water quality. This combination of indicators, if they adequately represent your shorelines, would be good to track.

The indicators you choose should take into account the anticipated future development along your shorelines. Projecting "reasonably foreseeable future development and use of the shoreline" is part of the Cumulative Impacts Analysis. If you expect that urban, suburban or high intensity development will occur along the shoreline, consider indicators related to such development. These may include impervious surface area, shoreline stabilization, overwater structures, riparian vegetation, road lengths or invasive species, among others.



Figure 4-4: Riparian vegetation, overwater structures and impervious surfaces are potential indicators of no net loss.

Keep in mind any restoration that you expect to occur. If your plans call for removing bulkheads and restoring habitat, appropriate indicators might be riparian vegetation, eagle and osprey nests, and the length of shoreline armoring.

Avoid choosing an indicator that does not represent your shoreline, for example, forest cover if forest cover would not occur naturally. Avoid choosing several indicators that may represent the same impacts on ecological function – e.g., riparian vegetation in a relatively undeveloped area, and acres of permanently protected areas in the same location.

Tracking indicators

Develop a process and method to track the indicators. The SMP Guidelines state, "Master programs or other local permit review ordinances addressing shoreline project review shall include a mechanism for documenting all project review actions in shoreline areas. Local governments shall also identify a process for periodically evaluating the cumulative effects of authorized development on shoreline conditions. This process could involve a joint effort by local governments, state resource agencies, affected Indian tribes, and other parties" [WAC 173-26-191(2)(a)(iii)(D)].

Tracking your indicators can help you determine whether you are achieving no net loss. Determine how often you will measure your indicators – annually, when you update your SMP, or something in between? What do the indicators tell you compared with the baseline? How will the information be analyzed? Figure out early what you will be looking for, how it will be measured, and what it might mean.

Some options for tracking indicators:

- Track through the permit process. This may work for some development features, such as impervious surface coverage, length of bulkheads, and vegetation clearing. Developments that are exempt from the requirements for a Shoreline Substantial Development permit usually need local building or other permits. How often will these be checked? Can you keep a running tally, or run a software program annually?
- Track through local data that is updated regularly.
- Track through state or federal or other data sources. Who in your department will follow up, and when should that happen? (Refer to the indicators table for potential data sources.)
- Track changes through aerial photos or shoreline field visits, on land and water. Identify the process you will use.

Reporting use of indicators

The SMP Guidelines require local governments to show how NNL will be achieved, although specific indicators are not required. However, you are required to show in the Cumulative Impacts Analysis and No Net Loss report how the SMP will achieve no net loss when implemented over time. Your choice of indicators, rationale for choosing them, and explanation of how they will be tracked and evaluated should be discussed in these reports. Your SMP also can discuss how you will use indicators to show whether you are achieving no net loss.

Need To Review

(1) Cumulative Impacts Analysis

(2) No Net Loss Report

Shoreline Master Program Guidelines

SMP Guidelines specifically addressing No Net Loss

WAC 173-26-186

(8) Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the act but also by past actions, unregulated activities, and development that is exempt from the act's permit requirements. The principle regarding protecting shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles. These include:

(a) Local government is guided in its review and amendment of local master programs so that it uses a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.

(b) Local master programs shall include policies and regulations designed to achieve **no net loss** of those ecological functions.

(i) Local master programs shall include regulations and mitigation standards ensuring that each permitted development **will not cause a net loss** of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) Local master programs shall include regulations ensuring that exempt development in the aggregate **will not cause a net loss** of ecological functions of the shoreline.

SMP Guidelines generally addressing environmental protection and related to No Net Loss

Scientific and technical information

WAC 173-26-201(2)(a)
(a) **Use of scientific and technical information.** To satisfy the requirements for the use of scientific and technical information in RCW 90.58.100(1), local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate all available scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science....

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments should be prepared to identify the following:

(i) Scientific information and management recommendations on which the master program provisions are based;

(ii) Assumptions made concerning, and data gaps in, the scientific information; and

(iii) Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-201 (3)(d).

Shoreline ecological functions

WAC 173-26-201(3)(d)(i):
(C) Shoreline ecological functions include, but are not limited to:

In rivers and streams and associated flood plains:

Hydrologic: Transport of water and sediment across the natural range of flow variability; attenuating flow energy; developing pools, riffles, gravel bars, recruitment and transport of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, sediment removal and stabilization; attenuation of flow energy; and provision of large woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for native aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction; resting, hiding and migration; and food production and delivery.

In lakes:

Hydrologic: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruitment of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

In marine waters:

Hydrologic: Transporting and stabilizing sediment, attenuating wave and tidal energy, removing excessive nutrients and toxic compounds; recruitment, redistribution and reduction of woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

Wetlands:

Hydrological: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruiting woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, removing and stabilizing sediment; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, storing water and maintaining base flows, storing sediment and support of vegetation.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

(D) The overall condition of habitat and shoreline resources are determined by the following ecosystem-wide processes and ecological functions:

The distribution, diversity, and complexity of the watersheds, marine environments, and landscape-scale features that form the aquatic systems to which species, populations, and communities are uniquely adapted.

The spatial and temporal connectivity within and between watersheds and along marine shorelines. Drainage network connections include flood plains, wetlands, upslope areas, headwater tributaries, and naturally functioning routes to areas critical for fulfilling life history requirements of aquatic and riverine-dependent species.

The shorelines, beaches, banks, marine near-shore habitats, and bottom configurations that provide the physical framework of the aquatic system.

The timing, volume, and distribution of woody debris recruitment in rivers, streams and marine habitat areas.

The water quality necessary to maintain the biological, physical, and chemical integrity of the system and support survival, growth, reproduction, and migration of individuals composing aquatic and riverine communities.

The sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

The range of flow variability sufficient to create and sustain fluvial, aquatic, and wetland habitats, the patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows, and duration of flood plain inundation and water table elevation in meadows and wetlands.

The species composition and structural diversity of plant communities in river and stream areas and wetlands that provides summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of woody debris sufficient to sustain physical complexity and stability.

(E) Local governments should use the characterization and analysis called for in this section to prepare master program policies and regulations designed to achieve **no net loss** of ecological functions necessary to support shoreline resources and to plan for the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time.

Precautionary principle

WAC 173-26-201(3)(g)

The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources. If there is a question about the extent or condition of an existing ecological

resource, then the master program provisions shall be sufficient to reasonably assure that the resource is protected in a manner consistent with the policies of these guidelines.

Mitigation sequencing

Review WAC 197-11-660
197-11-768

WAC 173-26-201(2)
(e) **Environmental impact mitigation.**

(i) To assure **no net loss** of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (e)(i)(A) of this subsection being top priority.

(A) Avoiding the impact altogether by not taking a certain action or parts of an action;

(B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(D) Reducing or eliminating the impact over time by preservation and maintenance operations;

(E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(F) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(ii) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Consistent with WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:

(A) Application of the mitigation sequence achieves **no net loss** of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in **no net loss** of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

(B) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure **no net loss** of ecological functions.

Shoreline inventory and characterization

WAC 173-26-201(3)(c)
Local government shall, at a minimum, and to the extent such information is relevant and reasonably available, collect the following information:

(i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction. Special attention should be paid to identification of water-oriented uses and related navigation, transportation and utility facilities.

(ii) Critical areas, including wetlands, aquifer recharge areas, fish and wildlife conservation areas, geologically hazardous areas, and frequently flooded areas. See also WAC 173-26-221.

(iii) Degraded areas and sites with potential for ecological restoration.

(iv) Areas of special interest, such as priority habitats, developing or redeveloping harbors and waterfronts, previously identified toxic or hazardous material clean-up sites, dredged material disposal sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights of way and utility corridors.

(vii) General location of channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority

habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological and historical information.

WAC 173-26-201(3)(d)
Analyze shoreline issues of concern. Before establishing specific master program provisions, local governments shall analyze the information gathered in (c) of this subsection and as necessary to ensure effective shoreline management provisions, address the topics below, where applicable.

(i) **Characterization of functions and ecosystem-wide processes.**
(A) Prepare a characterization of shoreline ecosystems and their associated ecological functions. The characterization consists of three steps:

(I) Identify the ecosystem-wide processes and ecological functions based on the list in (d)(i)(C) of this subsection that apply to the shoreline(s) of the jurisdiction.

(II) Assess the ecosystem-wide processes to determine their relationship to ecological functions present within the jurisdiction and identify which ecological functions are healthy, which have been significantly altered and/or adversely impacted and which functions may have previously existed and are missing based on the values identified in (d)(i)(D) of this subsection; and

(III) Identify specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes.

Use analysis

WAC 173-26-201(3)(d)
(ii) **Shoreline use analysis and priorities.** Conduct an analysis to estimate the future demand for shoreline space and potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure appropriate uses consistent with chapter 90.58 RCW and WAC 173-26-201 (2)(d) and 173-26-211(5).

If the jurisdiction includes a designated harbor area or urban waterfront with intensive uses or significant development or redevelopment issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations, and to address port plans. Identify measures and strategies to encourage appropriate use of these shoreline areas in accordance with the use priorities of chapter 90.58 RCW and WAC 173-26-201 (2)(d) while pursuing opportunities for ecological restoration.

Cumulative Impacts

WAC 173-26-186

(d) Local master programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the act. To ensure **no net loss** of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities. Evaluation of such cumulative impacts should consider:

(i) Current circumstances affecting the shorelines and relevant natural processes;

(ii) Reasonably foreseeable future development and use of the shoreline; and

(iii) Beneficial effects of any established regulatory programs under other local, state, and federal laws.

It is recognized that methods of determining reasonably foreseeable future development may vary according to local circumstances, including demographic and economic characteristics and the nature and extent of local shorelines.

(e) The guidelines are not intended to limit the use of regulatory incentives, voluntary modification of development proposals, and voluntary mitigation measures that are designed to restore as well as protect shoreline ecological functions.

Restoration Planning

WAC 173-26-186(8)

(c) For counties and cities containing any shorelines with impaired ecological functions, master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any additional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory programs under other local, state, and federal laws, as well as any restoration effects that may flow indirectly from shoreline development regulations and mitigation standards.

WAC 173-26-201(2)(f)

Shoreline restoration planning. Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:

- The size of the jurisdiction;

- The extent and condition of shorelines in the jurisdiction;
- The availability of grants, volunteer programs or other tools for restoration; and
- The nature of the ecological functions to be addressed by restoration planning.

Master program restoration plans shall consider and address the following subjects:

(i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration;

(ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions;

(iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals;

(iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;

(v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;

(vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

Specific Shoreline Activity and Use Standards

Numerous additional specific references exist in the SMP Guidelines, requiring SMP regulations resulting in **no net loss** of shoreline ecological functions. Specific shoreline activity standards referencing NNL are located at:

WAC 173-26-221(2)(c)(ii)(C) and (D): Geologically hazardous areas.
WAC 173-26-221(2)(c)(iii)(C): Critical saltwater habitats
WAC 173-26-221(2)(c)(iv)(C): Critical freshwater habitats
WAC 173-26-221(3): Flood hazard reduction
WAC 173-26-221(4)(d): Public access
WAC 173-26-221(5): Shoreline vegetation conservation
WAC 173-26-221(6): Water quality, storm water and nonpoint pollution

WAC 173-26-231: Shoreline modifications, including shoreline stabilization, piers and docks, fill, breakwaters, jetties, groins and weirs, beach and dunes management, dredging and dredge material disposal, shoreline habitat and natural systems-enhancement projects.

Specific shoreline use standards referencing NNL are located at:

WAC 173-26-241(2)(a)(iv), addressing the following uses:
Agriculture
Aquaculture
Boating facilities
Commercial development
Forest practices
Industry
In-stream structural uses
Mining
Recreational development
Residential development
Transportation and parking
Utilities

Zooplankton work
Money for that
Streamer work in Whatcom?

Rokenee monitoring

AJ Frost Insect

Date Species Limit

Not Telling The Fisherman

Pamphlet

Shallow milfoil

Winter 2018?



No fishing Reg signs

Falls Creek

What About Wells?

Fishing Pressures

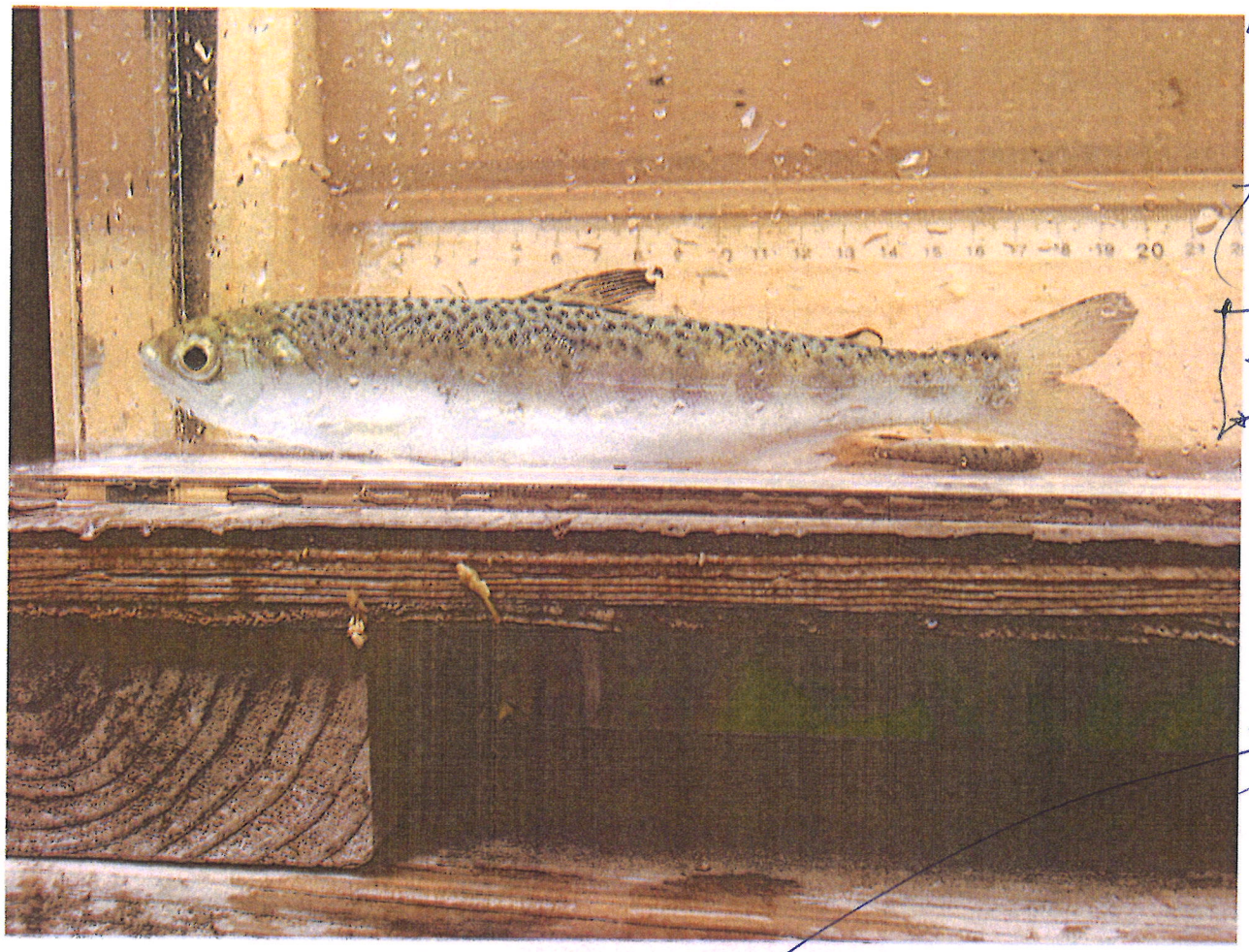
Pushing fishing season out to protect smolts

Cutting log 5 dams

No signs

Clean Boat for Invasives

No Information on Smolts 4 Hour [illegible]



The Lower Elwha Klallam Tribe has found large coho smolts migrating from Lake Sutherland to the Elwha River via Indian Creek, including this specimen that was 7 8 inches long. (Lower Elwha Klallam Tribe)

Large coho salmon smolts found exiting Lake Sutherland

Lower Elwha Klallam Tribe reports young fish up to 10 inches long

By Peninsula Daily News

Friday, September 6, 2019 1:24pm | NEWS | CLALLAM COUNTY

PORT ANGELES — The Lower Elwha Klallam Tribe has found coho smolts headed out of Lake Sutherland, and they are bigger than expected.

During the tribe's annual monitoring of Indian Creek, which connects Lake Sutherland to the Elwha River, the tribe found smolts up to 10 inches long in its fyke net this spring, according to a press release from the Northwest Indian Fisheries Commission. Coho smolts are typically half that size.

1) Washington Tornado Watch
OPEN

"Coho do well in low-energy environments such as lakes, with lots of food such as zooplankton and other fish, so they're going to get big," Mike McHenry, the tribe's habitat program manager, said in the press release.

"I suspect that's what's happening — their diet starts with zooplankton and insects, but as they grow, they will switch to eating fish, which Lake Sutherland is filled with, such as red-side shiner and kokanee. And this is good because the bigger the fish, the higher survival rate."

In 2017, a lakefront property owner filmed six coho spawning in Falls Creek, a small creek that feeds into the lake, said Rebecca Paradis, a project biologist for the tribe.

"Three of them had Floy tags, indicating they were surplus adult coho relocated from the tribe's hatchery, and three of them didn't have tags," she said.

"That tells us these coho found each other in Indian Creek, swam to the lake and then up Falls Creek. Now, two years later, we're seeing these huge smolts."

Though coho salmon typically are river spawners, they will use lakes if available, Paradis said.

Other systems in the state where coho have access to lakes via creeks, such as Snow Creek in Discovery Bay, have been productive.

Indian Creek is proving to be highly productive, McHenry said. Raw catch data at a smolt trap in lower Indian Creek showed 5,500 coho smolts caught between January and May. The trap continued fishing through August.

The tribe has been monitoring Indian Creek since the removal of two fish-blocking dams on the Elwha River began in 2011. At the same time, the tribe moved surplus adult coho salmon from its hatchery to the creek to kickstart coho spawning in 2011.

As a result, the majority of the coho returns used to be hatchery fish, but now they are mostly naturally produced, McHenry said.

of Indian Creek are publically owned, and managed by DNR. In these areas, the creek can be accessed informally from Highway 101. There is no formal public access to the creek.

6.7.2 Future Land Use and Potential Effects on Shoreline Ecology

Under current zoning regulations, approximately 15% of the Lake Sutherland shoreland area has potential for new development. Most of the undeveloped land consists of 1-acre lots, which cannot be further subdivided. The lots are generally long and rectangular in shape, with water frontages of approximately 75 feet. Future infill development would likely decrease the remaining forest coverage along the lake. In addition, new homes set close to the shoreline may be subject to increased flooding.

Approximately 15% of the Indian Creek shoreland area has potential for new, low-density residential development. The developable parcels vary in size (5 to 20 acres), and most cannot be subdivided (Figure 6-5) Development within these parcels may result in loss of riparian forest cover, which degrades fish and wildlife habitat. Portions of the undeveloped lots in the upstream portion of the river lie within FEMA-mapped flood hazard areas.

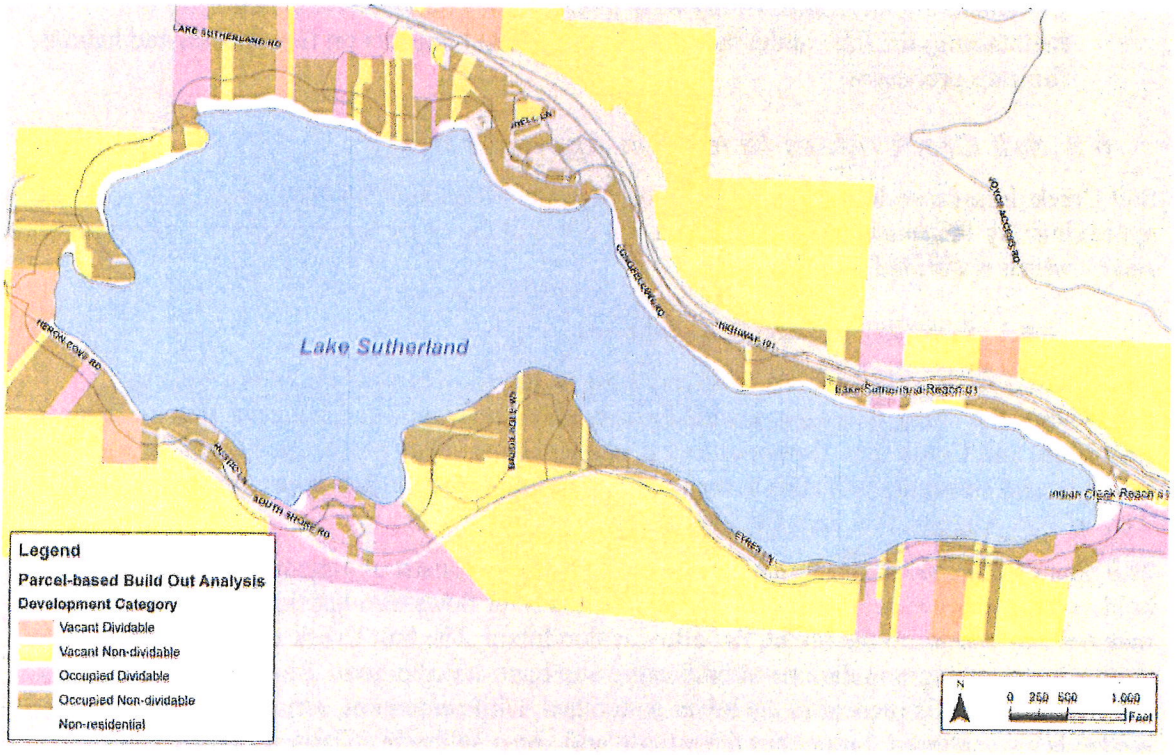


Figure 6-5. Existing and potential future development patters at Lake Sutherland. Brown and yellow parcels are not subdividable.

6.7.3 Management Issues and Opportunities

In general, there is limited development potential along Lake Sutherland and Indian Creek shorelands. The Lake Sutherland shoreline is already built out; new development would consist of infill residential development on the remaining undeveloped lots. A relatively low amount of

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the Indian Creek riparian corridor has development potential, which would likely consist of large-lot rural residential development.

When the Elwha dams are moved, Lake Sutherland and Indian Creek have significant potential to provide high-quality habitat for anadromous salmonids. Future shoreline regulations for the area should consider the future presence of threatened salmonid stocks.

Key management recommendations for Lake Sutherland and Indian Creek include general provisions for retaining forest cover and setting back structures to reduce flood hazard. Specific management issues include:

- To improve water quality in Lake Sutherland and decrease the frequency of algal blooms, fix or replace failing septic systems.
- Removing the fish screen at the Lake Sutherland outlet will allow salmon access to the lake, once the Elwha dams are removed.
- To reduce the incidences of flooding in Lake Sutherland, develop strategies for maintaining the lake outlet that minimize potential impacts on fish species and habitat-forming processes.

6.8 *Salt Creek (Maps 1b to 6b in Appendix A)*

Salt Creek drains a series of low foothills of Olympic Mountains, and has a watershed area of approximately 19 square miles. The lower 4.8 miles of the creek is considered a "shoreline of the state," which is divided into two reach.

6.8.1 Summary of Baseline Conditions

Salt Creek is fairly short and has relatively little relief (McHenry, et al. 2004). Near its headwaters, the creek flows into a wide terrace where several of its tributaries join the creek's mainstem. Salt Creek then flows northwest into a narrow valley along the base of Striped Peak, through tidal emergent wetlands at the mouth, and into Crescent Bay approximately nine miles west of Port Angeles (Clallam County, 2008).

The upper watershed and riparian corridor of Salt Creek consist of almost entirely of forest habitat. Forest cover decreases downstream, as the river flows through tidal wetlands and salt marshes positioned on the broad, flat alluvial floodplain. The Salt Creek watershed supports habitat for breeding populations of bald eagle and band-tailed pigeon. Significant wetland and salt marsh habitat is present in the lower watershed, while emergent, scrub-shrub, and forested wetlands are scattered throughout the middle and upper subbasin (Clallam County 2008; NOPLE-TRG 2011).

Salt Creek and its tributaries provide important spawning and rearing habitat for coho salmon, and a smaller run of steelhead trout. Spawning habitat is available throughout the mainstem and its tributaries downstream of a passable dam at RM 6.5. Historically, the creek supported chum and Chinook salmon. However, in recent years, chum and Chinook salmon have not been documented in Salt Creek (NOPLE-TRG 2011).

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Harvey, Diane

Subject:	Clallam SMP draft changes
Location:	open for WEbEx details
Start:	Thu 6/18/2020 9:00 AM
End:	Thu 6/18/2020 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McConnell, Michelle (ECY)

6/17 UPDATE: Let's consider this agenda for tomorrow's discussion:

- Draft Required Changes, including:
  - #8 – Ocean Management, Marine Spatial Plan (Misty will provide materials for consideration)
  - #9 – Lake Sutherland buffer, SEDs
- Draft Recommended Changes
- Overall process for Comprehensive Update, Periodic Review, and the EAGL grant

Here's the Web-Ex call in info – we're looking forward to our discussion:

Clallam SMP draft changes

Thursday, June 18, 2020

9:00 am | (UTC-07:00) Pacific Time (US & Canada) | 3 hrs

Meeting number (access code): 133 787 5358

Meeting password: cVTHVRP3z48

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Staff-level discussion of 4/2020 draft Required and Recommended changes.

Chapter 11
Vegetation Conservation, Buffers and Setbacks

Phase 3, Task 3.4
Shoreline Master Program Planning Process

Introduction

Vegetation along the shoreline provides a myriad of benefits for the water body, the upland area and shoreline residents and users. Vegetation helps to stabilize soils, which filter pollutants and fine sediments, contributing to improved water quality. Trees and shrubs provide habitat for many species and provide food for aquatic species. More stable banks reduce occurrences of landslides, damage to structures and threats to life safety.

Conserving shoreline vegetation is important to retaining these benefits. The most effective ways to conserve vegetation are shoreline buffers and setbacks. They protect shoreline ecological



Figure 11-1: Trees and vegetation along the shoreline were retained when this house was built in Kitsap County and provide a buffer between the house and the water. (Hugh Shipman photo.)

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functions and help local governments achieve the no net loss standard and other requirements of Shoreline Master Program (SMP) comprehensive updates.

Buffers and setbacks with vegetation conservation support a main tenet of the Shoreline Management Act (SMA) -- "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life." The SMP Guidelines require master programs to protect the functions provided by shoreline vegetation. Vegetation conservation standards, including buffers and setbacks, should be based on local shoreline conditions. Ecology will want to see the rationale that supports your decisions. It's important to keep good records. See the SMP Handbook Chapter 18, "Integration of Critical Areas Ordinances," for information on record keeping.

This chapter briefly discusses the sensitive nature of vegetation conservation, including buffers and setbacks, for SMP updates. This chapter also covers SMP Guidelines requirements regarding vegetation conservation and the protection and restoration of buffers and setbacks from the ordinary high water mark, reviews the benefits of buffers, discusses buffer and setback widths and their relationship to local shoreline conditions, offers alternatives to standard buffers and setbacks, and recommends a process for determining buffer and setback widths.

See Ecology's Wetlands pages for information about wetlands, wetlands buffers and the wetlands ratings system.

Distinguishing between buffers and setbacks

The terms "buffers" and "setbacks" are often used interchangeably in shoreline documents, including Shoreline Master Programs. Ecology prefers to distinguish between the two, as described below.

Shoreline buffers typically are naturally vegetated areas adjacent to water bodies that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the water body, as described in the scientific literature. Buffers provide a transition between the aquatic and upland areas.

Buffers are generally recognized as a "separation zone" between a water body and a land use activity (e.g., timber harvest, commercial or residential development) to protect ecological processes, structures, and functions and mitigate the threat of a coastal hazard on human infrastructures (National Wildlife Federation 2007, referenced in *Protection of Marine Riparian Functions in Puget Sound, Washington*, June 2009.)

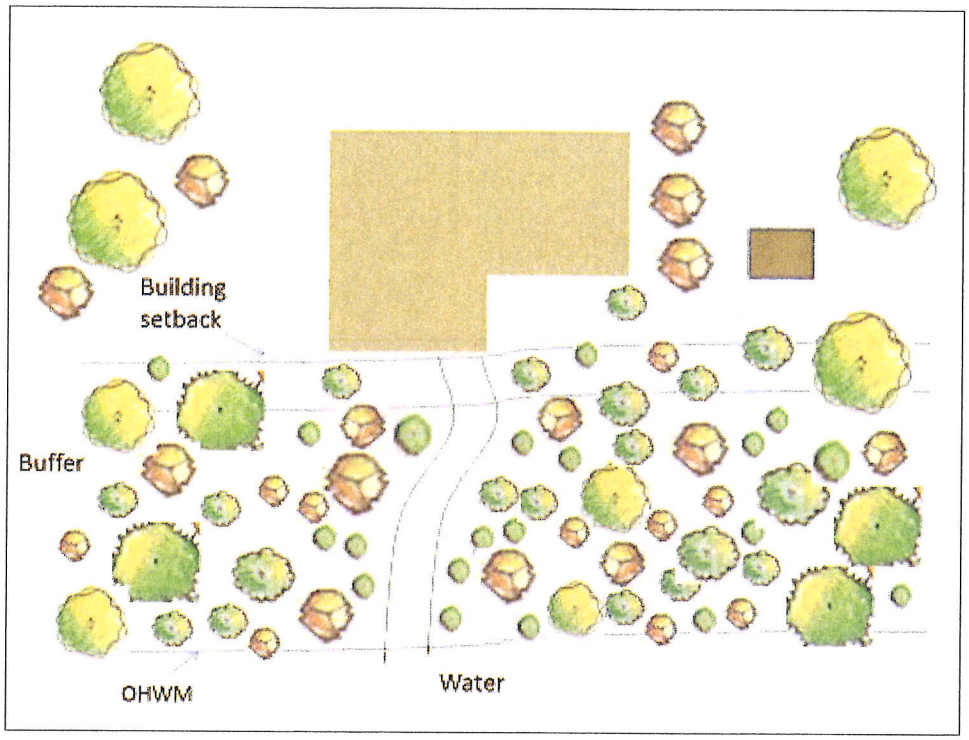

Figure 11-2: This graphic illustrates the concept of buffers and setbacks on a shoreline. The setback separates the structure from the buffer. Buffers should have a mix of trees, shrubs and groundcovers. Buffers and setbacks are measured landward from the Ordinary High Water Mark. (Items in the graphic are not to scale.)

Shoreline buffers can help to protect structures from hazards such as erosion, landslides, floods, and storm damage associated with a water body. Ideally, shoreline buffers are relatively undisturbed; uses are limited, and there are no substantial structures. A typical use is a trail leading to the water or a stairway leading down to a dock or the beach.

Shoreline setbacks are the distances separating two features, such as a structure and the water, or a structure and the buffer. Natural native vegetation may or may not exist within a setback. A setback from a buffer protects the buffer from the impacts related to use of the structure, such as maintenance of a house.

Setbacks also help to assure that development is located a safe distance from bluffs, river banks, and other natural features, including buffers. Setbacks help to protect views by requiring nearby residences to be a certain distance from the water. Setbacks are measured from the landward edge of a shoreline buffer or the OHWM, or in certain circumstances, from the top of a steep bank or unstable slope. Major structures cannot be built, but some uses such as gardens or sheds may be allowed within the setback.

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Some local governments with intensely developed shorelines have established only setbacks from the OHWM. Vegetation conservation is required, and planting new vegetation, replacing noxious weeds and invasive plants with native plants, and other habitat improvements are required for new or expanded development. These measures meet the requirements of the SMP Guidelines to protect ecological functions, as buffers do.

Together, buffers and setbacks protect shoreline ecological functions, provide aesthetic qualities, including views of the land from the water, and protect structures from hazards. Buffers and setbacks also provide space between development and natural shoreline processes, helping to protect structures over the long term from hazards such as wave action, flooding, erosion, and bank sloughing, lessening the need for shoreline stabilization such as bulkheads.

Critical areas ordinances will not apply

After the SMP update is approved by Ecology, the Critical Areas Ordinance (CAO) established under the Growth Management Act (GMA) will not apply within shoreline jurisdiction. Critical areas within shoreline jurisdiction still must be protected, and will be regulated by the SMP, as directed by the GMA [RCW 36.70A.480(3)(b)], with an exception discussed below. The State Legislature clarified this issue in 2010.

Therefore, you will not be able to rely on the CAO for shoreline buffers. Shoreline buffers must be established in the SMP, or the SMP must incorporate provisions of the CAO. Buffers for critical areas such as wetlands that are within shoreline jurisdiction also must be protected through the SMP. See Ecology's guidance in Chapter 18, "Integration of Critical Areas Ordinances."

Some local governments set critical areas buffers along their SMA water bodies after determining the water bodies are Fish and Wildlife Habitat Conservation Areas, which are critical areas under the GMA. These buffers developed for the CAO are a starting point but may not be adequate or appropriate shoreline buffers under the SMA for several reasons:

- Shoreline buffers must be based on shoreline ecological functions, development patterns and anticipated preferred uses discussed in the SMP and supporting documents. For example, the broader perspective of shoreline management planning of critical freshwater habitats calls for "Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the floodplain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheric zone, results from new development" [WAC 173-26-221(2)(C)(iv) (B)(II)]. This comprehensive approach anticipates an integration of master program provisions "to protect human health and safety and to protect and restore the corridor's ecological functions and eco-system-wide processes."

- New scientific studies conducted after the CAO was adopted may establish the need for different-sized buffers than included in the CAO. The SMP Guidelines require "the most current, accurate and complete scientific and technical information available" to be used

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for development of SMPs [WAC 173-26-201(2)(a)].

- New information about the presence of critical habitats, such as kelp beds, fish spawning or holding areas, and channel migration zones, for example, must be considered when establishing buffers.

The CAO exception referred to above concerns "land necessary for buffers" that extends outside of typical shoreline jurisdiction. Local governments have statutory authority to extend shoreline jurisdiction beyond the typical 200-foot area to include "land necessary for buffers." This issue, part of the SMA-GMA interaction and an important local decision regarding shoreline jurisdiction, is discussed in depth in SMP Handbook Chapter 5, "Shoreline Jurisdiction."

Sensitive topic for SMP Updates

Establishing buffers and setbacks can be a contentious issue during SMP updates, even though setbacks, and to a lesser extent, buffers, have been included in SMPs since the 1970s. Some SMP updates have been stymied over this decision. Major issues are discussed below.

How are existing structures affected?

Establishing new buffers and setbacks may result in some existing structures being located partly or entirely within the buffer or setback. Home owners have been particularly concerned about buffers and setbacks that encompass or affect existing single family residences.

The State Legislature addressed this issue for residential structures in 2011 with an amendment to the SMA. SMPs approved by Ecology after September 1, 2011 may consider existing residential structures and their appurtenances as conforming in regard to setbacks, buffers, yards, area, bulk, height and density. This does not apply to bulkheads, shoreline modifications and overwater structures. Ecology's guidance in SMP Handbook Chapter 14, "Legally Existing Uses and Development," discusses how SMPs should address the potential for expansion and redevelopment for properties within buffers and setbacks as well as throughout shoreline jurisdiction.

Can existing structures expand?

Some property owners are concerned that updated SMPs may limit or prohibit redevelopment and expansion of structures within shoreline buffers and setbacks and discourage any new uses. The SMP Guidelines do not strictly prohibit redevelopment and expansion within buffers and setbacks. The Guidelines do require SMPs to include policies and regulations, including regulations for setbacks, buffers and vegetation conservation, that assure no net loss of ecological functions will result from development.

The SMP will regulate whether an addition to an existing house may be built, where it can be built, and what mitigation measures will be required. Mitigation measures will be required in order to offset impacts of new development and achieve the no net loss standard. Most SMPs approved by Ecology to date allow some expansion of existing houses within buffers, usually to

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Figure 11-3: This Lake Sammamish shoreline in the City of Bellevue has residences close to the water's edge. Setbacks with vegetation conservation have been a contentious issue. (Washington Coastal Atlas Photo.)

the side or back, not waterward, of the existing house. A shoreline variance is usually required for building closer to the water when the existing structure is closer than the standard buffer or setback.

Are gardens and sheds "grandfathered?"

New SMP regulations are not retroactive, so legally existing uses and structures can remain in place; i.e., they are "grandfathered." Residents of some communities have said they are concerned that gardens, lawns, or sheds will have to be removed or modified if these features are within a buffer or setback.

Are existing setbacks good enough?

Many SMPs adopted in the 1970s have 25-foot to 35-foot setbacks. Residents of some cities want to know why these existing setbacks aren't good enough now. For example, in some urban areas, homes are set back an average of 80 feet or more from the ordinary high water mark, although the official setback is much less. Why not leave the setback at 25 feet, as homes are built further back from the water? Here's why the narrow setback isn't adequate:

- An SMP setback of 25 feet means that structures can be built 25 feet from the ordinary high water mark. That will not protect the existing shoreline functions where the homes are now 80 feet or more from the water. Since the 1970s when these setbacks were established, our understanding of how vegetative buffers function to protect shoreline resources such as water quality and fish and wildlife habitat has increased. For example,

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the pervious surface that now exists helps to filter water, improving water quality.

- When SMPs were first adopted in the 1970s, setbacks were established largely to protect structures from erosion and effects of wind and water and to prevent new houses from blocking views. Some consideration was given to habitat, as in Conservancy environments with bigger setbacks than in Urban environments. We now know more about the value of buffers in regard to ecological functions. Recent scientific studies show that 25-foot setbacks do not protect most ecological functions and will not meet the no net loss standard of the SMP Guidelines.

- If the average setback in a residential area is 80 feet, and a new house is built only 25 feet from the water, that house will impact the buffer functions provided by the existing pervious soil and vegetation, as well as the views from houses further back. The new house may not be far enough back to be protected from erosion and storms.

Are buffers and setbacks legal?

Legal questions have also arisen during recent SMP updates. There have been some statements that a state law, RCW 82.02.020, is applicable to SMPs, and that buffers are a form of taxation. The Washington Supreme Court, in *Citizens for Rational Shoreline Planning v. Whatcom County*, ruled in 2011 that SMPs are the result of state action "and are not subject to RCW 82.02.020."

Some attorneys have also contended that buffers must be justified under the nexus and proportionality tests adopted by the U.S. Supreme Court. These tests were developed by the Court in cases involving public access easements. The tests require that a public access easement bear a direct relationship to the impacts of the project and the easement must be roughly proportional to those impacts. Since a buffer is not the same as a public access easement, Ecology's position is that these tests do not apply to buffers. However, the courts have not directly ruled on this issue.

Buffers have been established through Critical Areas Ordinances under the Growth Management Act and have been generally upheld in the courts.

SMP Guidelines

The Shoreline Master Program Guidelines [WAC 173-26] address shoreline buffers and setbacks and vegetation conservation in several sections – steps in developing a master program, environment designations, shoreline vegetation conservation and residential development. This section reviews the Guidelines requirements and provides links to the specific WAC sections.

Inventory

The Guidelines require local governments to collect information about shoreline vegetation for the shoreline inventory. This inventory information will be important for identifying existing buffer functions. See box at right.

> WAC 173-26-201(3)(c): "Local government shall, at a minimum, and to the extent such information is relevant and reasonably available, collect the following information:
>
> (i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction. Special attention should be paid to identification of ecologically intact blocks of upland vegetation, developed areas with largely intact riparian vegetation, water-oriented uses and related navigation, transportation and utility facilities." (Underline added.)

Ecosystem processes

The ecological functions of shoreline vegetation for streams are listed in WAC 173-26-201(3)(d)(i)(C) as including "Maintaining temperature; removing excessive nutrients and toxic compound, sediment removal and stabilization; attenuation of high stream flow energy; and provision of woody debris and other organic matter." For lakes and marine waters, the function, "attenuating wave energy," is added and "attenuation of high stream flow energy" is not listed.

Shoreline vegetation

Vegetation conservation is discussed in Section 201(3)(d)(viii), where local governments are directed to "Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives."

The Guidelines acknowledge the importance of vegetation in urban areas. "...The importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity."

Environment designations

Management policies for three of the recommended environment designations direct SMPs to address vegetation conservation:

- In the High Intensity environment, a management policy calls for maintaining natural vegetative buffers and other methods to implement aesthetic objectives [WAC 173-26-211(5)(d)].

- In the Shoreline Residential environment, a management policy requires standards including setbacks, buffers, and vegetation conservation, among others, to assure no net

loss of shoreline ecological functions [WAC 173-26-211(5)(f)].

- In the Natural environment, a management policy states that vegetation removal "that would reduce the capability of vegetation to perform normal ecological functions should not be allowed."[WAC 173-26-211(5)(a)(G)].

Vegetation conservation

The shoreline vegetation conservation section defines vegetation conservation as "activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas" [WAC 173-26-221(5)]. These activities include "the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species." Vegetation conservation can protect ecological functions, plant and animal species and their habitats, as well as protect human safety and property, increase the stability of river banks and coastal bluffs, reduce the need for shoreline stabilization, improve visual and aesthetic qualities of the shoreline and enhance shoreline uses.

Local governments should identify the ecological processes and functions that are important to the local shoreline, both upland and aquatic, and conserve vegetation needed to maintain those functions. The Guidelines require master programs to include policies and regulations that address vegetation conservation and restoration. Measures may include clearing and grading regulations, setbacks and buffers, critical area regulations, conditional use requirements, mitigation requirements, incentives and nonregulatory programs.

Residential development

The residential development section under Shoreline Uses directs master programs to include provisions that assure no net loss of shoreline ecological functions from residential developments [WAC 173-26-241(3)(j)]. These provisions should include regulations for setbacks and buffers and vegetation conservation requirements, among others. The Guidelines also require residential development and appurtenances to be set back from steep slopes and shorelines vulnerable to erosion so that structural improvements are not required to protect them.

Benefits of shoreline buffers

Shoreline buffers offer a variety of benefits to the natural and human-built environments. In general, buffers benefit the natural environment by protecting or improving water quality, providing habitat for wildlife, and attenuating water flow, reducing the chances of flooding and erosion.

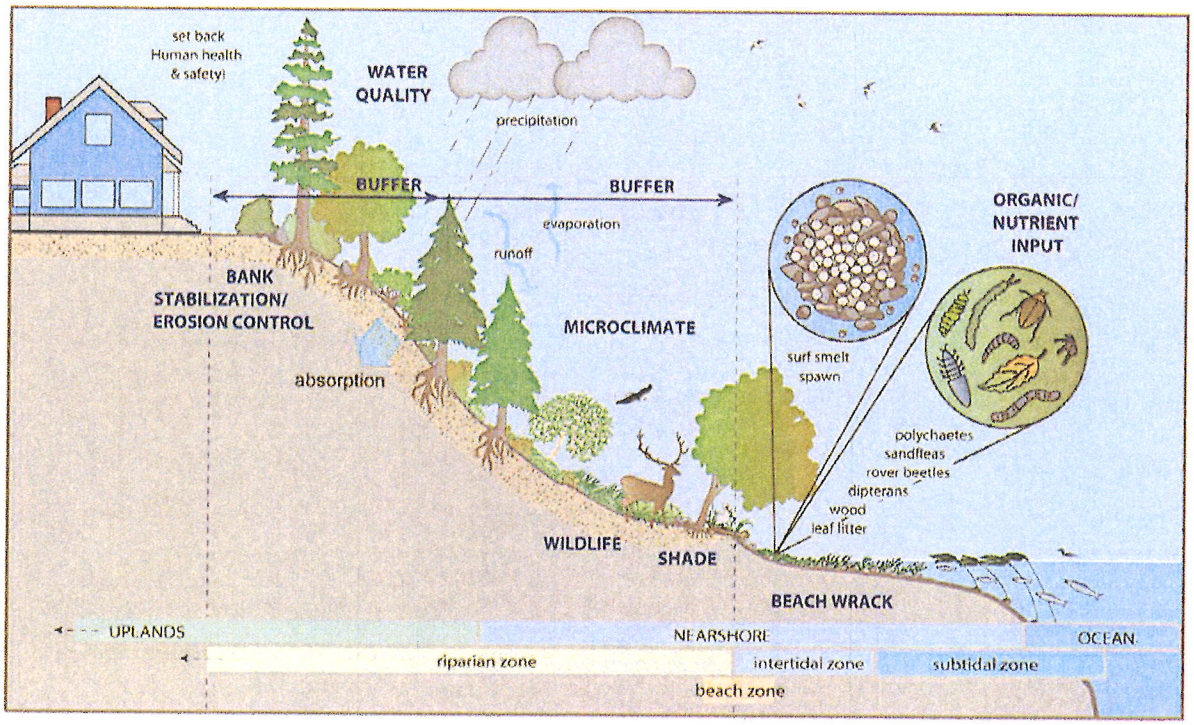

Figure 11-5. The graphic provides a conceptual model of marine riparian functions. Shoreline buffers are measured landward from the ordinary high water mark. In this graphic, the OHWM is not shown. (King County Department of Natural Resources and Parks graphic for Brennan and Culverwell, 2004.)

For the human-built environment, buffers and setbacks protect structures from damage by assuring they are a safe distance from erosive bluffs, channel migration zones, flooding, wave action and storms. Buffers and setbacks also can help protect views of the water from structures by assuring that nearby structures are adequately set back. Protecting native vegetation along the shoreline enhances property values by stabilizing slopes, screening adjacent development from view, providing attractive landscaping and habitat and blocking noise and glare from adjacent properties.

The SMP Guidelines describe the most commonly recognized functions of shoreline vegetation at WAC 173-26-221(5)(b). Setbacks and buffers are among measures that can protect ecological functions and ecosystem processes provided by vegetation along shorelines.

> In the Pacific Northwest, aquatic environments, as well as their associated upland vegetation and wetlands, provide significant habitat for a myriad of fish and wildlife species. Healthy environments for aquatic species are inseparably linked with the ecological integrity of the surrounding terrestrial ecosystem. For example, a nearly

continuous corridor of mature forest characterizes the natural riparian conditions of the Pacific Northwest. Riparian corridors along marine shorelines provide many of the same functions as their freshwater counterparts. The most commonly recognized functions of the shoreline vegetation include, but are not limited to:

- Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota.

- Providing organic inputs critical for aquatic life.

- Providing food in the form of various insects and other benthic macroinvertebrates.

- Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function.

- Reducing fine sediment input into the aquatic environment through storm water retention and vegetative filtering.

- Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.

- Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structural element that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization.

- Regulation of microclimate in the stream-riparian and intertidal corridors.

- Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Sustaining different individual functions requires different widths, compositions and densities of vegetation. The importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested shoreline settings, periodic recruitment of fallen trees, especially conifers, into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams which once supported or could in the future support mature trees should be wide enough to accomplish this periodic recruitment process.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some environments, such as in arid climates and on coastal dunes. In these instances, the width of a vegetated area necessary to achieve the full suite of vegetation-related shoreline functions may not be related to vegetation height.

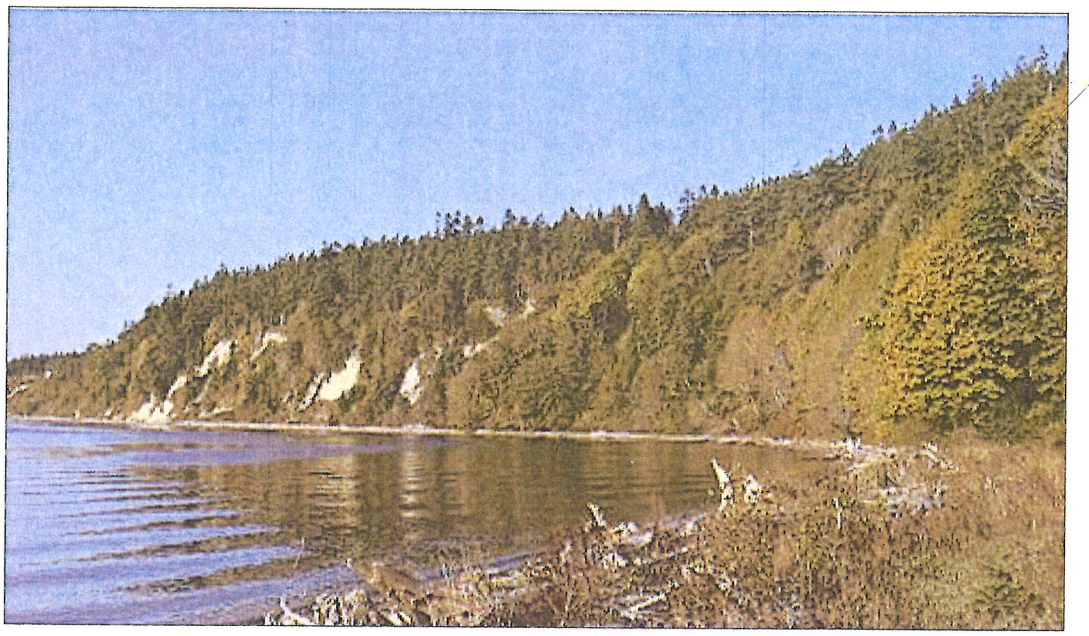

Figure 11-4: At Cama Beach State Park on Camano Island, shoreline vegetation provides ecological functions such as wildlife habitat, organic inputs and stabilization. (Hugh Shipman photo.)

Research on freshwater and marine areas

Research on freshwater riparian areas is relevant to marine riparian areas and vice versa. A panel of 14 scientists with expertise related to riparian ecosystems generally agreed that "findings from studies of freshwater riparian areas are transferable to marine riparian areas, although some processes and functions are unique to marine riparian areas." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, Appendix H, 2009.) This document also concludes that "riparian areas provide ecological functions regardless of whether they are adjacent to freshwater or marine water bodies" (Section 1).

The functions of marine riparian and freshwater riparian areas can vary. For example, marine riparian areas and freshwater riparian areas have different relative contributions to Puget Sound water quality. "However, the marine riparian area is limited in spatial extent; that is, it constitutes a small fraction of the Puget Sound drainage basin. Most contaminants reach Puget Sound via streams or drainage networks discharging into the Puget Sound Basin, or pathways that concentrate rainfall and snowmelt from impervious surfaces associated with human residential and commercial development and transportation infrastructure." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, pages 8-9.)

The Marine Riparian paper also notes differences related to shade. While shade is important to organisms in the upper intertidal area during low tide, shade is "potentially less important in moderating water temperature than shade in freshwater systems" (page 15). Marine riparian areas likely cover only a small fraction of the intertidal area. Marine riparian areas are not likely to have much effect on water temperatures of Puget Sound.

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Resources on the benefits of buffers

The ecological benefits of buffers are discussed extensively in the following documents, which are briefly reviewed below. The first three documents were developed by the Aquatic Habitat Guidelines program, a partnership of state agencies, which conducted extensive reviews of the scientific literature for these documents. Ecology has participated in the development of the Aquatic Habitat Guidelines documents. The fourth document in the list was developed by the Washington Department of Fish and Wildlife.

- *Protection of Marine Riparian Functions in Puget Sound*, Washington, 2009.
- *Protecting Nearshore Habitat and Functions in Puget Sound*, 2007, revised 2010.
- *White Paper - Ecological Issues in Floodplains and Riparian Corridors*, 2001.
- *Management Recommendations for Washington's Priority Habitats: Riparian*, 1997.

Protection of Marine Riparian Functions in Puget Sound, Washington focuses on the benefits of riparian areas for seven riparian functions along marine waters: water quality, fine sediment control, shade/microclimate, large woody debris, litter fall/organic matter inputs, hydrology/slope stability and wildlife. "This document was developed to provide shoreline planners and managers with a summary of current science and management recommendations to inform protection of ecological functions of marine riparian areas... Specifically, we summarize the range of marine riparian buffer widths (Appendix G) needed to meet particular levels of ecosystem function based on a literature review and input from an expert panel workshop," according to an overview of the document available at http://wdfw.wa.gov/publications/pub.php?id=00693.

> Because much of the literature was related to freshwater riparian systems, we assembled an interdisciplinary science panel to inform the process of adapting fresh water studies to marine nearshore environments (Marine Riparian Workshop Proceedings 2008; Appendix H). (Page 4 of the document.)

Protecting Nearshore Habitat and Functions in Puget Sound provides "a synthesis of current science on several important nearshore habitats and processes, and directions for where to find data and specific recommendations for moving through the mitigation sequence; from avoidance of new activities and reducing impacts from approved activities, to mitigating for cumulative impacts. In addition to helping local planners prepare SMP updates, this document will also assist Ecology in their review to ensure that SMP updates are based on good science," according to an introduction available at http://wdfw.wa.gov/publications/pub.php?id=00047.

White Paper - Ecological Issues in Floodplains and Riparian Corridors "examines and synthesizes the literature pertaining to the current state of knowledge on the physical and biological effects of alluvial river channelization, channel confinement, and various channel and floodplain modifications. It also examines and summarizes literature on the mitigation, rehabilitation and restoration of rivers affected by these human modifications. Data gaps in our current understanding of physical and biological process, the effects of human modifications, and appropriate rehabilitation or restoration techniques are also reviewed," according to the executive summary available at http://wdfw.wa.gov/publications/pub.php?id=00058.

Management Recommendations for Washington's Priority Habitat: Riparian offers information on the riparian habitat adjacent to streams, seeps and springs and recommends Riparian Habitat Area widths for areas with typed and non-typed streams. "Riparian areas contain elements of both aquatic and terrestrial ecosystems which mutually influence each other and occur as transitions between aquatic and upland habitats, according to the Executive Summary found at http://wdfw.wa.gov/publications/pub.php?id=00029. The report states that about 85 percent of Washington's terrestrial species use riparian habitat, with the density of wildlife in riparian areas "comparatively high."

Buffer width in the scientific literature

According to the scientific literature, the buffer widths to protect shoreline ecological functions vary according to the parameter observed and the site conditions of the study. Scientific studies typically include observations of **undisturbed areas** when considering the effectiveness of buffers and report a specific distance to protect function or percentage of a function. For example, studies report a 102-foot stream buffer width for 40% contaminant removal or 167-foot stream buffer width for 84% contaminant removal. Applying the scientific information to local shoreline conditions is discussed in the next section.

The *Marine Riparian Functions* document provides buffer widths for general shorelines for the seven functions reviewed in Appendix G. The document reviews buffer width ranges, including the smallest and largest buffers needed to achieve 80% effectiveness. Effectiveness indicates how much of the particular function would be preserved. The document uses 80% effectiveness because most of the studies can be summarized at this level.

Appendix G also provides an average buffer width needed to achieve 80% effectiveness, based on the literature reviewed. Finally, the appendix also provides minimum buffer widths to achieve greater than or equal to 80% effectiveness, according to curves developed by FEMAT, the Forest Ecosystem Management Assessment Team. The effectiveness curves were first developed in 1993 to depict the relationship between ecological functions and the width of mature riparian forests along a generalized shorelines. The science panel working on the *Marine Riparian Functions* document adapted the FEMAT style curves for the marine environment.
For example, for water quality, the buffer widths that would achieve greater than or equal to 80% effectiveness are:

- Buffer width range of 16 feet to 1,920 feet for 80% removal, depending on the water quality parameters.
- Average of all literature – 358 feet to achieve greater than or equal to 80% effectiveness.
- FEMAT curve minimum buffer width to achieve 80% effectiveness – 82 feet for sediment and 197 feet for nitrogen.

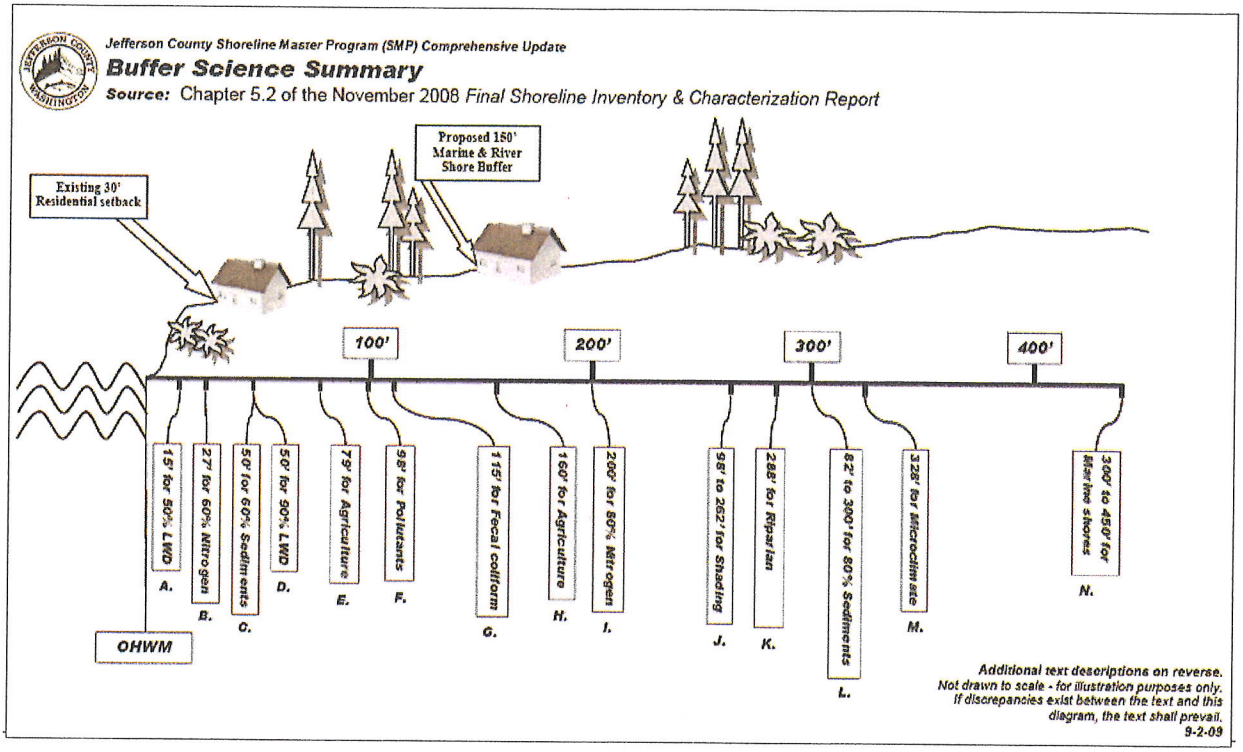

Figure 11-6: This graphic from the Jefferson County SMP update displays the locations on the landscape needed for specific buffer functions. The letters (A, B, C) are keyed to descriptions of the scientific literature on the back of the original handout. The descriptions are included at the end of this chapter

For wildlife, the buffer widths needed to achieve greater than or equal to 80% effectiveness are:

- Buffer width range of 240 feet to achieve 90% of hibernation and nesting to 902 feet to achieve 100% of hibernation and nesting.
- Average of all literature – 571 feet to achieve greater than or equal to 80% effectiveness.
- FEMAT curves do not address wildlife function.

These examples show the range of buffer widths needed for these functions to continue to be effective in undisturbed areas. The SMP Guidelines do not require a return to pre-European settlement conditions. The buffer widths are summarized in Appendix G of the marine riparian guidance, available in the document at http://wdfw.wa.gov/publications/pub.php?id=00693.

Management Recommendations for Washington's Priority Habitats – Riparian suggests a Riparian Habitat Area width of 250 feet for Types 1 and 2 streams, Shorelines of the State, and Shorelines of Statewide Significance.

Consider risk to ecological functions

Consider the risk of disturbance to the shoreline ecological functions in the riparian area if buffers or setbacks are not required and development is allowed. Ecology's wetlands guidance includes an extensive discussion of the characterization of risk from land use actions to wetland functions. This discussion is relevant to shoreline buffers.

"In a characterization of risks, local jurisdictions should consider whether the plans, policies, and regulations they are developing will minimize the risk of cumulative impacts to the functions and values of natural resources including wetlands." (*Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands,* page 10-2.)

"Whether planning is done at the scale of the management area or the site itself, the risks can be characterized by answering a series of questions about the actions being proposed:

- What disturbances or benefits will result from a proposed action (e.g., change in land use through zoning, regulations that affect how land is used, restoration plan, etc.)?
- What risks do these disturbances pose to the functions and values of wetlands?
- What measures are proposed to minimize the risks or replace the resource at risk?" (page 10-4)

Therefore, when determining shoreline buffer width, you should consider the potential risk to the ecological functions. If ecological functions would be negatively affected, consider what measures would offset the impact to ecological functions. If mitigation measures and restrictions on land use would not offset the impacts from a smaller buffer, larger buffers are necessary to achieve no net loss of shoreline ecological functions. (The SMA provides local governments the option to include critical areas buffers that extend outside the minimum shoreline jurisdiction within shoreline jurisdiction [RCW 90.58.030 (2)(d)(ii)]).

Determining buffer width

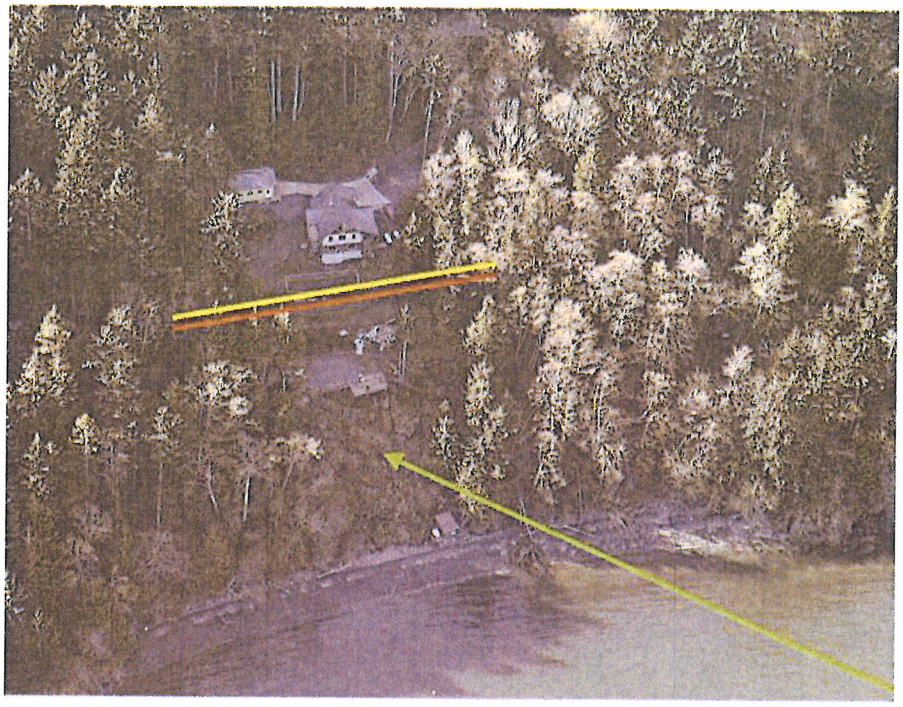

Figure 11-7: Whatcom County marine shorelines have a 150-ft buffer, shown by the red line. The yellow line indicates the 10-ft setback, and the green arrow points to an unstable slope stripped of vegetation. (Whatcom County photo.)

How do you apply these buffer widths from the scientific literature to your local shorelines? Much of Washington's shorelines are developed, unlike the undeveloped shorelines discussed in much of the scientific literature.

Those land uses include industry, commercial uses, houses, multi-family dwellings, parks, trails, marinas, bulkheads, parking lots, and fishing piers, among others. Some upland areas are intensely developed, and others are more sparsely developed. Some of our waters are heavily used for ports, industry, marinas and recreational piers. Many Washington lakes are intensely developed with houses on the upland and piers and docks in the water, while others remain undeveloped.

Tailor buffers to local conditions

Determining buffers and setbacks is a challenge. The buffers and setbacks for marine and freshwater shorelines should be tailored to local conditions including existing shoreline functions and existing and planned land use and public access. Buffers and setbacks likely will vary within a local government's boundaries to reflect different shoreline conditions and functions. The inventory and characterization report should provide a complete analysis of shoreline functions. See SMP Handbook Chapter 7, "Shoreline Inventory and Characterization."

The Aquatic Habitat Guidelines document, *Protecting Nearshore Habitat and Functions in Puget Sound,* offers some general guidance in determining buffer width. These general recommendations are also applicable to freshwater rivers and lakes.

> In applying buffers as part of a marine riparian habitat protection strategy, shoreline managers should consider what functions need protection in their shoreline areas (based on existing or anticipated threats), what level of protection is appropriate for those functions, how the protective goals of using a buffer can actually be achieved on the land given existing and planned development, and what functions will not be protected by choosing particular buffer widths. The science summarized in Table III.7 provides the information and context for these decisions. It does not dictate a single approach (page III-38).

With this general guidance in mind, consider the following:

- What shoreline ecological functions continue to exist and need protection or restoration? What species of wildlife live along the shoreline, and what buffer width will protect them? Would smaller buffers increase nitrogen and phosphorous levels in local waters? How would removal of riparian vegetation affect slope stability and hydrology?
- Will future growth include new or expanded water-oriented uses?
- For developed shorelines, is redevelopment likely?
- Is development projected on vacant parcels?

Most developed shorelines with remaining vegetation still provide some ecological functions. For example, trees are often located near houses that are built within shoreline jurisdiction. Trees provide habitat, stabilize the soil and reduce erosion. Naturally vegetated areas help to filter surface water runoff.

People ask why their local shorelines have buffers or setbacks that are different than those in nearby areas. The answer is that the buffers reflect the local conditions including shoreline ecological functions and existing development -- these are not the same everywhere, so different buffers or setbacks are required. In all cases, however, buffers and setbacks should be designed, in combination with SMP regulations, to assure no net loss of shoreline ecological functions.

WAC 173-26-2(c)(i), "Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered."

Some approved SMPs establish specific buffers or setbacks for every environment designation. Some SMPs establish buffers or setbacks for water bodies, based on shoreline conditions. Some environment designations have varying buffer widths for different shoreline uses – industrial, commercial, residential and recreation. For example, Whatcom County's buffers are set for marine, stream and lake shorelines, while Douglas County buffers are set for environment

designations. In the City of Kent, a shoreline with High Intensity designation has a 100-foot setback for industrial uses and 70-foot setback for commercial uses.

Rural shorelines



Figure 11-8: This Columbia River shoreline near Rock Island in Douglas County has a Rural Conservancy designation with a 100-foot buffer. (Washington Coastal Atlas photo.)

Rural shorelines in Washington typically include large residential lots; parks with undeveloped areas and shorelines with boat launches, docks and other amenities; and scattered other uses such as restaurants or industry. The degree of development is less intense overall than in urban areas. Steep slopes are common although not universal. The amount and type of vegetation varies, depending on the degree of development and location within the state. It's generally fair to say that more native vegetation exists in rural areas compared with urban areas.

The shoreline ecological functions in these less developed areas should be protected with adequate buffers or setbacks and vegetation conservation. Environment designations should establish low densities with large lot sizes, as appropriate. Other measures to protect ecological functions may include large minimum lot width at the shoreline, vegetation conservation and replacement standards, and incentives to encourage voluntary restoration and bulkhead removal.

Urban shorelines

Establishing buffers for intensely developed urban shorelines seems to be more challenging than doing so for less developed rural or undeveloped shorelines, as Ecology has seen over the past few years. Questions arise regarding the likelihood of ecological functions on small lots developed with houses and garages or at waterfront industrial areas.

Again, some ecological functions likely exist in the upland area, and protecting these helps to protect the remaining aquatic functions. Some cities with highly developed shorelines have established buffers or setbacks that reflect local conditions, require mitigation for redevelopment, and offer incentives as an opportunity for shoreline improvements.

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For example, the city of Kirkland has a range of setback standards to address the diversity of its highly developed shoreline, where redevelopment is more likely than new development.

In its R-L (Residential – Low) shoreline environment, which has a wide variety of parcel depths, the setback is 30 percent of the average parcel depth, with a 30-foot minimum setback and 60-foot maximum setback.

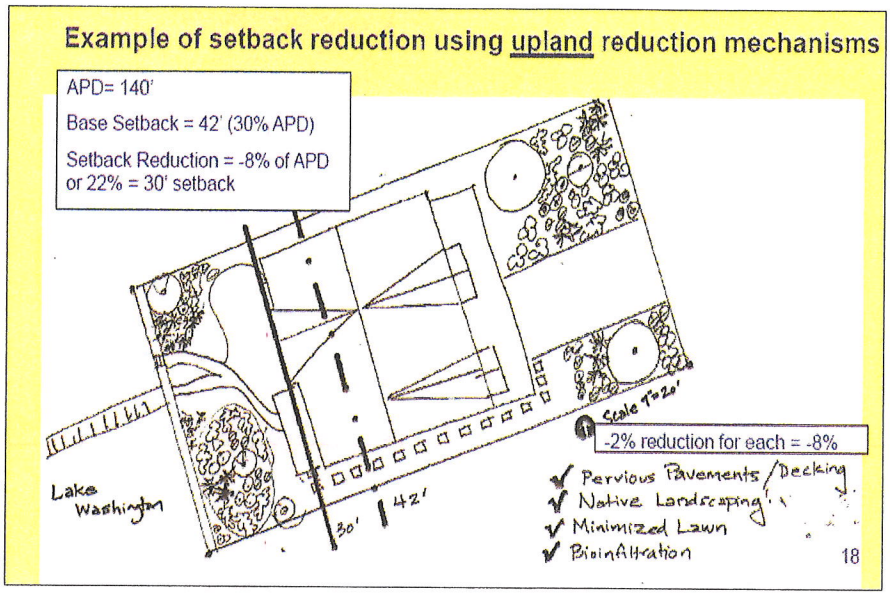

Figure 11-9: The City of Kirkland SMP includes administrative setback reductions in return for shoreline improvements. The figure shows the base setback for an average parcel depth (APD) of 142 feet and a 2 percent reduction for upland improvements

In the UM (Urban Mixed) environment, which has less variation in parcel depth, the setback is 15 percent of the average parcel depth, with a 25-foot minimum. The new SMP setbacks are within range of the current, on-the-ground setbacks for existing shoreline development.

These standards are flexible. The setback can potentially be reduced to the minimum setback in exchange for improvements such as replacing hard armoring with soft shore protection, building a shoreline cove, or moving the bulkhead away from the water. Figure 11-9 provides examples of setback reductions. Setbacks less than the minimum would require a shoreline variance.

The City of Seattle's guidebook, *Green Shorelines: Bulkhead Alternatives for a Healthier Lake Washington*, available at http://www.govlink.org/watersheds/8/action/greenshorelines/, includes discussion of vegetated buffers on small lots on pages 14-15. The guidebook states that vegetated buffers add visual interest to property and contribute to aquatic habitat. The guidebook offers various options for "greening" the shoreline by removing or setting back bulkheads, building coves, planting vegetation, among others. Although the guidebook is directed to property owners on Lake Washington, the techniques discussed will apply along other shorelines.

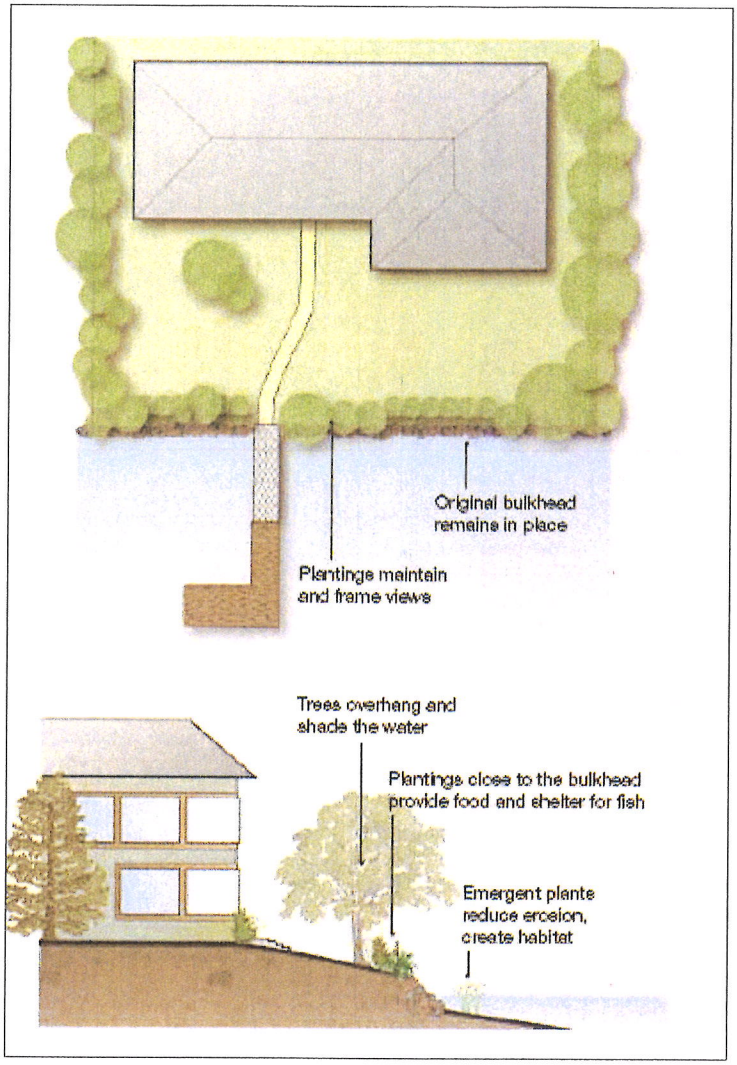

Figure 11-10: This graphic from *Green Shorelines- Bulkhead Alternatives for a Healthier Lake Washington,* shows a narrow strip of vegetation at water's edge.

Alternatives

Alternatives to a strict buffer or setback with vegetation conservation may be acceptable if they protect shoreline functions. Local governments must show how their shoreline regulations, including buffers, setbacks and development regulations, will achieve no net loss of shoreline ecological functions. Possible alternatives are discussed below.

Several zones with varying intensities of vegetation and development are being used to protect water bodies in various locations around the country and may be appropriate for developed shorelines. For example, in a residential area, the zones might look like the following:

- Zone 1: Native vegetation buffer. Along water's edge, between water and area of most development. This zone should be comprised of native vegetation, with limited uses only. A path to the water or access to dock would be allowed. Shoreline areas currently planted with native vegetation should be preserved. If native vegetation areas don't exist, they can be created over time through mitigation measures connected with redevelopment,

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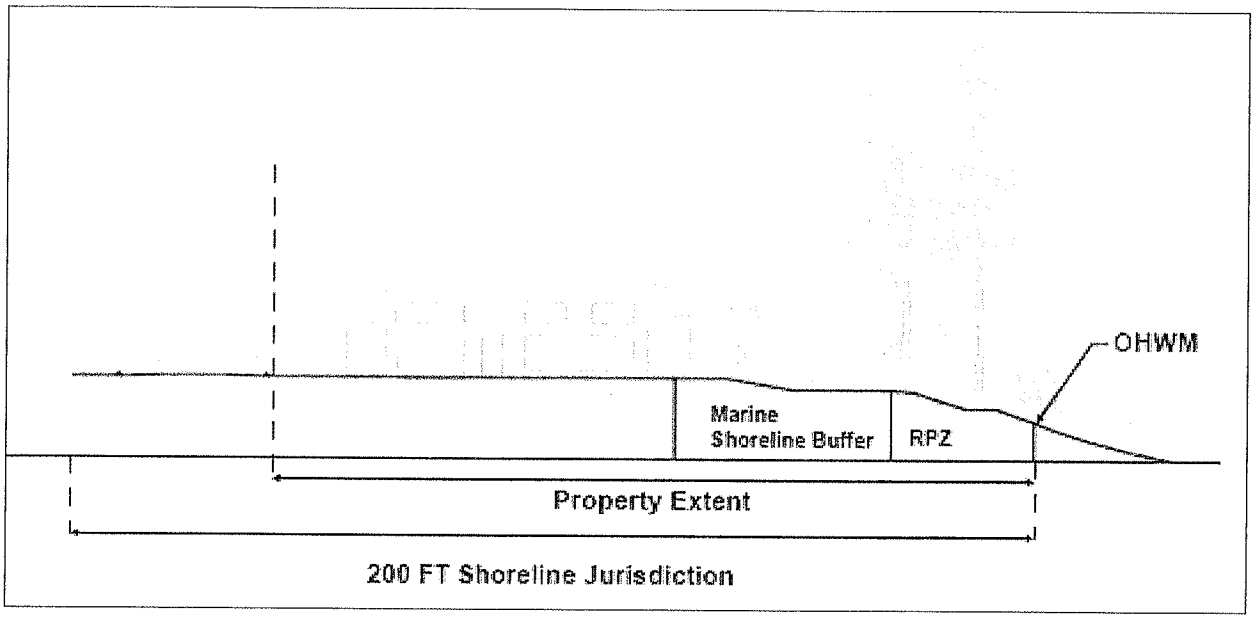

Figure 11-11: A 2011 memo to Bainbridge Island staff from Herrera Environmental Consultants, Inc., suggests a two-zone buffer system. A Riparian Protection zone is adjacent to the marine nearshore, and a Marine Shoreline Buffer is between the riparian zone and development. The SMP includes a two-zone system as described on the previous page, although the suggested terms are not part of the city code.

incentives to property owners, or restoration activities conducted by various organizations.

- Zone 2: No buffer. Area of most development and activities. This area includes the house and garage, driveway, deck, and lawn area near house. These uses would continue. Some redevelopment and expansion would be allowed. Mitigation measures would enhance Zone 1.

- Zone 3: Vegetation conservation area. Between house and upland edge of property, away from water. This area would be a vegetation conservation zone. Require permits or administrative review before cutting trees or making major vegetation changes. Only limited development in this area would be allowed and must be mitigated.

Another potential alternative is a parallel environment. Parallel environment designations can be established in the SMP to serve as buffers and setbacks. The environment designation closer to the water could be Natural, with most uses prohibited. The next landward environment designation would reflect the development pattern, such as shoreline residential, urban or rural conservancy, and high intensity.

The City of Bainbridge Island SMP shoreline buffer consists of two zones. Zone 1 extends from the ordinary high water mark a minimum of 30 feet, or to the limit of existing native vegetation, whichever is greater. The native vegetation area is determined through a site-specific analysis. Zone 2 is landward of Zone 1 and extends no further than the depth of the shoreline buffer.

Some local governments are using terms other than buffers. Gig Harbor's SMP defines a vegetation conservation strip, an undisturbed area of native vegetation. The width of the vegetation conservation strip varies among water bodies. A building setback from the conservation strip is also required.

Use a logical process

Ecology suggests you use a logical process to determine buffer width. Steps in the process include:

1. Use the inventory & characterization report. The inventory and characterization should provide information about shoreline functions, current uses and development, and potential future development. The standard of no net loss of shoreline ecological functions starts with the current conditions discussed in the inventory and characterization. These ecological functions must be protected. What buffer width is necessary to protect them? For example:

   - Trees provide shade and woody debris and stabilize banks.
   - Vegetation intercepts nutrients and fine sediments, boosting water quality.
   - Birds and animals feed and breed in the shrubs and trees that are within shoreline jurisdiction.
   - Vegetation shades the water, helping to keep streams and the intertidal area cool.

   If the inventory and characterization lacks sufficient information to support these decisions, the SMP regulations should be more protective. "As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources" [WAC 173-26-201(3)(g)].

2. Review the scientific literature regarding buffers, particularly the documents referenced earlier, to gain an understanding of the value of buffers and the size of buffers needed to maintain ecological functions. How would the recommended buffer widths apply to your shorelines?

3. Consider the CAO as a starting point. It may not address all the requirements of shoreline management such as the SMA preference for water-dependent uses.

   - Do the buffers reflect recent scientific literature?
   - If Ecology provided comments on the proposed CAO, review the comment letter and see if Ecology supported the CAO for protecting ecological functions.
   - Are the CAO buffers consistent with the requirements to provide for preferred uses?

4. Analyze the current development patterns. A majority of our developed shorelines are residential areas. Some are large-lot, rural residential, with limited disturbance of native vegetation and high quality ecological functions. Other areas are highly developed with a large percentage of the shoreline in impervious surfaces. What size buffers or setbacks

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and other vegetation conservation regulations are needed to protect the remaining ecological functions?

5. Realize that you need to include measures in the SMP to continue to protect these functions and these will likely include buffers, possibly setbacks with vegetation conservation, and mitigation requirements. It's important to discuss this requirement within the framework of the SMA and SMP Guidelines with advisory groups, elected officials and the public.

6. During public participation and community visioning events, get the public's perspective on shoreline aesthetics. Property vegetated with trees, shrubs and groundcover generally is more pleasing to the eye (for most people) than property where the vegetation has been scraped from the ground. Property that is attractive generally has more monetary value than similar property that is not attractive. Buffers and setbacks can help to preserve views. Buildings set closer to the water are likely to block views from buildings set further back. Common line setbacks measured from buildings on adjacent parcels can be part of the buffer and setback equation.

Consider that buffers and setbacks, in addition to protecting ecological functions, also provide safety and aesthetic benefits. Setting buildings back from the water and from the edge of the bluff and retaining native vegetation, or planting native vegetation if it is lacking, can help to reduce erosion and landslides and the chances of damage to buildings. Buildings that are set back adequately should not need to be protected by bulkheads. Communities on marine waters should consider sea level rise projections when determining structural setbacks for safety.

Example

The City of Spokane used a logical process to establish its shoreline buffers for the Spokane River and Latah Creek. The City's "Draft Shoreline Buffer Mapping Methodology" outlines the process.

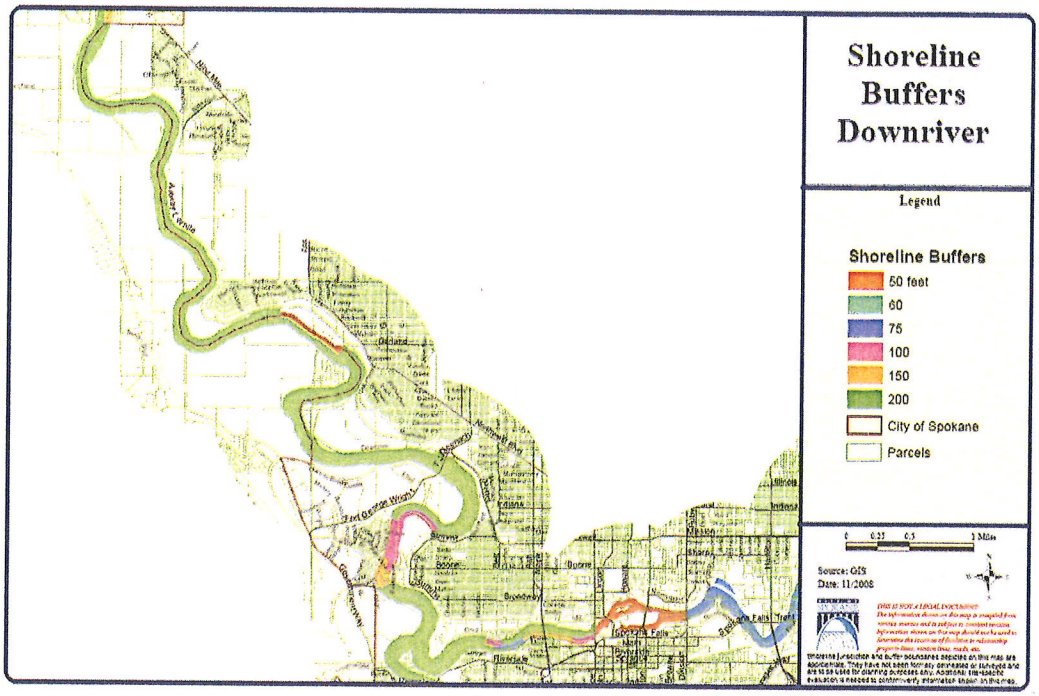

Figure 11-12: The majority of shoreline buffers on the western part of the Spokane River in the city of Spokane are 200 feet. The eastern part of the Spokane River has buffer widths of 50, 75, 150 and 200-feet. Most of the Latah Creek shoreline has 200-foot buffers to protect the channel migration zone.

The City set the following objectives:

- Ensure no further degradation of the shoreline.
- Set buffer distances to achieve a "no net loss" of shoreline ecological functions.
- Set buffer distances, where possible, to increase the potential for future shoreline restoration.
- Critical areas regulations layers and buffers provided a strong basis for the shoreline buffer determination.

The City considered the shoreline inventory information, looked at natural features and reviewed historic and current aerial photography and literature on stream buffers. The City reviewed the existing shoreline condition and potential for restoration as well as existing regulations, including the CAO.

GIS layers included land use and development patterns, critical areas inventories and buffers, orthophotos showing ground and vegetation conditions, and historic orthophotos for vegetation and land use.

The City then set general buffer widths at 50, 60, 75, 100, 150 and 200 feet from OHWM to fit existing constraints such as development patterns. Natural environment designation was generally given a 200-foot buffer, Intensive Urban a 50-foot buffer, and the Wastewater Treatment environment a 50-foot buffer

Example

The City of Kirkland SMP establishes setbacks with vegetation conservation and enhancement rather than buffers for its intensely developed shorelines. The inventory and characterization shows that wetlands areas have high ecological functions, but other areas generally have low functions. Key issues included addressing a heavily armored shoreline, numerous overwater structures including piers and docks and some overwater residences. One goal was to find the balance between creating a minimum number of new nonconforming structures and meeting the no net loss requirement. Its process to determine its shoreline setbacks included a number of steps.

First, the City developed a good understanding of existing land use conditions by measuring average parcel depths and existing setbacks using aerial photos. City staff looked for patterns of existing setbacks and lot depths and then overlaid current setbacks on maps to see how many existing nonconforming structures existed.

Next, the City looked at assessor's information to determine the potential for redevelopment. This included the number of vacant parcels and parcels that could be subdivided, zoning for both categories, and the number of parcels with low improvement values and likely to redevelop.

The City considered several setback options, taking into account the number of potential new nonconforming structures, the total open space that would be gained or lost for redevelopable lots, and the total gain in native vegetation. (Kirkland developed its SMP update prior to the legislative change to the SMA that allows SMPs to include residential structures as conforming structures with regard to buffers, setbacks and some other standards.) Flexible setback standards, discussed earlier, will result in shoreline improvements such as increases in native vegetation, biofiltration, reduction in bulkheads, etc. Small additions to structures will require an equal amount of native vegetation as mitigation.

The City then prepared its cumulative impact analysis to determine whether the likely future development and development standards addressing native vegetation, lighting, pervious materials, and tree retention would meet the no net loss requirement.

Ecology's review of proposed buffers and setbacks

The SMP Guidelines require vegetation conservation standards in SMPs, with buffers and setbacks specifically required for residential development. Ecology expects that most SMPs will include buffers (or setbacks with vegetation conservation requirements) to protect the existing ecological functions of the shoreline. If buffers or setbacks with vegetation conservation are not included in the SMP, local governments should describe the alternatives being used and how they will protect existing ecological functions.

The SMP may allow some development within the buffer in order to allow for private property rights consistent with the public interest and allow water-dependent, preferred uses and public access. Any development must be mitigated to assure no net loss of shoreline ecological functions.

Buffer sizes, setbacks and development regulations will vary among jurisdictions because they are tailored to local conditions and the shoreline ecological functions that are present. A buffer that is appropriate for one shoreline is not appropriate for all shorelines.

In the past few years, Ecology has approved updated shoreline master programs that will regulate the following shorelines. Note that environment designations, permitted uses and development regulations, as well as buffers and setbacks, are part of the SMP package.

- Low density, rural residential areas in Whatcom and Jefferson counties. Marine shoreline buffers are 150 feet.
- Densely developed, small lot residential shorelines in the city of Kirkland. Setbacks are based on average parcel depth, with setbacks to 25 feet and 30 feet possible with shoreline improvements.
- Agricultural areas in Douglas County. Agricultural land within the Rural Conservancy environment has a 100-foot buffer.
- Historic downtown development in Port Townsend. The buffer for the Historic Waterfront designation is 25 feet.
- Lakes with residential development in numerous cities. For example, in Kent, the Shoreline Residential setback for houses is 75 feet.
- Latah Creek in the City of Spokane. The 200-foot buffer in most areas protects the channel migration zone.

When analyzing proposed buffers and setbacks in SMPs, Ecology reviews the documents listed under the "logical process" section on pages 24-25, as well as draft SMP regulations and the cumulative impacts analysis. Ecology expects that mitigation measures will be included in the SMP in order to achieve no net loss of shoreline ecological functions. Mitigation measures may include but are not limited to reducing the lawn area or impervious area and planting native plants, enhancing or expanding existing stands of native vegetation, using stormwater infiltration techniques, removing bulkheads, requiring no use of synthetic herbicides, requiring low impact development techniques, or providing beach nourishment.

Ecology has rejected some proposed shoreline buffers because the buffers were not supported by scientific studies that showed the buffers were adequate to protect existing shoreline ecological functions or based on SMP documents such as the inventory and characterization report.

The SMP Guidelines require SMPs to include policies and regulations designed to achieve no net loss of shoreline ecological functions [WAC 173-26-186(8)(b)]. Therefore, for developed areas, small buffers or setbacks that would allow new development or re-development to be built closer to the OHWM than existing development and would not protect existing shoreline ecological functions are not acceptable. For undeveloped areas, buffers that do not protect existing shoreline ecological functions are not acceptable

General recommendations for buffer width

Following are general recommendations for buffers, based on Ecology's approval of several dozen SMPs.

- Undeveloped shorelines with largely intact ecological functions should be protected with buffers of 150 feet to 200 feet. Shorelines with extensive critical areas, or within channel migration zones or floodplains, also will need protective buffers to protect life and property during flooding.

- Rural residential development, where houses and appurtenances such as garages and sheds cover about 25 – 35 percent of the ground, some area is landscaped, and the rest is in native vegetation, would likely need buffers of 150 feet to protect existing functions.

- Small-lot residential development in highly developed areas provides some ecological functions. Buffers or setbacks with vegetation conservation requirements of roughly 30 to 60 feet may be appropriate. If these areas include critical areas, larger buffers likely will be needed.

- Heavily developed waterfront areas with port facilities, water-dependent industry, overwater structures such as docks for containerized shipping or other intensely developed areas may have limited ecological functions. In these areas, buffers or setbacks may not be appropriate. Regulations should address retention of any existing vegetation and encourage restoration where it is appropriate. Busy waterways still harbor fish and other species.

In most cases, a "one-size" buffer applied throughout shoreline jurisdiction will not reflect shoreline ecological functions and local shoreline conditions. Shoreline conditions and ecological functions likely vary enough for most shorelines within local government boundaries that more than one buffer or setback with vegetation conservation will be needed to protect ecological functions.

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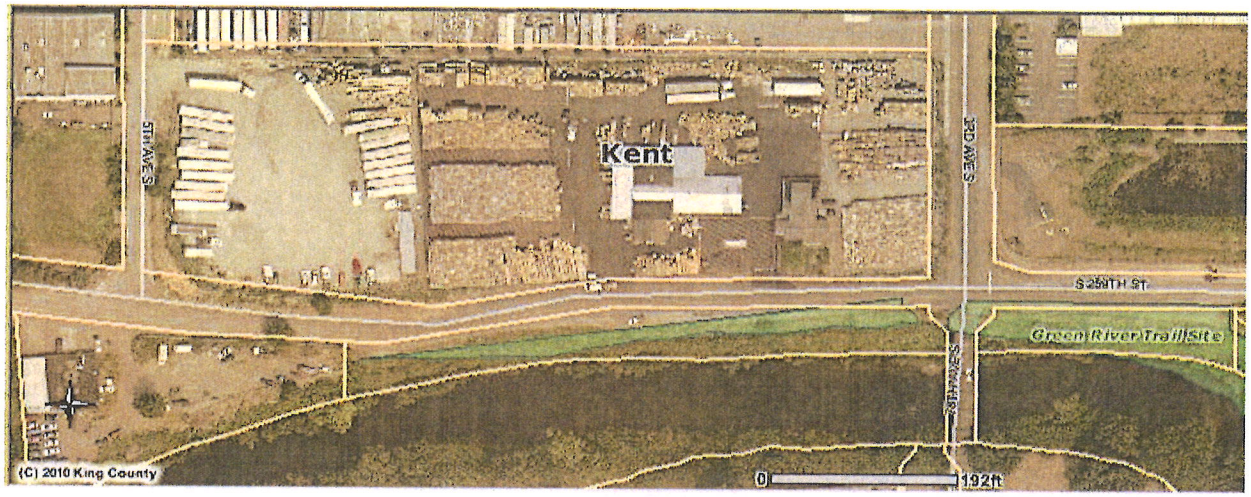

Figure 11-13: In the City of Kent, this High Intensity environment requires a 100- foot setback for industrial uses. A commercial use would need a 70-foot setback

Show your work

Ecology recommends that local governments show their work regarding decisions on buffers and setbacks. Keep a record of the inventory and characterization information that's used to support decisions about buffers and setbacks. What is the rationale for the decision?

Avoid the following when making decisions about buffers and setbacks:

- No rationale for the buffer or setback decision.
- Last minute changes lacking support in record.
- Uniform buffers that ignore the detailed information provided in the shoreline characterization.
- Lack of a good record supporting the decision.

Managing buffers and setbacks

An SMP that includes buffers and setbacks also must include policies and regulations to protect them. The SMP guidelines include "the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species" as activities to protect and restore vegetation [WAC 173-26-221(5)].

SMPs should include regulations that address preservation of vegetation, pruning for safety and views, removal of invasive plants and noxious weeds, removal of hazardous trees, clearing limitations, removal of trees that are fire hazards, planting requirements and other activities related to vegetation conservation and restoration. Determine when vegetation management plans will be required, and how long vegetation must be monitored. See the "Sample Regulations" section below for recommended language from Washington Department of Fish and Wildlife on hazard trees removal and viewshed clearing.

Property owners are sometimes concerned that requirements to plant vegetation means that required trees will become tall and potentially hazardous or block views. Regulations for new vegetation in buffers can include height limits for trees, as cities often require for areas under power lines.

SMPs can define public view corridors as part of the public access section of the SMP. Procedures to retain public views can address removal of hazardous trees or trees that block the shoreline view from a public view corridor. Mitigation measures should be included to offset any potential loss of ecological functions.

Allowing for flexibility

The SMP may allow some flexibility, including buffer averaging, common line setbacks and administrative buffer reductions, as described below. If these types of buffer reductions are allowed in the SMP, the cumulative impacts analysis should take them into account and determine whether they would cause cumulative impacts on shoreline ecological functions. These buffer reduction options should not be available where there are safety or health hazards such as floodways, unstable or steep slopes, or significant potential fish or wildlife impacts.

Buffer averaging

Buffer averaging can potentially be applied on one parcel or multiple parcels. The object of buffer averaging should be to allow flexibility in project design while increasing the protection of the most valuable buffer functions and values.

For example, on a single-family lot, a house could be built within the buffer (closer to the water) on an existing, low-functioning grassy area, and the buffer would extend deeper into the parcel into a highly-functioning, wooded ravine within the side yards. The total buffer area would be the same if the standard buffer is enforced or averaging is allowed. On multiple parcels, the buffer could potentially vary on the lots, with the average buffer meeting the same size requirements overall as the adopted buffer. In both cases, a strict limit to a reduced buffer depth should be set in the SMP. Typically, this limit is no more than a 25% reduction and may not go below a set minimum buffer.

Administrative buffer reductions

For administrative reductions, the SMP sets a process and parameters, including mitigation, for specific limited buffer reductions that may be approved by a planning or other administrator. Administrative approval eliminates requirements for a local public hearing or decision by a hearing examiner, saving time and money for both the applicant and the local jurisdiction. Again, a strict limit (typically 25%) to a reduced buffer depth should be set in the SMP may not go below a set minimum buffer. Allowing a buffer reduction should provide additional flexibility in project design while increasing the protection of the most valuable buffer functions and values over a standard buffer application. Incentive programs providing enhanced buffer vegetation or features such as beach restoration are sometimes linked to the buffer reduction criteria. Buffer reductions and alternative designs should be set up as shoreline Conditional Use Permits that would require approval by Ecology.

Common line setbacks

Common line setbacks apply to small, undeveloped lots in areas where most lots are developed and vacant parcels are adjacent to and interspersed among developed lots. When a development is proposed for the vacant parcel, the required setback is measured from prescribed places on buildings on adjoining lots -- typically the foundation corners of the buildings, but not decks, patios or porches that protrude waterward. Regardless of the common line setback, a minimum setback or buffer distance must also be set up in the SMP.

Criteria should take into account variations in shore contours, topography, geology, soils, vegetation and other physical characteristics on a case-by-case basis to ensure equitable treatment for the property owner while providing the optimum buffer functions considering the circumstances. The SMP should state that providing equitable treatment for the property owner does not mean necessarily providing an equal or equivalent view. Enhanced buffer vegetation or features e.g. beach restoration, etc are also sometimes linked to the buffer reduction criteria associated with a common line setback.

SMP language

Language in the SMP should be clear. Be sure to address the width of buffers and setbacks and allowed uses. If reductions in setbacks and buffers, common line setbacks, or other provisions are allowed, make sure the SMP language is clear and to the point. Consider the following when writing SMP regulations:

- Are you establishing buffers, setbacks, or both? How wide are the buffers from the ordinary high water mark? How far back from the upland edge of the buffers are the setbacks? For example, the buffer is 100 feet from the OHWM, and the setback is 15 feet from the upland edge of the buffer. Or, the setbacks include the buffers – i.e. a 100-foot setback that includes a 65-foot buffer.

- Are buffers and setbacks established per environment designation, for specific water bodies (Meandering River, Frog Lake), for types of water bodies (lakes, streams, marine) or for shoreline reaches?

- What uses are allowed within the buffers and setbacks? Uses in buffers should be minimal, because preserving shoreline functions is paramount. Trails to the water are typical uses within buffers. Gardens and sheds are typical uses in setbacks. If a buffer or setback is established for parks, the SMP should be specific about what uses are allowed within the buffer or setback. Perhaps a trail, boat launch and upland portion of a dock could be built within the buffer, and other park facilities located upland of the buffer.

- Do the buffers include existing structures? Some local governments include the area around single family houses, but not the houses, within the buffers.

- For new development, will buffers and setbacks be recorded on the deed?

- How will the buffers and setbacks regulations be enforced? Can you document existing conditions with photos?

- Will residential structures within buffers be conforming or nonconforming structures?

Sample regulations

This section includes examples of regulations from approved Shoreline Master Programs and recommended language on viewshed clearing and hazard tree removal from Washington Department of Fish and Wildlife.

City of Anacortes

Natural Environment
Setbacks
DR-5.7.4 Unless otherwise specified herein, permanent structures, storage, and hard surfaces are prohibited.

Conservancy Environment
DR-5.8.3 Unless otherwise specified herein or in Table 5.2, permanent structures, storage, and hard surfaces shall be set back a minimum of one hundred (100) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the ordinary high water mark.

Shoreline Residential Environment
DR-5.9.6 Exceptions from the Shoreline Residential setback may be granted through an administrative approval. Any restrictions or conditions which are tied to the parcel through this exception process shall be recorded on a revised Notice on Title. Such exceptions include:
a. For areas with a setback of 60 feet, reductions of up to twenty five (25) percent of the standard setback, may be approved if the applicant demonstrates that either:

> i. enhancing the setback (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced setback that functions at a higher level than the existing standard setback; or
> ii. conditions (existing uses or developments) exist within the site's shoreline setback, which substantially prevent or impair delivery of most riparian functions.

City of Des Moines

6.1.1 Building height, marine buffers, and building setbacks.
2. Pursuant to Section 6.1.3 of this Chapter, buffers for designated critical areas physically located in shoreline jurisdiction shall apply to uses and development located in shoreline jurisdiction. A minimum buffer of 115 feet from the marine ordinary high water mark (OHWM) shall be maintained in designated Urban Conservancy and Shoreline Residential environments.

3. A minimum building setback of 10 feet from the landward edge of buffer must be maintained in all shoreline environments.

Douglas County

4.3 Vegetation Conservation

Regulations

2. Where impacts to buffers are permitted under Section 4.1, Ecological Protection and Critical Areas, new developments shall be required to develop and implement a management and mitigation plan. When required, management and mitigation plans shall be prepared by a qualified biologist and shall be consistent with the requirements in Appendix H. Management and mitigation plans shall describe actions that will ensure no net loss of ecological functions. Vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the County Auditor.

3. Pruning of native trees for safety and view protection may be permitted if consistent with the provisions of Section 4.1, Ecological Protection and Critical Areas.

5. Removal of noxious weeds and/or invasive species shall be incorporated in management and mitigation plans, as necessary, to facilitate establishment of a stable community of native plants.

8. With the exception of hand removal or spot spraying of noxious weeds, the determination of whether non-native vegetation removal may be permitted must be evaluated in conformance with Section 4.1 Ecological Protection and Critical Areas.

5.1.3 Shoreline bulk and dimensional standards

7. Common line buffer/setback:

A common line wetland or riparian buffer/setback may be utilized for the development of a single family dwelling on an undeveloped lot, where the lot is a legal lot of record in place at the time of adoption of this Program and is located adjacent to existing residential dwelling units on both adjacent shoreline lots. The common line buffer/setback shall be determined by; averaging the buffers/setback, as measured landward from the delineated wetland or riparian boundary, for each of the adjacent residential dwelling units on the shoreline.

Common line buffers/setbacks shall apply when:

(1) The width of the undeveloped lot is less than 150 feet;

(2) The lot is located within an Urban Growth Area, Planned Development, Rural Service Center or Rural Recreation zoning districts, or is a cluster lot.

b. Common line buffers/setbacks shall not apply when:

(1) The elevation of adjacent structures on adjacent lots are 15' higher or lower from the natural grade on the vacant center lot.

(2) One of the adjacent lots is undeveloped.

(3) Either of the adjacent lots has been developed since the date of adoption of this Program.

(4) Greater than 250 cubic yards of grade or fill needs to occur in order to accommodate utilizing the common line buffer/setback.

A management and mitigation plan prepared by a qualified professional biologist shall be submitted and approved which demonstrates no net loss of ecological functions for the site in conformance with the applicable appendices of the jurisdiction in Appendix H.

8 Definitions
124. "Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

City of Port Townsend

Conservancy environment, management policy
Policy 5.8.5 *Subdivisions* - Protect natural vegetation and shoreline ecological functions by prohibiting the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. Each new parcel should be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

Shoreline Residential environment, development regulation
DR-5.9.14 A minimum of fifteen percent (15%) of the total lot area shall be retained or replanted in native vegetation. Areas to be retained shall include the largest contiguous, and/or most waterward blocks of native vegetation located on site. If no areas of native vegetation remain, the vegetation retention area shall be replanted with species native to shoreline areas of the Quimper Peninsula. For additions and expansions of existing developments, replanting shall be commensurate with the degree of impact resulting from the new development.

View Protection/Aesthetics
DR-6.4.17 The protection of public views of the shoreline is an important shoreline management objective. View protection can include preventing view blockage through height limitations or requiring aesthetic enhancement with landscaping. View protection does not justify the excessive removal of vegetation to create views or enhance partial existing views. Retaining vegetation and "windowing" or other pruning techniques should always be preferred options over vegetation removal. Please refer to Chapter 9, Section 9.3, Alteration of Natural Landscape – Clearing, Grading and Vegetation Removal Chapter 7, Public Access.

City of Rock Island

Shoreline Critical Areas Regulations
View Corridors
b. Applications for view corridors must also be consistent with the following standards:

i. Native vegetation removal shall be prohibited.

ii. Pruning of native vegetation shall not exceed 30% of a tree's limbs, and shrubs shall not be pruned to a height less than 6'. No tree topping shall occur. Pruning of vegetation waterward of the ordinary high water mark is prohibited.

iii. Non-native vegetation within a view corridor may be removed when the mitigation and management plan can demonstrate a net gain in site functions, and where impacts are mitigated at a ratio of 2:1.

iv. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.

v. Pruning shall be done in a manner that shall ensure the continued survival of vegetation.

vi. The applicant's biologist shall clearly establish that fragmentation of fish and wildlife habitat will not occur, and that there is not a net loss of site ecological functions. .

vii. View corridors are not permitted in the Natural Environment Designation.

Whatcom County

23.90.06 Vegetation Conservation
23.90.06.B Regulations
2. Where compliance with SMP 23.90.06.B.1 is not feasible or required, new developments shall be required to develop and implement a vegetation management plan. When required, vegetation management plans shall be prepared by a qualified professional and shall be consistent with the requirements in WCC 16.16.260.B and .C, provided that the Administrator may establish prescriptive standards for vegetation conservation and management as an alternative to requiring a specific plan for a development. Vegetation management plans shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the extent possible given the area that is feasibly available. Required vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the Whatcom County Auditor.

5. Removal of noxious weeds and/or invasive species shall be incorporated in vegetation management plans, as necessary, to facilitate establishment of a stable community of native plants.

7. Selective vegetation clearing and pruning may be allowed in landslide hazard areas and/or riverine and coastal erosion hazard areas and/or their buffers pursuant to an approved vegetation management plan designed to improve overall slope or bank stability. The plan shall be prepared by a qualified professional and reviewed by a licensed geologist or geotechnical engineer.

16.16.740 Standards – Habitat conservation area buffers

The technical administrator shall have the authority to reduce buffer widths on a case-by-case basis; provided, that the general standards for avoidance and minimization per WCC 16.16.260(A)(1)(a) and (b) shall apply, and when the applicant demonstrates to the satisfaction of the technical administrator that all of the following criteria are met:
1. The buffer reduction shall not adversely affect the habitat functions and values of the adjacent habitat conservation area or other critical area.
2. The buffer shall not be reduced to less than 75 percent of the standard buffer as defined in subsection C of this section.
3. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30 percent.

E. The technical administrator shall have the authority to average buffer widths on a case-by-case basis; provided, that the general standards for avoidance and minimization per WCC 16.16.260(A)(1)(a) and (b) shall apply, and when the applicant demonstrates to the satisfaction of the technical administrator that all of the following criteria are met:
1. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer and all increases in buffer dimension are parallel to the habitat conservation area.
2. The buffer averaging does not reduce the functions or values of the habitat conservation area or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function.
3. The buffer averaging is necessary due to site constraints caused by existing physical characteristics such as slope, soils, or vegetation.
4. The buffer width is not reduced to less than 75 percent of the standard width as defined in subsection C of this section.
5. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30 percent.
6. Buffer averaging shall not be allowed if habitat conservation area buffers are reduced pursuant to subsection D of this section.

16.16.640 Standards – Wetland buffer reductions
(These may be revised to apply to buffers for lakes, marine waters and streams within shoreline jurisdiction.)

D. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of buffer functions and values. The specific measures that shall be implemented include, but are not limited to, the following:
1. Direct lights away from the wetland and buffer.
2. Locate facilities that generate substantial noise (such as some manufacturing, industrial and recreational facilities) away from the wetland and buffer.
3. Establish covenants limiting use of pesticides within 150 feet of wetland.
4. Implement integrated pest management programs.
5. Infiltrate or treat, detain and disperse runoff into buffer.
6. Post signs at the outer edge of the critical area or buffer to clearly indicate the location of the critical area according to the direction of the county.

7. Plant buffer with native vegetation appropriate for the region to create screens or barriers to noise, light, human intrusion and discourage domestic animal intrusion.
8. Use low impact development where appropriate.
9. Establish a permanent conservation easement to protect the wetland and the associated buffer.

City of Woodinville

6.3 Vegetation Conservation

1. Required buffers shall be considered vegetation conservation areas. Existing native shoreline vegetation shall be preserved to the maximum extent feasible within the vegetation conservation area consistent with safe construction practices, and other provisions of this section. Native trees and shrubs shall be preserved to maintain and provide shoreline ecological functions such as habitat, shade, and slope stabilization.

2. Within the vegetation conservation area, no more than 15 percent of the area with native shoreline vegetation shall be cleared. All native trees in the vegetation conservation area over 4 inches in diameter at breast height shall be retained. Trees determined by the City to be hazardous or diseased may be removed.

3. The Shoreline Administrator may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological functions than would be provided by strict application of this section.

Yakima County Regional Shoreline Master Program

16D.03.05 Minor Activities Allowed without a Permit or Exemption.
1) The following activities are included under 16D.01.05(1) (Applicability) and are allowed
without a permit or exemption: (partial list)
a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down trees and shrubs within a buffer is not covered under this provision. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;

g) Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a restoration exemption, or
other authorization as applicable:
- i) Hand removal/spraying of individual plants only;
- ii) No area wide vegetation removal/grubbing.

Washington Department of Fish and Wildlife

Viewshed clearing

Recommendations from "*Land Use Planning for Salmon, Steelhead and Trout, p. 47):*

"Require a habitat management plan, prepared by a qualified professional, for vegetation clearing in a buffer. Clearing of native vegetation is only permitted if no net loss to fish and wildlife habitat conservation areas can be shown or clearing of native vegetation is necessary to mitigate hazardous trees. Consideration should also be given to assessing the temporal loss of function(s) from such clearing. Although functions recover over time, interim measures to enhance recovery times and trajectories should be implemented. Preferably, some measures (e.g., replacement plantings) should be conducted prior to or concurrent with clearing activities to minimize overall temporal losses. A qualified professional must prepare the report (e.g., arborist)."

> Example Policy: *Limited and selective clearing for views may be allowed when slope stability and ecological functions are not compromised, but landowners should not assume that an unobstructed view is guaranteed. Maintaining well-vegetated riparian areas is preferred over clearing vegetation to create views.* (Jefferson County SMP)
>
> Example Regulation: *Limbing or crown thinning shall comply with National Arborist Association pruning standards, unless the tree is a hazard tree as defined by this ordinance. No more than 25% of the limbs of any single tree may be removed and no more than 20% of the canopy cover in any single stand of trees may be removed for view preservation. Mitigation requirements for removal of vegetation shall be made after review of a habitat management plan prepared by a qualified professional that assesses the cumulative impacts associated with removing riparian vegetation for view enhancement.*

Hazard tree removal

Key evaluation questions
How is a hazard/danger tree **defined**?

- Is there a **permit or review process** for removing a hazard/danger tree?
- Are there blanket **exemptions** for removal?
- Does a **qualified professional** (forester, arborist) need to review/make a report in order to take out a tree?
- Is **mitigation** required?

Recommended definition: *"Danger tree" means a tree with a high probability of falling due to a debilitating disease, a structural defect, a root ball more than fifty percent exposed, or having been exposed to wind throw within the past ten years, and where there is a residence or residential accessory structure within a tree length of the base of the trunk, or where the top of a bluff or steep slope is endangered. Where not immediately apparent to the review authority, the*

danger tree determination shall be made after review of a report prepared by an arborist or forester.

Recommendations from "*Land Use Planning for Salmon, Steelhead and Trout", p. 59:*

"Require department review and professional assessment for hazard tree removal to determine if a tree poses a "direct threat to property and life." A habitat management report prepared by a qualified arborist must be submitted that includes a description of existing habitat conditions, explores alternatives to outright removal (such as limbing or crown thinning), assesses tree health for recruiting to the channel, and on-site replanting provisions to mitigate removal impacts. Hazard tree removal within a stream requires a Hydraulic Project Approval permit under Chapter 77.55 RCW from the Washington Department of Fish and Wildlife."

Regulatory Example (Hazardous Trees): (1) In a critical area or critical area buffer, removal of hazardous, diseased or dead trees and vegetation by the landowner may be permitted when necessary to: (a) Control fire; or (b) Halt the spread of disease or damaging insects consistent with the State Forest Practices Act, RCW 76.09; or (c) Avoid a hazard such as landslides; or (d) Avoid a threat to existing structures or above-ground utility lines. (2) Before hazardous, diseased or dead trees and vegetation may be removed by the landowner pursuant to subsection (1): (a) Unless there is an emergency pursuant to SCC 14.24.070(1), the landowner shall obtain written approval from Planning and Development Services. This consent shall be processed promptly and may not be unreasonably withheld. If the Administrative Official fails to respond to a hazard tree removal request within 10 business days, the landowner's request shall be conclusively allowed; and (b) The removed tree or vegetation should be left within the critical areas or buffer unless the Administrative Official, or a qualified professional, warrants its removal to avoid spreading the disease or pests; and (c) Any removed tree or vegetation shall be replaced with an appropriate native species in appropriate size. Replacement shall be performed consistent with accepted restoration standard for critical areas within one (1) calendar year. (d) For 14.24.130 only, a qualified professional shall mean a certified arborist, certified forester or landscape architect. Skagit County Critical Areas Ordinance, 14.24.130 Hazard Tree Removal.

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Jefferson County Shoreline Master Program (SMP) Comprehensive Update

Buffer Science Summary - page 2

Source: Chapter 5.2 of the November 2008 *Final Shoreline Inventory & Characterization Report*

Excerpted Text Descriptions

A. **Large Woody Debris (LWD):** In riverine environments, more than half of all large woody debris is recruited from within 15 feet of streams.
B. **Nitrogen:** According to the literature, buffer widths as small as 27 feet could reduce nitrogen by as much as 60 percent, while widths up to 200 feet would be required to reduce nitrogen by 80 percent (Desbonnet et al., 1994, in Pentec, 2001).
C. **Sediment:** In general, a 50-foot buffer is estimated to be approximately 60 percent effective at removing sediments, while an 82- to 300-foot buffer would remove approximately 80 percent of sediment load (Brennan and Culverwell, 2004; Pentec 2001).
D. **LWD:** About 90 percent of all large woody debris comes from trees growing within about 50 feet of streams (Herrera, 2005).
E. **Agriculture:** Minimum buffer recommendations for controlling agricultural runoff are 79 feet for 20 percent slopes with slight erosion, and 160 feet for 30 percent slopes with severe erosion (Brennan and Culverwell, 2004).
F. **Pollutants:** Although sediment carried into nearshore marine environments will seldom be of a magnitude to significantly compromise water clarity, the minimum recommended buffer width for sediment control and pollutant removal is 98 feet (30 meters) (May, 2003).
G. **Fecal Coliform:** Control of fecal coliform inputs from agriculture or septic systems to acceptable levels for primary contact recreational use could be achieved by a 115 feet buffer (Young et al., 1980, in Pentec, 2001).
H. **Agriculture:** See 'E' above.
I. **Nitrogen:** See 'B' above.
J. **Shading:** Buffer recommendations range from 98 to 262 feet for natural temperature regulation and shading, or providing equivalent shading as a mature forest (May, 2003).
K. **Riparian Habitat:** For Washington State, the average width reported to retain riparian function for wildlife habitat is 288 feet (Knutson and Naef, 1997).
L. **Sediment:** See 'C' above.
M. **Microclimate:** The minimum recommended buffer for microclimate protection is 328 feet (May, 2003).
N. **Marine Shores:** Levings and Jamieson (2001) cite findings from the Canadian Ministry of Forestry in British Columbia recommending buffers of 300 to 450 feet for marine shores depending on the type of shore, wind conditions, and other factors.

Buffers protect shoreline ecological functions and processes, water quality and habitat:

- Nutrient cycling
- Groundwater recharge
- Soil stability
- Erosion
- Siltation
- Soil-bound contaminants
- Particulate nutrients, metals, organic chemicals
- Fecal coliform bacteria
- Feeding/foraging
- Perch/refuge
- Breeding & Nesting
- Microclimate for plant growth/ decomposition
- Prey production
- Migration/travel corridor
- Habitat structure
- LWD = large woody debris

Low Point
Tongue Point
Crescent Bay
Obervatory Point
Angeles Point
Elwha Klallam Tribal Lands
Freshwater Bay
Beach Lake
Ediz Hook
Port Angeles Harbor
West Twin River
East Twin River
Lyre River
Salt Creek
Coville Creek
Port Angeles
Boundary Creek
Elwha River
Port Angeles Reservoir
Lake Sutherland
Indian Creek
Lake Aldwell
Winters Pond
Mining Creek
Morse Creek
Lake Crescent
Eagle Lakes
South Branch Little River
Lake Dawn
Happy Lake
Olympic National Park
Upper Elwha Dam
Lake Mills
Lake Angeles
Boulder Lake
Three Horse Lake

WHATCOM
SAN JUAN
SKAGIT
ISLAND
CLALLAM
SNOHOMISH
JEFFERSON
KITSAP
KING
GRAYS HARBOR
MASON
PIERCE

DRAFT

Shoreline Environment Designations

Page 2 of 3 - Middle Clallam County

Shoreline Environment Designations (SED)

- Bay
- Feeder Bluff
- Freshwater Conservancy
- Freshwater Natural
- Freshwater Residential
- Freshwater Resource
- High Bank
- Lowland/Estuary
- Modified Lowland
- Federal/Tribal Ownership

0 1 2 4 Miles

N

NOTE: Map data shown here are property of the listed sources. Inaccuracies may exist, and ESA implies no warranties or guarantees regarding any aspect of data depiction.

Coordinate System: State Plane NAD 1983 (Ft) Washington North FIPS 4602

Data Sources: Clallam County, 2010 (2006); Ecology, 2009; ESA, 2011; WDNR, 2007

DCD 8805 - 094

9:07 AM monday

→ 360 461 2422

BarB Butcher

12:36 PM

360 912-0262

BarB

Wednesday

Martin

Email Martin →
Jocelyn

$6

12.4

9.5

Wednesday

37.9

1.5

26.4

Inoff

1.5

At home

37.9

8

45.9

DCD 8805 - 001

generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created for non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands intentionally created from non-wetland areas as mitigation (e.g., to mitigate the conversion of wetlands) and wetlands modified for approved land use activities shall be considered as wetlands for the purposes of this Program.

358. Weir means a structure in a stream or river for measuring or regulating stream flow and/or for directing fish movement for passage, fisheries, or scientific research purposes.

359. Wind energy system (WES) means a wind energy conversion system, consisting of: wind turbine, tower, base and associated control or conversion electronics, as well as all anchors, guy cables and hardware.

360. Wind throw means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

DCD 8805 - 002

memorandum

date October 18, 2011

to Clallam County SMP Advisory Committee

from Adam Merrill and Margaret Clancy, ESA
Jim Kramer, Kramer Consulting

subject Clallam County SMP Update: Shoreline Environment Designations (SEDs) (Working Draft)

Note to committee members: This is a preliminary working draft of the SED "chapter" of the updated SMP. This language , or something similar to it, would potentially replace chapter 3 of the 1992 Clallam County SMP. The county's five existing shoreline environment designations would be replaced with the five marine and four freshwater designations according to the provisions described below. The language offered here is offered as an initial recommendation for further consideration. Maps showing where these designations would apply will be available for review at the meeting. When the designations map is finalized it will become the official shoreline map referred to below.

Shoreline Jurisdiction and Mapping

1. The provisions of the SMP apply to all shorelines of the state in unincorporated Clallam County including all freshwater and saltwater shorelines, shorelines of statewide significance and all shorelands as defined in RCW 90.58.030. These areas are collectively referred to herein as 'shorelines'.

2. The Official Shoreline Map appended to this Program [to be provided once the designations are finalized] shows the general location and approximate extent of such shorelines. The Official Shoreline Map shows the environment designations that apply to each segment of the shoreline planning area. The Official Shoreline Map is for planning purposes only. It does not necessarily identify or depict the precise lateral extent of shoreline jurisdiction or all associated wetlands. The extent of the shoreline jurisdiction on an individual parcel is determined on a case-by-case basis at the time a shoreline development is proposed. The actual extent of shoreline jurisdiction may require a site-specific evaluation to identify the location of the ordinary high water mark and any associated wetlands.

3. The County shall maintain a Geographic Information Systems database that depicts the coordinates for locating the upstream extent of shoreline jurisdiction (that is, the location where the mean annual stream flow is at least 20 cubic feet per second). The database shall also show the known limits of the floodplain, floodway, and channel migration zones, and such information shall be used, along with site-specific information on the location of the ordinary high water mark and associated wetlands, to determine the lateral extent of shoreline jurisdiction on a parcel-by-parcel basis. The database shall be updated regularly as new information is made available and the public shall have access to the database upon request.

4. All areas within shoreline jurisdiction that are not mapped and/or not designated shall be designated Conservancy until the area is redesignated through a Master Program amendment.

DCD 8805 - 003

5. If disagreement develops as to the exact location of a shoreline environment designation boundary line shown on the Official Shoreline Map, the following rules shall apply:

   - Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

   - Boundaries indicated as approximately following roads, improved trails, or railways shall be respectively construed to follow their centerlines.

Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Administrator shall interpret the boundaries. Appeals of such interpretations may be filed pursuant to the applicable appeal procedures described in Section XXX of this SMP.

Shoreline Environment Designations – Purpose, Criteria and Management Policies

1. Shoreline environment designations have been developed as a part of this Program in accordance with WAC 173-26-211. The designations provide a systematic, rational, and equitable basis upon which to guide and regulate use and development within specific shoreline planning areas.

2. Shoreline environment designations are based on the following general factors, not listed in order of priority:
   - The ecological functions and processes that characterize the shoreline, together with the degree of human alteration as determined by the [insert final date] Shoreline Inventory and Characterization Report and subsequent technical analyses; and
   - The County's goal of having coordinated planning for open space, public access and other aspects of shoreline management; and
   - Existing and planned development patterns, including the County Comprehensive Plan designations.

3. Shorelines in Clallam County shall have one or more of the following designations:

[Note: Designation names are working titles for now]

Freshwater Resource

Purpose

The Freshwater Resource designation applies to stream and lake shorelines zoned for commercial forestry in predominately undeveloped areas of the County. The purposes of the designation are to ensure sustained use of forest resource lands while protecting shoreline ecological functions.

Designation Criteria

The Freshwater Resource designation is applied to freshwater shorelines that have the following characteristics:

Freshwater Resource	**Land Use:**	• Working forests (both public and private) in rural and predominately undeveloped areas of the County • Low likelihood of conversion to non-forestry uses because of their remote locations and lack of infrastructure
	Zoning:	• Zoned for commercial forestry
	Ecological Condition:	• Shorelines are generally densely forested, providing important habitat for terrestrial and aquatic species, including salmon • Ecological condition is not a major designation factor
	Shoreline Modifications:	• Shorelines/ stream banks generally lack levees and other structural modifications unmodified • Presence/absence of modifications is not a major designation factor.

Management Policies

The Freshwater Resource shorelines will be managed according to the following policies:

Freshwater Resource	**Allowed/Encouraged Uses:**	• Timber harvest and related activities consistent with the Forest Practices Act • On public land: Low-impact public access, such as gravel trails, view points, and non-motorized gravel boat launches, in locations where access will not compromise shoreline functions.
	Discouraged or Prohibited Uses:	• Land uses incompatible with timber harvest and management, such as residential subdivisions • New structural shoreline armoring
	Key Management Practices:	• Ensure that activities accessory to timber harvesting, such as construction of roads, culverts, or bridges, are conducted using best practices to minimize impacts to shoreline functions • Residential developments should be located outside of shoreline jurisdiction, except where no other building site is feasible on the parcel • Ensure that conversion to non-forest uses comply with the SMP standards for the proposed use. When forest lands are converted to another use, there should not be significant adverse impacts to shoreline functions or other land uses

Freshwater Residential

Purpose

The Freshwater Residential designation applies to stream and lake shorelines that are partially or extensively developed with moderate- to high-density residences. The purpose of the designation is to accommodate planned residential development while minimizing impacts to shoreline functions.

Designation Criteria

The Freshwater Residential designation is applied to shorelines that have the following characteristics:

Freshwater Residential	**Land Use:**	• Shorelines that are partially or extensively developed with residences, with lots less than 2 acres in area
	Zoning:	• Existing subdivisions zoned for parcels less than 2 acres in area
	Ecological Condition:	• Minimal forest cover or forest cover in small patches
	Shoreline Modifications:	• Presence of shoreline armoring structures, such as levees or hardened banks

Management Policies

The Freshwater Residential designation will be managed according to the following policies:

SUTHERLAND LAKE CLALLAM COUNTY

LATITUDE 48° 4'31" LONGITUDE 123°41' 9" T30N-R8W-22
PUGET SOUND BASIN

PHYSICAL DATA		CULTURAL DATA	
DRAINAGE AREA	7.98 SQ MI	RESIDENTIAL DEVELOPMENT	65 %
ALTITUDE	525. FT		
LAKE AREA	370. ACRES	NUMBER OF NEARSHORE HOMES	152
LAKE VOLUME	21000. ACRE-FT		
MEAN DEPTH	57. FT	LAND USE IN DRAINAGE BASIN	
MAXIMUM DEPTH	86. FT		
SHORELINE LENGTH	4.9 MI	RESIDENTIAL URBAN	0 %
SHORELINE CONFIGURATION	1.8	RESIDENTIAL SUBURBAN	2 %
DEVELOPMENT OF VOLUME	0.66	AGRICULTURAL	<1 %
BOTTOM SLOPE	1.9 %	FOREST OR UNPRODUCTIVE	91 %
BASIN GEOLOGY	IGNEOUS	LAKE SURFACE	7 %
INFLOW	PERENNIAL		
OUTFLOW CHANNEL	PRESENT	PUBLIC BOAT ACCESS TO LAKE	YES

WATER-QUALITY DATA (IN MG/L UNLESS OTHERWISE INDICATED)

SAMPLE SITE	1	
DATE	8/12/74	
TIME	1225	1230
DEPTH (FT)	3.	66.
TOTAL NITRATE (N)	0.00	0.00
TOTAL NITRITE (N)	0.00	0.00
TOTAL AMMONIA (N)	0.02	0.02
TOTAL ORGANIC NITROGEN (N)	0.02	0.11
TOTAL PHOSPHORUS (P)	0.006	0.010
TOTAL ORTHOPHOSPHATE (P)	0.006	0.005
SPECIFIC CONDUCTANCE (MICROMHOS)	140	130
WATER TEMPERATURE (DEG C)	20.1	7.4
COLOR (PLATINUM-COBALT UNITS)	0	0
SECCHI-DISC VISIBILITY (FT)	33	
DISSOLVED OXYGEN	8.8	6.6

LAKE SHORELINE COVERED BY EMERSED PLANTS	LITTLE OR NONE
LAKE SURFACE COVERED BY EMERSED PLANTS	NONE OR <1 %

DATE	8/12/74
TIME	1225
NUMBER OF FECAL COLIFORM SAMPLES	3
FECAL COLIFORM, MINIMUM (COL./100ML)	<1
FECAL COLIFORM, MAXIMUM (COL./100ML)	<1
FECAL COLIFORM, MEAN (COL./100ML)	<1

REMARKS

SUTHERLAND LAKE IS THOUGHT TO HAVE ONCE BEEN A PART OF CRESENT LAKE UNTIL A SLIDE SEPARATED THE TWO. THERE WAS LITTLE EVIDENCE OF SUBMERSED OR EMERSED AQUATIC PLANT GROWTH.

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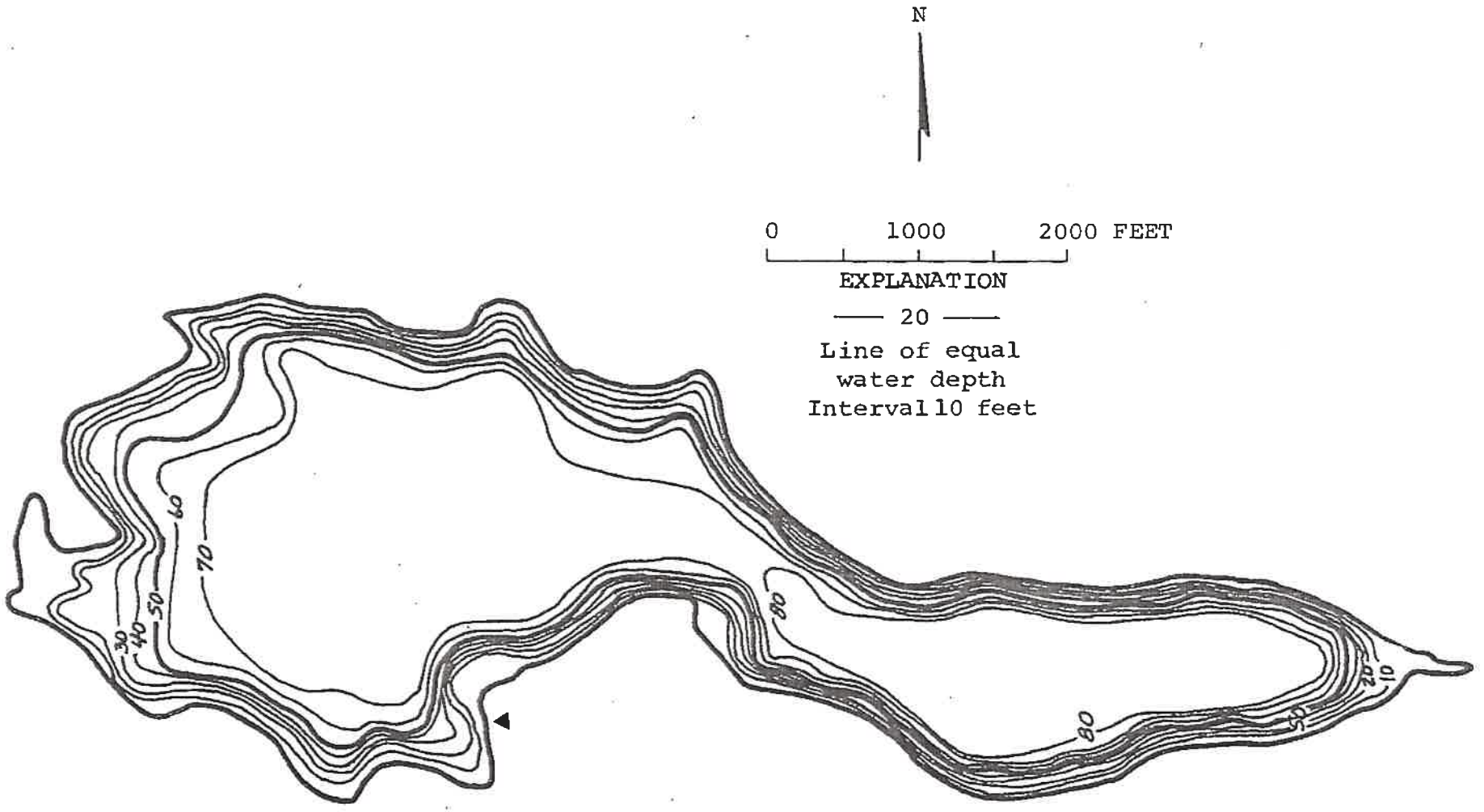
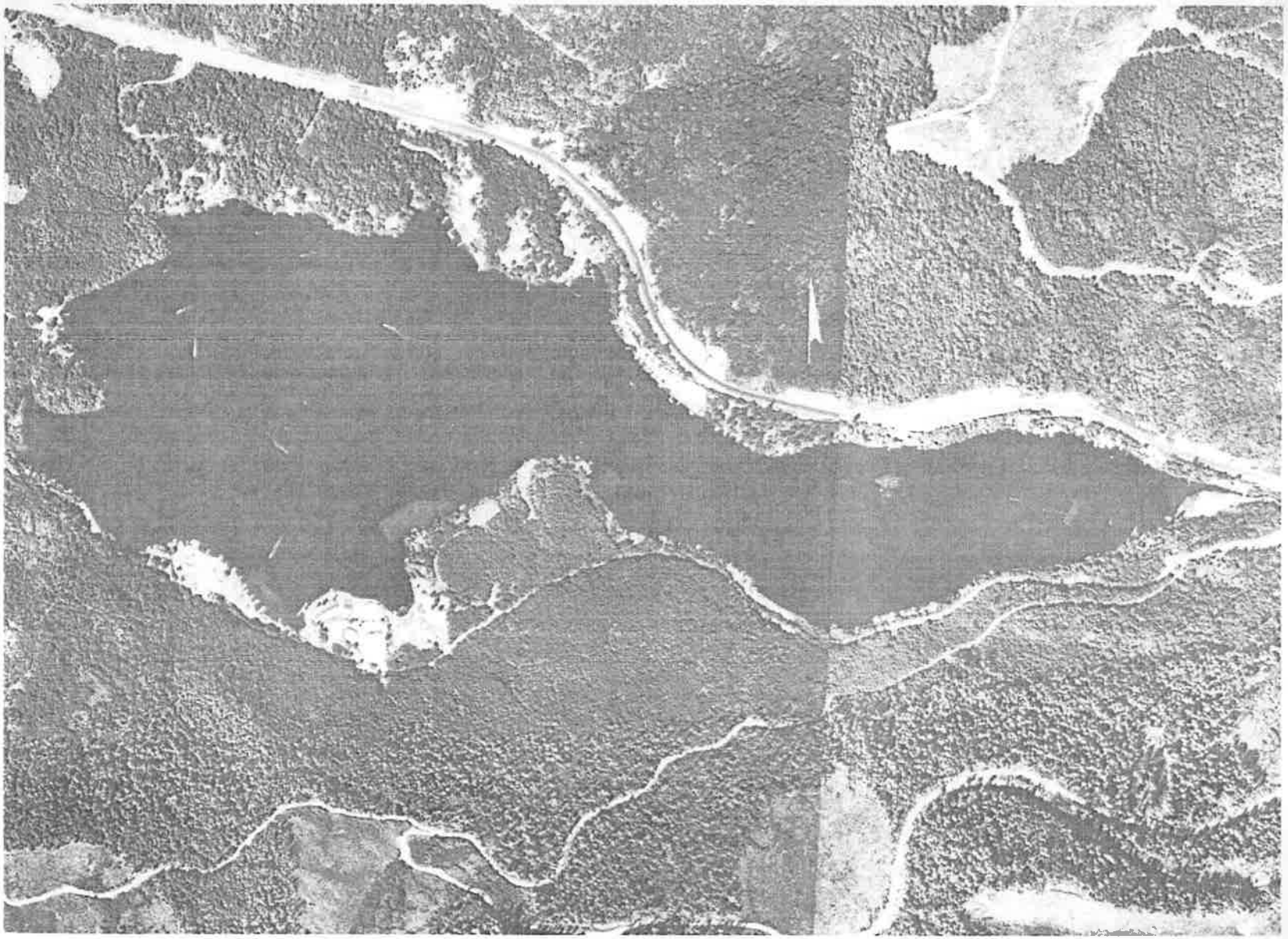


Sutherland Lake, Clallam County. From U.S. Geological Survey, March 26, 1974.

DCD 8805 - 008



Sutherland Lake, Clallam County. July 17, 1971. Approx. scale 1:12,000.

DCD 8605 - 009



MAR 23 1988
DCD FILE COPY

DCD 8805 - 010

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Listing ID: 6157

Main Listing Information

Listing ID: 6157
Waterbody Name: SUTHERLAND LAKE
Medium: Water
Parameter: Total Phosphorus
WQI Project: None
Designated Use: None Assigned

Current Category: 1
2012 Category: 1
2008 Category: 1
2004 Category: 1
On 1998 303(d) List?: N
On 1996 303(d) List?: N

Assessment Unit

Assessment Unit ID: 17110020000586

Additional Location Identification

County: Clallam
WRIA: 18 - Elwha-Dungeness
Waterbody ID (WBID): None Assigned Waterbody Class:
Town/Range/Section:

Basis

Smith et al. (2000) concludes that designated uses are being supported.

Remarks

Remark
Sumioka and Dion basis removed 04/07/06. -kk
The data for this listing was reviewed and found to meet Category 1 requirements in accordance with Policy 1-11 (Sept. 2006)

EIM

No EIM Records Entered

Current WQ Map Tool - WQ Altas

WQ Atlas (https://fortress.wa.gov/ecy/waterqualityatlas/map.aspx?lstid=6157)

Submit questions or comments about this specific Listing:

Your Name:
Your E-mail Address:
Question:

Submit

If you wish to contact us about something unrelated to this listing, please Contact Us (/ApprovedWQA/GeneralComments.aspx).

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Case Study

BAINBRIDGE SINGLE FAMILY RESIDENCE SHORELINE MITIGATION MANUAL

As part of their SMP Update, the City of Bainbridge developed a *Mitigation Manual* to make it easier for single family residential projects to determine mitigation requirements.

What qualifies

Homeowners are eligible for the simpler mitigation requirements, after first designing their project to **avoid** impact, if their site is a) not part of a new subdivision, b) not located adjacent to a marsh or lagoon, and c) meets the threshold and structure type limits. The manual does not apply to new in-water or overwater projects. In addition, new or expanded home and accessory structures must be no larger than 4000 square feet, detached garage no larger than 580 square feet, new patio no larger than 120 square feet, boathouse no larger than 200 square feet, and replacement bulkhead the same size as existing.

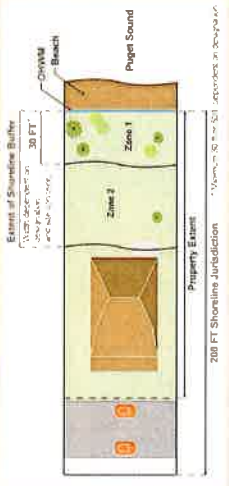
Mitigation covered by the manual

- Types and amount of replanting if vegetation is cleared.
- Removal of impervious areas or installation of rain gardens if impervious surface is created.
- Removal of fill or nourishing beach if fill is removed below ordinary high water mark.
- Restoration of any disturbed areas and replanting with native vegetation if aquatic habitat is disturbed.

It should be noted that replacement of docks or stairs with retractable systems are exempt from City required mitigation. Repairs or replacements that reduce the shading footprint of an existing dock are similarly exempt.

Example mitigation requirement from Manual

Below are the mitigation requirements for projects that involve vegetation clearing. The city has designed the manual to promote the most environmental benefit in the area closest to the water – zone 1 – as designated in the draft SMP Update. Species are to be planted with spacing designed to achieve a minimum 65 percent native vegetation coverage within 10 years within the replanted area. Views can be protected.



Mitigation Requirements for Vegetation Clearing

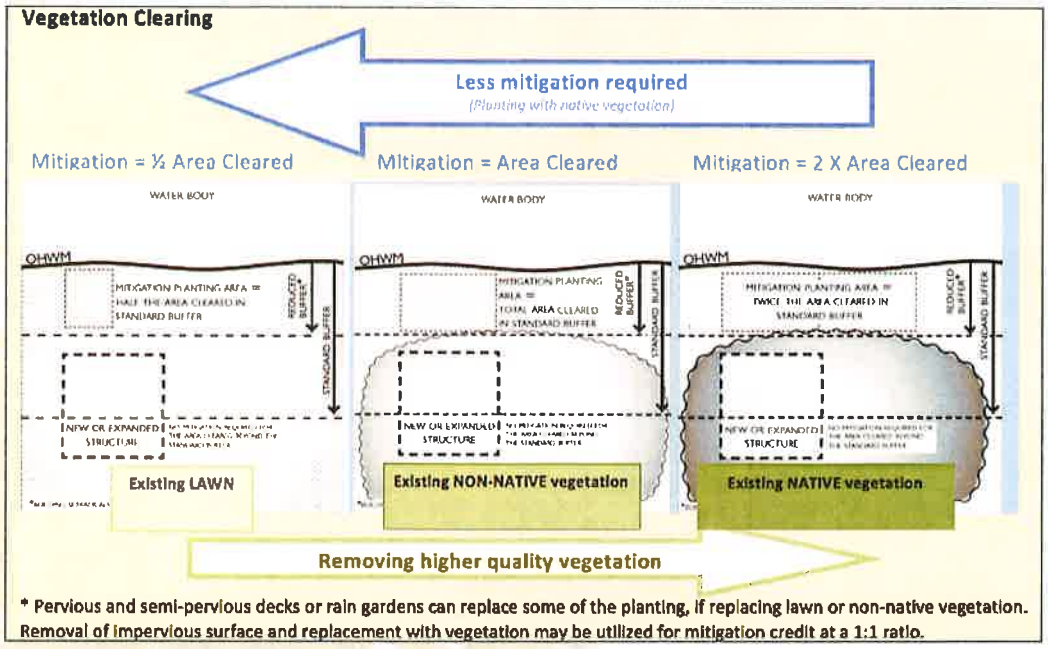
Select character of vegetation being cleared	Will mitigation planting be located within Zone 1?	Mitigation Requirement
Area is comprised of mowed grass or lawn	YES	Plant ½ the equivalent area of mowed grass or lawn with multistoried, native vegetation
	NO	Plant the equivalent area of mowed grass or lawn with multistoried, native vegetation
Area is comprised of non native landscaping (including groundcovers, shrubs or trees)	YES	Plant the equivalent area of cleared non-native landscaping with multistoried, native vegetation
	NO	Plant 2 times the area of cleared non-native landscaping with multistoried, native vegetation
Area is comprised of native landscaping (including groundcovers, shrubs or trees)	YES	Plant 2 times the area of cleared native landscaping to multistoried native vegetation
	NO	Plant 3 times the area of cleared native landscaping with multistoried, native vegetation

Source: Bainbridge, City of, Planning & Community Development. (2012, July). *Single Family Residence Shoreline Mitigation Manual.* Prepared by Herrera Environmental Consultants, Inc. as part of the draft Bainbridge SMP Update. Retrieved from http://www.ci.bainbridge-isl.wa.us/documents/pln/2011_smp_resources/revbainbridgemitigationmanual_final.pdf

Case Study

CASE STUDY: KITSAP COUNTY MITIGATION OPTIONS

Kitsap County's SMP Update includes mitigation options for vegetation removal and installation of bulkheads and overwater coverage. Provision of public access halves mitigation



New and Replacement Shoreline Armoring or Barrier Structures

Preference

- For new bulkhead, **remove** an equivalent length of bulkhead (1:1)
- For replacement, if > 50% of existing structure, **use soft or hybrid** alternative(s) such as adding logs or stumps...
- For new or replacement:
  a. **Remove fill** and move armoring landward.
  b. **Add a "pocket beach"** to the design, where appropriate.
  c. **Add overhanging vegetation** along the bulkhead edge or other portion of shoreline.
  d. **Add beach nourishment,** where determined appropriate.

New and Replacement Overwater Structure

Preference

- For new overwater coverage, **remove** legal existing over-water and/or in-water coverage.
- For new or replacement, **add site appropriate habitat features.**
- For dock additions, partial dock replacements, or other modifications, replace areas of existing solid over-water cover with **grated material** or use grating on those altered portions of docks.
- **Plant native vegetation** along the shoreline immediately landward of the OHWM. (1:1)
- **Remove or ecologically improve hardened shoreline,** including existing launch ramps or hard structures.
- **Remove man-made debris** waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris.
- **Place large woody debris.**
- Participate in an approved **mitigation banking or in-lieu-fee** program.

Source: Kitsap County. (2013, January 30). *Appendix B: Mitigation Options to Achieve No Net Loss for New or Re-Development Activities in Kitsap County Locally Adopted Draft. Shoreline Master Program.*

of impacts and the needed mitigation. In addition, these programs require the conversion of that mitigation into units provided by the program, and establishment of fees to cover the mitigation units.

RECOMMENDATION SUMMARY: USING MITIGATION TO ACHIEVE NO NET LOSS

- Following state and federal guidelines, it is important to stand firm on avoiding and minimizing impacts and to require compensation for remaining impacts. In analyzing project impacts, consider the full range of impacts, including the impacts from vegetation removal, land clearing, filling, grading, excavating, and human use.
- Buffers and setbacks have been established to protect natural resources and should be adhered to as a first consideration, except for water dependent uses. In addition, projects that are not truly water dependent should be moved back and extensive intact vegetation protected.
- Site uses and activities on the parts of the parcel that will have the least impact on shoreline ecological functions. There are numerous techniques through design choice and optimization of the site to avoid and minimize ecological harm.
- For impacts that cannot be avoided or minimized, require compensatory mitigation to replace the lost functions by using the following general guidelines:
  - In-kind mitigation is typically the best approach to replicate functions that would otherwise be lost.
  - Sometimes in-kind mitigation is not possible. Then require out-of-kind mitigation that can reverse (that is, mitigate for) the impacts of the new development on specific ecological function. For example, if a new dock increases potential for predation of juvenile fish, mitigation should provide function to either reduce predation in other ways or increase salmon population.
  - Require high enough replacement ratios so the mitigation can actually replace the functions that would otherwise be lost. Ratios must be high enough to account for failure risk rates, time for plants to mature, and conditions of a new geographic sit).
  - Make sure the mitigation is located in an area where it can function, and that it is monitored and maintained
  - until it is fully established. In many cases, this may be an off-site location if the project site does not have adequate space for replacement mitigation. Off-site mitigation should replace the function within a logical geographic nexus (e.g. same stretch of drift cells, same watershed).
  - Make sure the mitigation is protected for the life of the use.

7. SHORELINE ECOLOGICAL BASICS

Effective shoreline project review relies on a good understanding of the basics of physical, chemical and biological functions of the nearshore and upland ecological systems. This chapter, along with Appendix 5, covers some of the key shoreline functions and is meant to serve as an easy reference.

Shoreline natural processes and ecological functions typically operate as a system of balancing inputs and outputs that continually fluctuate within a range that is normal for the site. Ecology's SMP Guidelines reinforce this holistic approach in their ecological definitions (See WAC 173-26-020(13); (14) for more information).

Shoreline Master Program Guidelines provide two important definitions:

Ecological functions or 'shoreline functions' means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecosystem-wide processes means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

When the natural processes are changed or disrupted by activities such as construction and repair of buildings, bulkheads, docks and piers, utility lines, grading, and clearing, the balance is upset and organisms are affected – often in a negative manner.

These development activities cause loss and disruption of shoreline ecological functions due to loss of vegetation and habitat, change of surface water and sediment movement (including groundwater), and increase in human–related intrusion (including pollution). These are summarized below (and in Appendix 5).

VEGETATION AND HABITAT LOSS

Shoreline vegetation provides direct habitat value (i.e., living plants and debris) and indirect value (i.e., prey uses the plants) in both upland and aquatic areas. It performs many functions that alter water, sediment, and other processes that together form a consistent environment that animals and the plants themselves have evolved within and rely on. Animals use both upland and aquatic vegetation for all aspects of habitat, including nesting, raising young, feeding, refuge, and migration.

Aquatic vegetation areas are often the most productive aquatic habitats, and include marsh grass meadows, eelgrass meadows, kelp forests, and macroalgae beds. They provide nursery grounds for a huge percentage of the aquatic species.

Riparian areas have been identified as being important as a category, aside from possibly being another habitat of special interest. They serve as habitat like many vegetation areas do, but they have more functions and importance to species than other upland areas. It has been reported that 85 percent of Washington's terrestrial vertebrate animal species rely on riparian vegetation for essential life activities (WDFW, 1997).

Functions of vegetation

The scientific literature shows that intact native vegetation in an area of adequate width performs many critical ecological functions - some of which are provided below, grouped by similarity. SMP Guidelines (WAC 173-26-221(5)(b)) also describe vegetation functions stressing the role of intact native vegetation, as outlined below.

Water quality improvement and infiltration functions of vegetation

- Inhibits surface erosion from surface runoff and flood flows.
- Filters sediment from surface runoff and flood flows.
- Removes and transforms nutrients and harmful substances from surface runoff and flood flows.
- Infiltrates and stores surface runoff and flood flows into groundwater for later release to water bodies.
- Removes and transforms nutrients and harmful substances from groundwater passing through root zones.

Stabilization functions of vegetation

- Provides stabilization to streambanks, lake shores, and marine waters against erosive water forces through root mats and root-strength.
- Contributes in-water woody debris which reduces and slows erosive water forces against streambanks and lake shores through barriers and increased roughness.
- Protects uplands from surface erosion caused by storms and rising sea levels.

In-water habitat contributions and functions of vegetation

- Provides fish with over-water hanging cover from predators.
- Provides shade to help cool the water, especially for shallow margins.
- Contributes in-water woody debris needed for creation of fish habitat.
- Contributes in-water organic matter to support fish food species (insects and invertebrates), and other aquatic life.
- Alters the microclimate at the water's edge to be more suitable for aquatic and riparian species by sheltering from

wind and holding humidity. Microclimate is particularly important for amphibians and many priority species.

- Screens or dampens noise, glare, and human activity from the water.

Land habitat functions of vegetation

- Provides refuge for fish from fast flows during floods, as well as access to new food sources.
- Provides wildlife habitat areas (for feeding, reproducing, and resting) for riparian species, and for upland species that use riparian areas. This includes the small species (such as amphibians, small mammals, birds, and insects) that serve as food for larger species.
- Contributes large woody debris needed for small animal habitat, as well as larger animals.
- Provides a wildlife dispersal and migration corridor along the water to other areas.
- Generates organic matter needed for the foundation of the food web.
- Provides natural processes and food web functions to support wildlife.
- Alters the microclimate near the water to be more suitable for aquatic and riparian species by sheltering from wind and holding humidity. Microclimate is particularly important for amphibians and many priority species.
- Screens or dampens noise, glare, and human activity.
- Provides separation from human activity for sensitive aquatic and upland species.

Beneficial functions of vegetation increase closer to the water

Several studies, best illustrated in a report by Spence et al, have shown that wider vegetation areas perform better than narrower ones, and that a greater percentage of ecological functions occur closer to the water than further from the water on a foot-per-foot basis (Spence et al, 1996). Thus for most ecological benefit, a wider area of vegetation and protection of vegetation closest to water is needed. Consequently, development that is closer to the water has more impacts and needs more compensation than development further from the water.

Developments impact both intact and degraded shoreline functions

Currently available science research about riparian vegetation has several *policy implications, especially for buffers*, that bear on developing mitigation for a project:

- If there is an adequate width of intact vegetation, it can provide functions and protect the resource from most impacts of adjacent development, though some impacts will still exist.
- If an adequate width is used but it does not have intact vegetation, the area cannot provide the functions nor protect the resource from adjacent development and there will be impacts.
- If development takes place within the needed vegetation width, whether intact or not, there will be impacts.
- When development already exists within the needed vegetation width, the vegetation is both degraded and there is not enough width. Additional development in the area will increase the impacts.

Thus, almost all development has negative impacts. Expansion of existing development on degraded sites, new development on vacant land, and redevelopment for different uses all adversely affect shoreline resources and functions. Even existing development can continue to cause impacts to ecological functions.

Even when riparian vegetation is degraded, it still performs functions at a dampened level, depending on the amount of degradation. For example, lawns can provide better animal feeding, runoff treatment, and other functions than paved surfaces and structures. New impervious surfaces and more intensive use will degrade these even further. Thus the remaining functions can still be impacted by new development.

Blocks of intact natural areas and areas of intact native vegetation (including buffers and aquatic vegetation) form the best habitat areas. Development, with its clearing, grading, and construction of structures, removes vegetation and habitat causing a loss of shoreline ecological functions in these ways:

- Adding new structures, additions, or impervious surfaces, and removing or simplifying vegetation (i.e., cutting trees, replacing shrubs with lawn, and paving) can result in habitat impacts. Higher value habitat areas and migration pathways are eliminated or replaced with lower value areas, until the most simplified areas (open impervious surfaces) have only limited value for migration pathways and separation areas. More complex areas for nesting and refuge are most susceptible to loss.
- Substituting native vegetation with non-native species, or their total removal, results in a loss of food sources for the entire food web. For example, many native insect species cannot effectively use non-native vegetation for food. Reductions in insect populations then affect fish that feed on them.
- Natural processes, insect food sources, and food web functions are reduced or eliminated with progressive removal of complex vegetation elements.
- Species (large and small) capable of using degraded areas are greatly reduced with greater degradation.
- Microclimate is altered for species currently using the site.
- Removing or simplifying vegetation near the water reduces the root strength and root mats that provide bank stabilization. It also increases sun exposure on shallow water areas and heats them.



Single Family Residence Shoreline Mitigation Manual

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Introduction

This manual provides guidance for City of Bainbridge Island (City) homeowners as well as City staff and consultants on requirements and mitigation opportunities for specific types of single-family residential (SFR) development within the shoreline jurisdiction of the City.

Under Washington State Shoreline Management Act Guidelines [WAC 173-26-186(8) & 201(2)(c)], all new development, activities and uses must meet the standard of no net loss of ecological functions and shoreline processes. To ensure the standard of no net loss is met, any adverse impacts from new, repaired, or replaced development must be mitigated in accordance with the Mitigation Sequence (see Page 2) described in WAC 173-26-201((2)(e). When there are permanent impacts not addressed in sequence number 2, 3, or 4 the applicant must provide mitigation for the remaining adverse impacts to meet the no net loss standard.

The City's Shoreline Management Program (SMP) regulations require an applicant submit a site-specific analysis to demonstrate that the no net loss standard has been met. A site-specific analysis is a technical report that identifies existing conditions and ecological functions, impacts from the project, and proposed mitigation.

To give homeowners a low cost alternative for meeting the no net loss standard, this manual was developed and provides mitigation for common types of SFR development as an alternative to submitting a site-specific analysis.

This manual provides City requirements for single family residences when mitigating construction, repair or replacement of SFR primary and accessory structures. Subdivisions, including short plats and other development, and uses or activities not associated with SFR development, are required to provide a site-specific analysis in accordance with the SMP Section 4.1.2 Environmental Impacts.

A homeowner can use this shoreline mitigation manual if:

- the SFR is not part of a new subdivision application; and
- the proposed project is located within a qualifying site (see below); and
- the proposed project is listed among the development and structure types and maximum size constraints covered by this guidance (shown in Table 1).

What sites qualify for this approach?

Sites which qualify for this manual are SFR shoreline parcels that are not adjacent to a marsh or a lagoon. Marshes and lagoons are a critical habitat feature for many protected species and therefore development proposals affecting these sites require a higher level of examination. Proposed development on SFR sites with an adjacent marsh or lagoon must complete a site-specific analysis that complies with the requirements of SMP Section 4.1.2, Environmental Impacts, and/or Appendix B, Critical Areas.

Washington State Shoreline Management Act Guidelines:

http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/Draft_2002_SMP_Rule.pdf

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What is mitigation?

Mitigation is the process of avoiding, limiting, reducing, or eliminating the adverse environmental impacts of a project over time, and ultimately compensating for impacts that remain. Mitigation for impacts follows a specific sequence described in WAC 173-26-201((2)(e) as follows:

1. **Avoid** the impact altogether by not taking a certain action or parts of an action;
2. **Minimize** impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. **Rectify** the impact by repairing, rehabilitating, or restoring the affected environment;
4. **Reduce** or eliminate the impact over time by preservation and maintenance operations;
5. **Compensate** for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. **Monitor** the impact and the mitigation activities and take appropriate corrective measures as needed.

The mitigation strategies identified in this manual are for environmental impacts that cannot reasonably be avoided (steps 2 through 6 of this sequence).

New in-water or overwater structures (such as shoreline stabilization construction or docks) are not covered by this guidance. Applications for new in-water or overwater development must submit a site-specific analysis in accordance with the City's SMP.

An applicant must also obtain a U.S. Army Corps of Engineers (USACE) and Washington Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA) for any new in-water or overwater structure as well as for a repair or replacement of an existing structure. Mitigation is typically required by those agencies as well, however the City may determine that mitigation and permit conditions required by federal and state agencies are sufficient to meet City requirements according to provisions in the SMP. Note that the SMP prohibits new overwater covered moorage in the marine environment .



Shoreline with native vegetation.

Mitigation activities prescribed for the qualifying types of construction in this document are selected to directly compensate for environmental impacts that are not prevented through careful site design, structure design or use of best practices. Examples of best practices are low impact development methods for managing stormwater, retractable docks or beach nourishment for shoreline stabilization. For example, permanent clearing of vegetation is mitigated by replanting vegetation, and any permitted fill placed below the ordinary high water mark (OHWM) is mitigated by removing fill already located below the OHWM.

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Mitigation is first required to be conducted on the same parcel (on site) as the proposed construction unless impractical. In most cases, more mitigation is required when it will occur on a different parcel (off site).

These measures ensure that mitigation is clearly linked to the type and location of impact the development would have on the shoreline. This approach also supports the City's responsibility to ensure there is no net loss of shoreline functions.

In some cases, onsite mitigation may not be feasible or offsite mitigation may be preferred based on shoreline physical processes. In either case, check with City of Bainbridge Island Planning and Community Development Department for preferred locations recommended by the City's Shoreline Restoration Plan or for other guidance related to acceptable offsite mitigation. In limited cases, a reduction in mitigation requirements for offsite compensatory mitigation may be allowed if the Administrator determines a greater ecological benefit is achieved at the proposed location.



Bainbridge Island shoreline and dock.



Homes near this marsh would not quality for the mitigation approach in this manual.

What kinds of SFR development qualify for this guidance?

SFR development that qualify for this guidance includes: a new home, accessory structure (to existing SFR), and expansion, replacement, and repair of a SFR or accessory structure. Within these SFR development categories, structures that qualify must be within specific size constraints. The types of structures and size constraints for use of this manual are provided in Table 1. Examples include construction of a new home no larger than 4000 ft^2; an accessory structure to an existing home, such as a detached garage no larger than 580 ft^2, a patio no larger than 120 ft^2; stairs to the beach between 50 ft^2 and 300 ft^2 (mitigation is not required for stairs less than 50 ft^2) ; remodel of an existing structure; and replacement or repair of shoreline structures such as a bulkhead, stairs or a dock. Note that the listed size constraints are not the maximum permitted by City regulations, but are the maximum for which this manual can be used to determine appropriate mitigation without a site-specific study.

Development of each of these structures typically results in one or more of the following shoreline and nearshore disturbances that require mitigation: 1) vegetation is cleared, 2) new impervious surface is created, 3) fill is placed below the OHWM or 4) aquatic habitat is permanently disturbed. Table 1 identifies which of these disturbances may apply based on your proposed development.

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To use Table 1:

1. Select the category of development (new, accessory etc.) that applies to your project from the first column.
2. Select the type of structure from the second column.
3. Check to make sure your proposed development is within the maximum size constraints for that structure. If they are not, you will need a site-specific analysis.
4. Review the impacts requiring mitigation and identify those that apply to your project.
5. For each impact requiring mitigation, go to the corresponding section under Mitigation Requirements for a description of what is required.

Table 1. Qualified Single Family Residential (SFR) developments and associated impacts requiring mitigation.

			Impacts Requiring Mitigation			
Development Category	**Structure Type**	**Maximum Size Constraints (based on footprint)**	**Vegetation is Cleared**	**New Impervious Surface is Created**	**Permitted Fill is Placed Below OHWM**	**Aquatic Habitat is Disturbed**
New[a]	SRF including any accessory development	4,000 ft²	♦	♦		
	Driveway or parking area	No maximum	♦	♦		
Accessory Note: the footprint of existing SRF including all accessory developments with the exception of a guest house or accessory dwelling unit (ADU) cannot exceed 4000 ft²	Detached garage or carport	580 ft²	♦	♦		
	Guest house or ADU	800 ft²	♦	♦		
	Boathouse (only in upland)	200 ft²	♦	♦		
	Patio –with or without BBQ pit or deck	120 ft²	♦	♦		
	Hot tub + deck/ patio	120 ft²	♦	♦		
	Sport court	200 ft²	♦	♦		
	Gazebo, utility shed, well house, greenhouse	200 ft²	♦	♦		
	Retaining wall – new or replacement (upland)	3.5 ft. depth and 4 ft. height with no surcharge[b]	♦	♦		
	Deck (attached to house)	400 ft²	♦	♦		
	Stairs to beach[c]	50 ft² to 300 ft²	♦	♦[d]		

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Table 1. Qualified SFR developments and associated impacts requiring mitigation (CONTINUED).

			Impacts Requiring Mitigation			
Development Category	**Structure Type**	**Maximum Size Constraints (based on footprint)**	**Vegetation is Cleared**	**New Impervious Surface is Created**	**Permitted Fill is Placed Below OHWM**	**Aquatic Habitat is Disturbed**
SFR (primary) Replacement or Expansion Note: the footprint of replaced or expanded SFR including all accessory developments cannot exceed 4000 ft²	Replace (demolished)	Same size as existing structure in same location	No Mitigation Requirement			
		Expand size	♦	♦		
	Expansion of or addition to SFR	4,000 ft² including existing structure	♦	♦		
Accessory replacement[e]	Bulkhead	Same as existing	♦	♦	♦	
	Boathouse	200 ft²	♦	♦	♦	♦[f]
	Stairs to beach[c]	50 ft² to 300 ft²	♦	♦[d]	♦	
	Dock	Same as existing	♦		♦	♦[f]
Accessory repair[e]	Bulkhead	3.5 ft. depth and 4 ft. height with no surcharge[b]			♦	
	Boathouse	200 ft²			♦	♦[f]
	Stairs to beach[c]	50 ft² to 300 ft²	♦	♦[d]	♦	
	Dock	Same as existing			♦	♦[d, f]

[a] New dock, or other new in-water or overwater structures are not covered by this manual. Covered moorage is prohibited by the City.

[b] Surcharge is the slope above and behind a retaining wall or bulkhead.

[c] No mitigation is required for beach stairs with a footprint smaller than 50 ft².

[d] If stairs are grated and pass stormwater freely no mitigation for impervious area is required.

[e] This program does not cover mitigation required for use of barges. If you intend to use a barge for construction, you will need to submit a site-specific study.

[f] Repairs or replacements of this in-water and overwater structure are exempt from this mitigation requirement if the footprint and impact is reduced (such as by replacing wood decking with grating to increase light penetration and reducing the number of pilings). Specific requirements for footprint and impact reduction are explained in the section called ***Mitigation Exemption for Repair or Replacement of Overwater Structures***.

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Mitigation Requirements

Review each section that follows as it pertains to your project's environmental impacts.

Vegetation is Cleared

Shoreline vegetation is considered important to supporting the ecological functions found in the nearshore. Vegetation along the shoreline at minimum infiltrates stormwater, and can provide large woody debris, bank stability, food sources such as detritus and insects for aquatic species, and temperature moderation of the beach and nearshore substrate. Multistoried vegetation can provide an overhanging, complex network of branches, trunks, stems and roots that also moderate nearshore wave energy.

Native vegetation is preferred for shorelines because native species are better adapted to local physical conditions such as soil, geology, and climate and therefore require less maintenance, are resistant to most pests and diseases, and require little or no irrigation or fertilizers, once established. Thus maintaining native plant species along the shoreline can also have consequent benefits on maintaining water quality. Native vegetation also provides more food sources for native wildlife.

Mitigation for vegetation cleared in the shoreline jurisdiction requires replacement with an equivalent or larger area of native multistoried vegetation (includes groundcovers, shrubs, and trees). Areas planted for mitigation are subject to final approval by the Administrator and must be recorded with the County Auditor on a Notice on Title, or other similar document, prior to approval of the project. Areas planted for mitigation are intended to be protected in perpetuity, although future alterations may be allowed with an approved mitigation plan.

What best describes the character of the vegetation in the area you will be clearing?

Is it predominantly:

- Mowed grass or lawn?
- Non-native landscaping?
- Native Vegetation?

Based on the dominant character of the vegetation that will be cleared and where you intend to plant, different ratios of native vegetation planted area to cleared area are required. These ratios are provided in *Mitigation Requirements for Vegetation Clearing.*

If you intend to plant native vegetation within 30 feet landward of the OHWM (called Zone 1 of the Shoreline Buffer—see Figure 1) the ratios for planting in Zone 1 are lower than if you plant outside of Zone 1. The lower ratio is intended to encourage homeowners to plant in Zone 1 where native vegetation has the greatest effect on nearshore habitat and processes. Ratios are also higher if you are clearing native vegetation, as compared with removing mowed grass or lawn, for the same reason.

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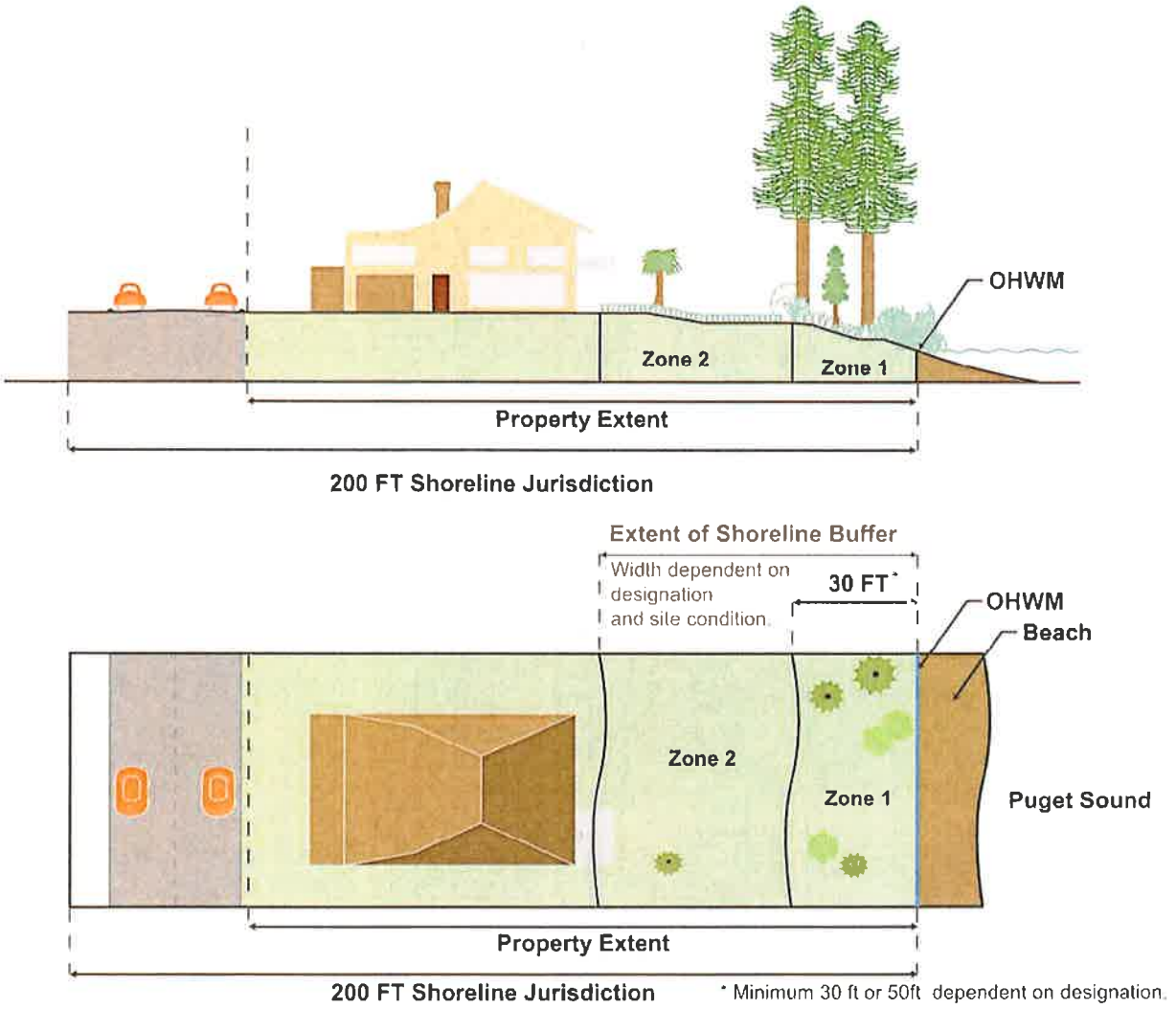

Figure 1. Zones related to the shoreline buffer area.

What is Native Vegetation?

Native vegetation is an assemblage of plants native to Bainbridge Island, which are species that occur or historically occurred on the island based upon the best available scientific and historical documentation. Native vegetation includes a selection of multistoried species (ground covers, shrubs and trees). Acceptable species are listed in Appendix A. Other species may be planted if it can be demonstrated they are native and appropriate to the site conditions.

When planting native vegetation for mitigation, you must provide a plan view of the project area showing where clearing will occur and where native vegetation will be planted for mitigation (including species, spacing and plant sizes). Species are to be planted with spacing designed to achieve a minimum 65 percent native vegetation coverage within 10 years within the replanted area. To assist you, a list of native species suitable for the City's shorelines is provided in Appendix A along with planting details showing typical tree, shrub and groundcover spacing and recommended plant sizes.

Note that your planting plan may be designed to protect views from your primary SFR.

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Figure 2. Planting should incorporate trees, shrubs, and groundcovers to provide multiple layers of vegetation (multistoried).

Mitigation Requirements for Vegetation Clearing

Select character of vegetation being cleared	Will mitigation planting be located within Zone 1?	Mitigation Requirement
Area is comprised of mowed grass or lawn	YES	Plant ½ the equivalent area of mowed grass or lawn with multistoried, native vegetation
	NO	Plant the equivalent area of mowed grass or lawn with multistoried, native vegetation.
Area is comprised of non-native landscaping (including groundcovers, shrubs or trees).	YES	Plant the equivalent area of cleared non-native landscaping with multistoried, native vegetation.
	NO	Plant 2 times the area of cleared non-native landscaping with multistoried, native vegetation.
Area is comprised of native landscaping (including groundcovers, shrubs or trees).	YES	Plant 2 times the area of cleared native landscaping to multistoried native vegetation.
	NO	Plant 3 times the area of cleared native landscaping with multistoried, native vegetation

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New Impervious Surface is Created

To mitigate for new impervious surface, you can:

- Remove existing impervious surface of equal area within your shoreline buffer and replant with native vegetation, or
- Install a rain garden that is sized to be at least 20 percent of the area of your new impervious surface.

The use of a rain garden for mitigating impervious surface is based on the understanding that rain gardens can help provide the water collection, retention, and infiltration capacity that are lost when vegetated areas are made impervious. The Rain Garden Handbook for Western Washington Homeowners describes how rain-gardens mimic a native forest by collecting, absorbing, and filtering stormwater runoff from rooftops, driveways, patios, and other areas that don't allow water to soak in.

To install a rain garden, follow the methods available at www.raingarden.wsu.edu/index.html. There you will find instructions for calculating your drainage area, and locating, designing (sizing), planting and maintaining your rain garden. Local landscape architects, Kitsap County WSU Extension office, Kitsap County Conservation District, and the City's Planning and Community Development Department are other resources available for assistance.

The Rain Garden Handbook for Western Washington Homeowners:

www.raingarden.wsu.edu/index.html

Rain Garden Installation Guidance:

www.raingarden.wsu.edu/index.html

Rain Gardens

- Can be shaped and sized to fit your yard
- Are constructed with soil mixes that allow water to soak in rapidly and support healthy plant growth
- Can be landscaped with a variety of plants that look beautiful and help manage stormwater

Caution:

Collecting and allowing water to soak into a landslide hazard area can cause instability and potentially endanger your structure. If you need to place your rain-garden on or near a landslide hazard area (any slope greater than 15 percent), a letter or report from a qualified licensed geologist or geotechnical engineer that evaluates the site and your rain garden design must be submitted with your application for review and approval by the Administrator.

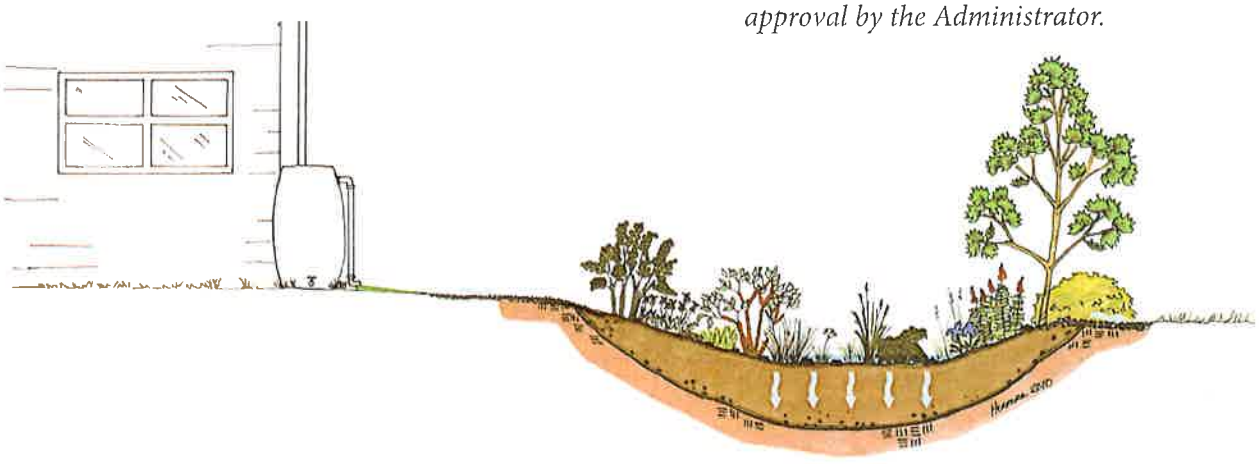

Figure 3. Rain gardens can help mitigate stormwater runoff from new impervious surfaces.

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Permitted Fill Material is Placed below OHWM

Fill placed below the OHWM permanently eliminates aquatic habitat and can interrupt nearshore sediment flow. These factors both eliminate and reduce ecological functions within the area of fill and may adversely affect adjacent shorelines through reduced sediment supply and increased fragmentation of habitat.

All shoreline structures or modifications that include placing fill below the OHWM will require an equivalent volume of fill removal from below the OHWM elsewhere for mitigation (Table 2). Typical shoreline structures and modifications that include fill placed below the OHWM include stairs, boathouses, docks and bulkheads.

If mitigation for fill removal will occur within the same parcel, the volume removed must be at minimum equal to the volume of fill material placed. If the fill removal occurs on a different parcel, than the volume removed must be two times the volume of fill material placed. See Table 2. This is to encourage mitigation for fill placement at the same location as the environmental impact.

Examples of types of fill that may be removed for mitigation include construction debris such as concrete pieces, riprap, creosote logs, pilings, and failing bulkheads.

In addition to fill removal, bulkhead repair or replacement will require beach nourishment in addition to fill removal as part of mitigation (Table 2).

Beach nourishment differs from fill because it is mobile and permeable, unlike piers, concrete, riprap, or other immobile elements typically associated with nearshore structures. Beach nourishment provides spawning habitat for forage fish species, which are food sources for salmon and other fish species, birds, and marine mammals. While nearshore structures can provide a type of nearshore habitat (for example docks provide holdfasts for barnacles and mussels), these habitats do not improve impaired features of the nearshore ecosystem or support natural geomorphic processes in the way that mobile beach sand can.



Removing unused piers can provide shoreline mitigation.

Retractable Structures

In many instances structures can be constructed that can be retracted when not in use (for example retractable access stairs or docks). Retractable structures associated with a SFR are exempt from the City's requirement for mitigation for impacts occurring waterward of the OHWM.

In addition, if the footprint of fill below the OHWM is smaller than 10 square feet, the structure is exempt from providing mitigation as the area is considered too small to significantly impact aquatic resources.

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Table 2. Mitigation requirements for fill material placed below the OHWM.

Development Type	Location of Fill Removal		Beach Nourishment Required?
	On Site	Off Site[a]	
• Stair construction, repair or replacement • Boathouse repair or replacement • Dock repair or replacement	Remove fill equivalent to volume placed below OHWM	Remove fill equivalent to 2 times volume placed below OHWM	No
• Bulkhead repair or replacement	Remove fill equivalent to volume placed below OHWM	Remove fill equivalent to 2 times volume placed below OHWM	Yes

[a] A reduced ratio for offsite fill removal may be used In limited instances when the Administrator determines that a greater ecological benefit is obtained at on offsite location than would occur on site.

What is beach nourishment?

Beach nourishment is where sediment (usually sand) is placed to protect an eroding beach. Beach sediment lost through alongshore drift or erosion is replaced from sources outside of the eroding beach (often an upland source). Nourishment creates "soft" (non-permanent) protection by creating a larger sand reservoir, pushing the shoreline seaward. Beach nourishment can protect beaches and your property, and avoid or minimize the negative effects of bulkheads.



A shoreline that has recently undergone beach nourishment.

How do I provide beach nourishment?

Generally, beach nourishment should be located onsite, waterward of the bulkhead; however nourishment may be located off site if the Administrator determines that a greater ecological benefit is obtained at an offsite location than would occur on site. For example, nourishment will be more effective if it is placed in the up-drift area of a drift cell. Its benefit will be longer lasting and spread over a greater portion of the drift cell. The City can help you determine the best location for beach nourishment.

Beach nourishment should cover an area, at minimum, equivalent to the length of the repaired or replaced bulkhead. It should be comprised of mobile sediments suitable for nearshore forage fish spawning habitat. Beach nourishment material should be comprised of 100 percent WDFW Fish Mix or other material approved by the Administrator.

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The volume of nourishment should rise at least 1-foot above OHWM and have a foreshore slope no greater that 1 vertical unit per 5 horizontal units (1:5 slope).

The frequency of nourishment must follow WDFW recommendations or occur every five years over a 25-year period. The frequency of nourishment may be less if a sediment loss analysis completed by a qualified professional recommends otherwise. The required frequency of nourishment will be documented in an agreement between you and the City.

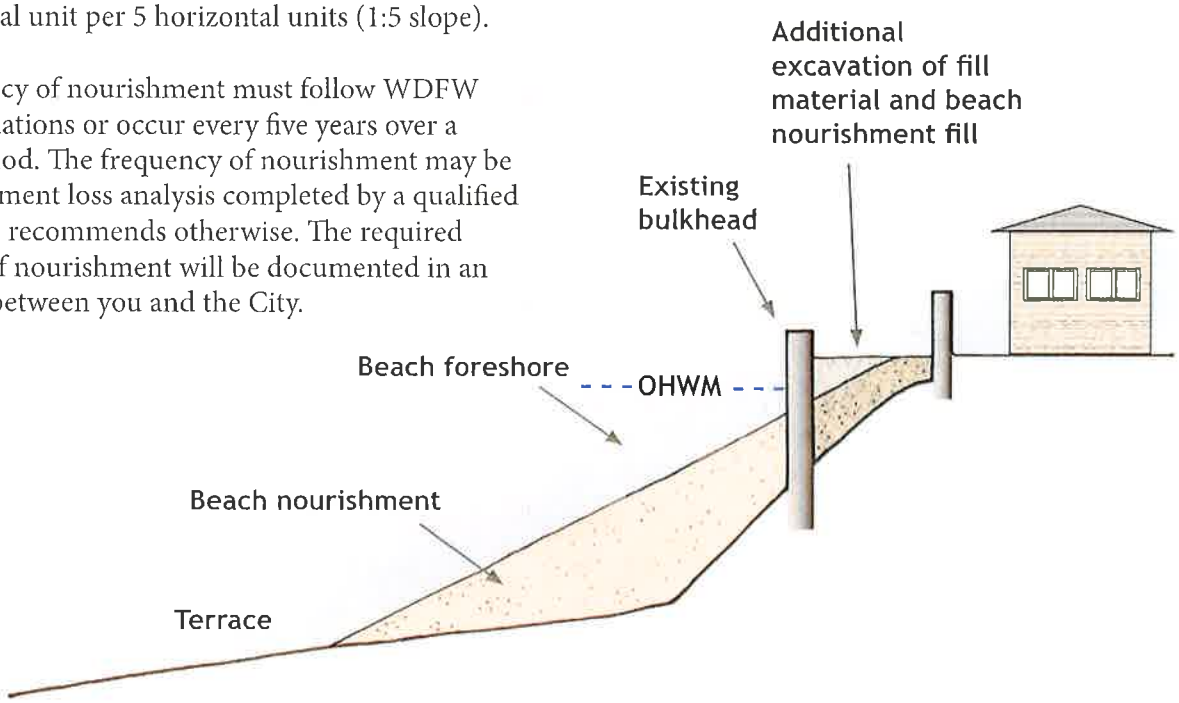

Figure 4. Beach nourishment illustration.

Aquatic Habitat is Disturbed

In-water or overwater structures have the potential to interrupt or negatively affect ecological functions and processes such as shading or eliminating aquatic habitat, increasing predator opportunities, and interrupting nearshore sediment flow and beach formation. Mitigation is required for repair or replacement because impacts continue to occur for the life of the structure. Construction activities related to repair or replacement may also temporarily affect fish and wildlife, water quality, or shoreline processes.

New in-water or overwater structures are not covered by this manual. Only repair or replacement of in-water or overwater structures are covered by this manual and they must fall within the size constraints identified in Table 1. Qualifying projects must satisfy the SMP requirements for a repair or replacement and must mitigate for the loss of ecological functions.

In-water and overwater repairs and replacements covered by this guidance include bulkheads, boathouses, stairs to the beach, and docks (the components of a dock include ramps, piers and floats, and requirements apply to all components). Note that in-water and overwater repairs and replacements of any structure may require permits from USACE and WDFW, as well as the City.

Upon project completion all areas of shoreline disturbed for the repair or replacement should be restored to as near pre-project configuration as possible and replanted with native vegetation appropriate to the site and approved by the City.

Exemption from mitigation is provided for repair or replacement of structures which meet certain structure impact reduction provisions (such as narrowing a dock or using grating to increase sunlight penetration). These are detailed in the section called *Mitigation Exemption for Repair or Replacement of Overwater Structures*. When there is no reduction of the structure, you are required to remove an equivalent or greater area of overwater structure elsewhere within the City; contact the Planning and Community Development Department for more details and appropriate locations.

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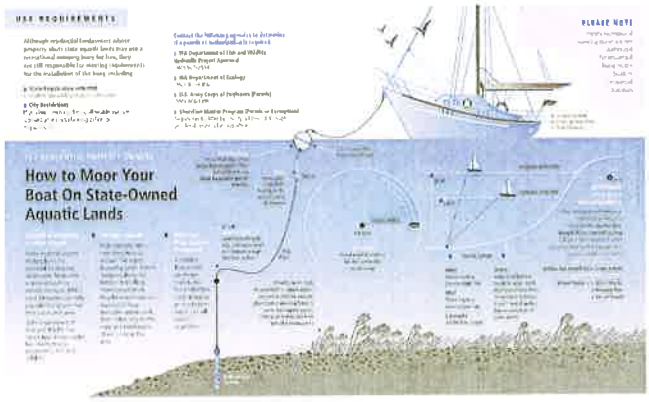
Mitigation Exemption for Repair or Replacement of Overwater Structures

Replacement of docks or stairs with retractable systems are exempt from City required mitigation for impacts to ecological functions and processes occurring waterward of OHWM. Repairs or replacements that reduce the shading footprint of an existing dock are also exempt.

To qualify, any two of the following measures may be used, in accordance with provisions in the SMP:

- Replace dock surface with grating or gridding
- Reduce dock width, to meet current SMP and USACE requirements
- Increase dock height, to meet current SMP, WDFW or USACE recommendations.

These alterations must conform to the most recent design guidance provided by the USACE found in its current *Regional General Permit for Residential Inland Marine Overwater Structures* (Permit Number CENWS-OD-RG-RGP-6) or meet City requirements, whichever standard provides a smaller footprint and greater light penetration. The Department of Planning and Community Development is available to assist with making this determination. Please contact the department if you have any questions.



Washington State Department of Natural Resources' *Recreational Mooring Buoys* brochure. Find the brochure at http://www.dnr.wa.gov/Publications/aqr_mooring_buoy_brochure.pdf.

Some considerations when planning to repair or replace your dock to avoid mitigation:

- Use a mooring buoy instead of repairing or replacing your dock.
- Replace your fixed dock with a dock that can be retracted when not in use to minimize disturbance to aquatic habitat.
- Share a neighbor's dock instead of repairing or replacing yours.

To avoid mitigation for repairs or replacements of both fixed or floating docks, the city requires that both of the following be met:

- The dock is no wider than 4 feet for a single use dock and 6 feet for a joint use dock.
- Grating or gridding and replacement floats must be installed that result in a total open area of a minimum of 30 percent. For example, this can be achieved by installing grating with 60 percent open area on at least 50 percent of the dock or by grating a larger percentage of the dock with openings of less than 60 percent. The following equation is used:

% Grating Open Area * % Dock Area = > 30%

Example 0.6 (60%) * 0.5 (50%) = 0.3 (30%)

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What is the Process for Obtaining Approval to Use this Guidance?

- Submit your project proposal, completed checklist, and site plan along with your list of required mitigation activities and their proposed design to Planning and Community Development for review and approval by the Administrator.
- Obtain all required shoreline permits as outlined in Table 4-1 of the SMP.
- Submit these applications along with your project proposal.
- A preapplication conference may be required.

A checklist is provided in this manual to assist you with submitting a complete proposal that fulfills the requirements of this manual. Please contact Planning and Community Development by phone at (206) 780-3750 or by email at pcd@bainbridgewa.gov if you have any questions.

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Checklists for Mitigation Approval

For each item below, please attach additional information to this checklist as needed to describe fully your project and proposed mitigation.

General Checklist for All Sites

	ITEM	NOTES
☐	Project description	Include a brief description of your proposed structure, along with its footprint.
☐	List of impacts requiring mitigation	See Table 1.
☐	Proposed mitigation description	Will mitigation be onsite or offsite? For offsite mitigation, provide location and confirmation that the property owner has agreed to have mitigation on their property.
☐	Site plan	Show locations of existing and proposed structure(s) as well as location(s) for mitigation.

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Checklist for Various Impact Types

ITEM

☐ Vegetation Clearing

- ☐ Areas of Clearing and Replanting
- ☐ Species List
- ☐ Example Spacing for Planting Species
- ☐ Plant Sizes

☐ Creation of New Impervious Area

- ☐ Provide the location and area of impervious surface to be reomoved and replanted.

OR

- ☐ If constructing a RAIN GARDEN
  - ☐ Drainage area calculation
  - ☐ Location and size of rain garden using methods from *Rain Garden Handbook for Western Washington Homeowners* found at www.raingarden.wsu.edu/index.html

☐ Permitted Fill Below OHWM

- ☐ Provide calculation of fill volume and proposed location for removing required fill volume

☐ Beach Nourishment

- ☐ Provide location and volume to be deposited
- ☐ Provide frequency of nourishment

☐ USACE permit or WDFW HPA is obtained

- ☐ Brief description of mitigation requirements
- ☐ Provide copy of each permit and any associated conditions

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Appendix A

Native Plant List and Suggested Plant Spacing

Native Plant List

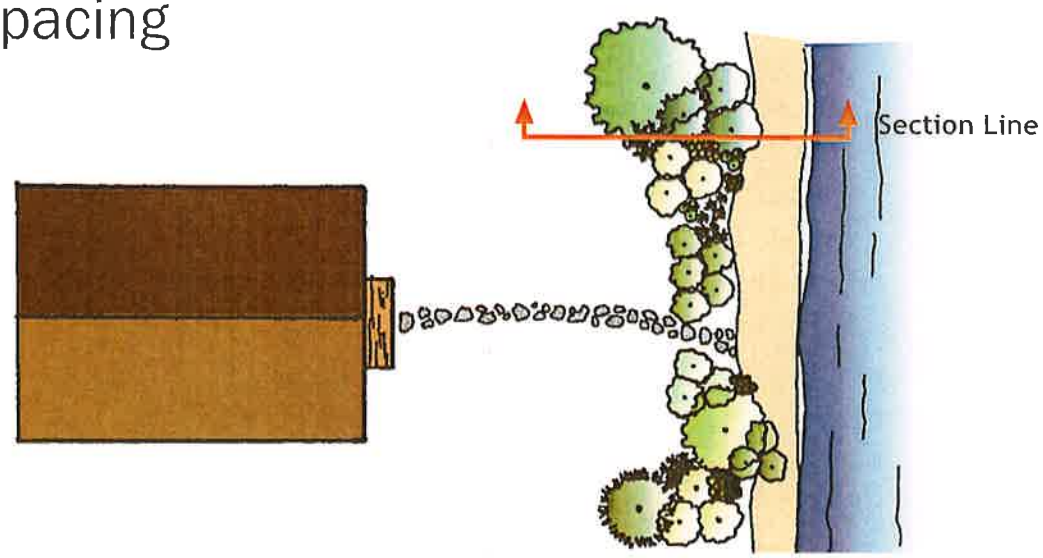
The following tables provide a list of native trees, shrubs, groundcovers, and seed mixes for different site conditions along with their recommended on-center spacing, maintenance notes, and aesthetic qualities.

Additional information on native plants appropriate for Bainbridge Island can be found at:

http://www.kitsapgov.com/dcd/lu_env/native_plants/native_plants.pdf

Examples of a plan view of a planting plan and a section view showing typical plant spacing are provided below.

Plant Spacing



Plan view of native multistoried plant clusters.

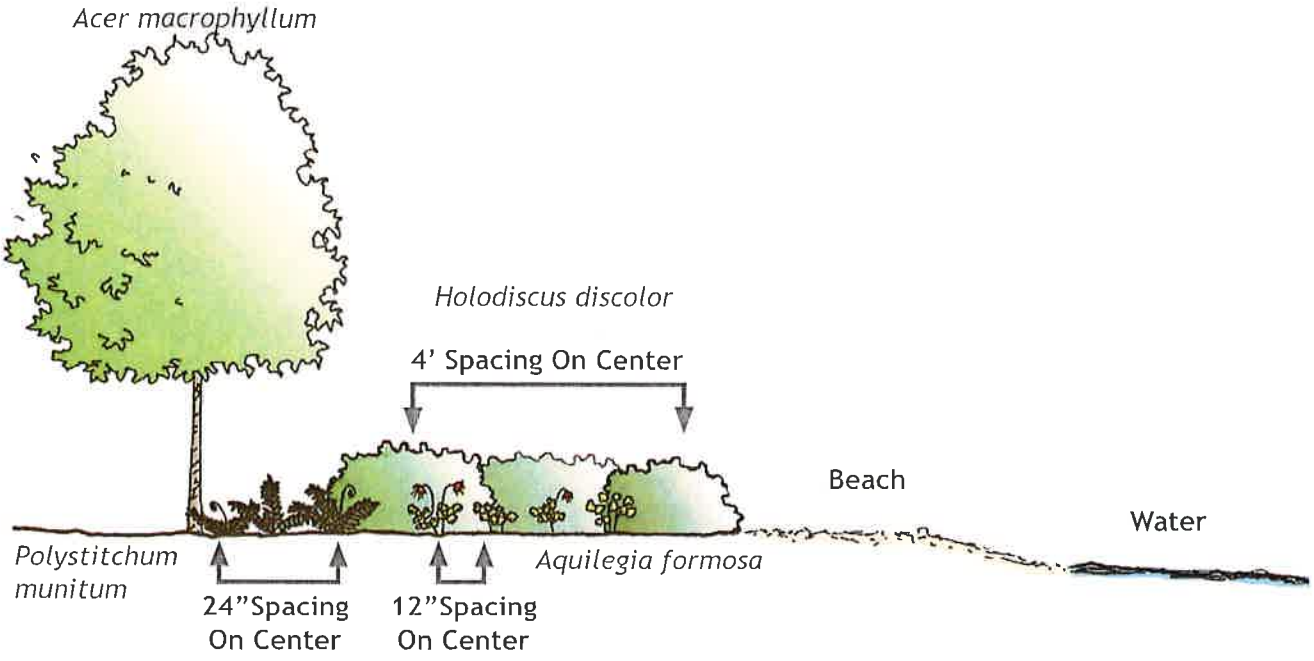


Illustration of on-center native plant spacing.

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Bainbridge Island Mitigation Manual Plant List

Deciduous Trees				Plant Placement					Seasonal Water Level Tolerance					
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	Marine Shoreline (Saltwater Tolerant)
Acer circinatum	Vine maple	Part shade. Moist soil.	10' to 15'	✓	✓	✓	10'	Provides vibrant fall color. Good for seasonally wet soils.	✓	✓				
Acer macrophyllum	Big-leaf maple	Part shade to full sun. Moist, well drained soils.	90'			✓	30'	Vigorous grower. Good for seasonally wet or seasonally dry soils. Plant away from pond inlets and outlets to avoid leaf litter debris clogging structures.	✓	✓				
Alnus rubra	Red alder	Full sun. Poor, moist soil.	100'			✓	15'	Short lived tree. Plan on harvesting and/or replacing in 50 year cycle. Important species for nitrogen fixation. They establish well on disturbed sites.		✓	✓			
Amelanchier alnifolia	Serviceberry	Full sun. Well drained soil. Very drought tolerant.	10'			✓	10'	Early spring bloomer. Use this tree for Spring interest. Good for seasonally dry soils.	✓	✓				✓
Arbutus menziesii	Pacific madrone	Full sun. Well drained, poor, dry rocky soil.	50'			✓	20'	Difficult species to transplant.	✓					✓
Corylus cornuta	Western hazelnut	Part shade to full sun. Well drained soil. Understory species.	20'			✓	15'	This small tree is sometime classified as a shrub. The spring flowers appear before the leaves in yellow catkins. The fall leaves are pale yellow.	✓					✓
Fraxinus latifolia	Oregon ash	Part shade to full sun. Moist to saturated soils.	75'	✓		✓	20'	Fast growing for first third of life span and long lived. Good for seasonally wet soils. This species is often found growing in dense stands.		✓				
Prunus emarginata	Bitter cherry	Part shade to full sun. Dry to moist sites.	30'	✓	✓	✓	15'	Short lived. Plan on harvesting and/or replacing within 40 to 50 years.	✓	✓				

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Bainbridge Island Mitigation Manual Plant List

Deciduous Trees				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Rhamnus purshiana	Cascara	Part shade. Moist, well drained soils.	30'			✓	15'	Usually an understory species, Cascara is a beautiful small tree that produces berries attractive to birds and small mammals.	✓	✓				
Salix hookeriana	Hooker's willow	Full sun. Moist, sand/gravelly soil. Flood tolerant.	20'	✓	✓			Native willow that will sprout multiple stems.		✓				✓
Salix lucida var. *lasiandra*	Pacific willow	Full sun. Moist, sand/gravelly soil. Flood tolerant.	40'	✓	✓	✓	6'	This fast growing species is one of the tallest native willows.		✓	✓	✓	✓	
Salix scouleriana	Scouler's willow	Full sun. Moist, sand/gravel soil.	30'	✓	✓	✓	6'	A native to moist woodland and meadow areas, Scouler's willow grows rapidly and can reseed after soil disturbance.		✓	✓	✓		
Sorbus sitchensis	Sitka mountain ash	Full sun. Moist, rich soil.	10'	✓		✓	6'	A small tree or shrub, this species is often multi-stemmed with a rounded crown. Flowers are creamy white and the fruits persist in winter, providing important winter forage for birds and wildlife.		✓	✓			

Conifers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Pinus contorta var. *contorta*	Shore pine	Full sun. Well drained soil.	50'			✓	30'	This slender evergreen has orange-brown twigs that darken with age. Cones are asymmetrical and 1" to 2" long. Good to plant along the upland border of a pond.	✓					✓
Picea sitchensis	Sitka spruce	Part shade to full sun. Moist or saturated soils.	250'	✓		✓	30'	Large evergreen with sage green or light green foliage.		✓	✓			

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Bainbridge Island Mitigation Manual Plant List

Conifers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Thuja plicata	Western red cedar	Full shade to full sun. Moist to swampy soil.	100'	✓	✓	✓	30'	Long-lived western native that can survive moist, mucky conditions.		✓	✓			
Tsuga heterophylla	Western hemlock	Full shade. Wet soil.	150'	✓	✓	✓	30'	Young trees have foliage with a feathery appearance. The 1" long cones are small and papery. Species can be shallow rooted and prone to blow down in some locations.		✓	✓			

Deciduous Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Cornus sericea (stolonifera)	Red-osier dogwood	Shady stream banks. Moist, well drained soils.	15'	✓	✓	✓	4'	Plant minimum of 4' from all walkways, roads, and fences in order to avoid pruning. Prune 2-3 branches of a multi-stemmed specimen to the base every other year to stimulate new branch development. New branches have bright red color and will provide winter interest.		✓	✓			
Holodiscus discolor	Ocean spray	Part shade to full sun. Well drained, dry soil.	15'			✓	4'	Large, vase-shaped shrub with arching branches. The big foamy white clusters of flowers bloom throughout the summer months, making this an excellent pollinator species. Good for seasonally dry soil.	✓	✓				✓
Lonicera involucrata	Black twinberry	Part shade. Moist soils.	2' to 7'			✓	4'	This erect, thinly branches species has twin tubular yellow flowers. The shiny black fruits are cupped by two showy purplish-maroon bracts.	✓					

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Bainbridge Island Mitigation Manual Plant List

Deciduous Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Myrica gale	Sweet gale	Part shade to full sun. Moist to wet soils.	5'	✓		✓	4'	Upright growth form. Can be used as a windbreak when planted in rows. Good nitrogen-fixing soil properties. Has a spicy scent on hot summer days. Can grow in relatively poor soils.		✓				

Deciduous Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Myrica californica	California gale	Part shade to full sun. Moist to wet soils.	6'-18'	✓		✓	4'	A large shrub to small tree with an upright growth pattern. Great for border planting.		✓				
Oemleria cerasiformis	Indian plum	Part shade. Moist to dry, well-drained soil.	5'- 16'			✓	4'	An early bloomer, Indian plum is one of the first shrubs to flower in the spring. The drooping chains of white flowers appear just before the leaves. Birds love the small fruit that begin as yellow-gold and transform into a bluish-black color later in the summer. In the sun, this species can grow as a large, dense plant, but in the shade it will take on a more open and sprawling growth form.	✓	✓				
Philadelphus lewisii	Mock orange	Part shade to full sun. Well drained soil.	5' -10'			✓	4'	This species is an ornamental favorite. The white flowers that appear in late spring and early summer have a lovely sweet smell. This species is great for pollinators, along borders, and clustered in odd numbers.	✓	✓				
Physocarpus capitatus	Pacific ninebark	Full sun. Moist soil.	6' -12'	✓			3'	This multi-stemmed shrub has interesting bark that looks as if it is shedding layers. The flowers appear as white clusters in later spring and early summer.		✓				

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Bainbridge Island Mitigation Manual Plant List

Deciduous Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Ribes sanguineum	Red-flowering currant	Part shade to full sun. Moist to dry, well drained soil.	8' -10'		✓	✓	4'	The pink to deep red sprays of flowers on this shrub are a favorite early source of food for hummingbirds. Other birds eat the blue-black berries before the end of summer.	✓	✓				
Rosa nutkana	Nootka rose	Full sun. Moist soil.	3' 6'	✓	✓	✓	4'	Fast growing. Good for seasonally wet or seasonally dry soils. Bright pink flowers May through June. Rose hips are purplish-red in fall.		✓				
Rubus parviflora	Thimbleberry	Part shade to full sun. Moist to dry soil.	4' -6'		✓	✓	4'	Medium growth rate. Tolerates dry to seasonally wet soil. Spreads through rhizomes. Large leaves emerge in Spring. Flowers are large, papery, and white. Edible red berries look like raspberries.	✓					
Rubus spectabilis	Salmonberry	Full shade to full sun. Moist soil.	3'- 10'	✓	✓	✓	4'	Fast growing. Bright pink to magenta flowers appear single or in small groups from March through April. The yellow to reddish fruit provide wildlife forage.	✓	✓	✓			
Sambucus racemosa	Red elderberry	Part shade to full sun. Moist soil.	5' -8'			✓	10'	Fast growing. Good for seasonally wet or seasonally dry soils. This shrub can grow into the form of a small tree. Clusters of white flowers in May. Red berries appear June through July.		✓				
Spiraea douglasii	Douglas spirea	Full sun. Wetland or lake edge.	4' -7'	✓		✓	6'	Fast growing. Prefers moist to wet soils. Will tolerate dry soils once established, but will do best on moist or boggy sites. Needs regular water during establishment. Can form thickets in boggy areas. Large clusters of tiny pinkish red flowers. Flower plumes dry and remain on plant through winter.		✓	✓	✓	✓	

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Bainbridge Island Mitigation Manual Plant List

Deciduous Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Symphoricarpus albus	Snowberry	Part shade to full sun. Moist to dry, well drained soil.	2'-6'	✓	✓	✓	3'	Good for seasonally wet or seasonally dry soils. If pruned to ground in early spring, plant will resprout vigorously with more fruit. White to pink bell-shaped flowers. White waxy, non-edible fruit.						✓
Symphoricarpus mollis	Creeping snowberry	Full shade to full sun. Moist to dry, well drained soil.	2'	✓	✓	✓	3'	This trailing species spreads by sending out new roots from along its stem. This low-growing shrub is an excellent groundcover in areas where visibility needs to be maintained.	✓	✓				

Evergreen Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Arctostaphyllos uva-ursi	Kinnikinnick	Full sun. Dry soil.	12"		✓	✓	2'	Low-growing evergreen shrub that is also commonly used as a groundcover.	✓					
Berberis aquifolium	Tall Oregon grape	Part shade. Well drained soil.	5'-8'			✓	4'	Tall shrub with bright yellow clusters of flowers and clusters of blue fruit in late summer and fall. Good for seasonally dry soil and open areas. Good bird forage species.	✓					
Berberis nervosa	Dull Oregon grape	Part shade. Moist, well drained soil.	2'-3'	✓	✓	✓	3'	Low-growing shrub that prefers shade, but will tolerate open areas. Flowers are bright yellow clusters and fruits are in blue berry-like clusters.	✓	✓				
Ceanothus velutinus	Snowbrush	Full sun. Moist to dry soil, well drained.	20'			✓		Large, pyramidal-shaped clusters of small white flowers. This shrub has a spicy scent. The new bark is reddish or purplish in color.	✓	✓				

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Bainbridge Island Mitigation Manual Plant List

Evergreen Shrubs				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Gaultheria shallon	Salal	Part shade to full sun. Well drained soil.	3'-6'		✓	✓	3'	Good for seasonally dry soil. The more sun, the less the plant will spread. Spreads by layering, suckering, and sprouting. Does best with some moisture and part shade. Deer, rabbit, and snail resistant.	✓					✓
Vaccinium ovatum	Evergreen huckleberry	Shade to full sun. Moist, well drained soil.	3' in full sun. 15' in deep shade.	✓		✓	4'	This shrub has shiny, leathery leaves and tiny pink bell-shaped flowers that bloom from April through July. In areas with full sun, this shrub will have a more open form		✓				

Groundcovers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Adiantum aleuticum	Maidenhair fern	Full shade. Moist to wet soil.	2'	✓		✓	24"	A black-stemmed fern with delicate palmately arranged leaves.	✓	✓				
Angelica lucida	Sea-watch	Part shade to full sun. Moist to wet soil.	5'	✓			3'	Single-stemmed plant with tight clusters of small white flowers. Blooms in late spring.		✓				✓
Aquilegia formosa	Western columbine	Part shade to full sun. Moist soil.	2'	✓	✓	✓	12"	The beautiful red and yellow flowers bloom in spring and summer. The delicate leaves die back in the winter months and resprout in the spring.	✓	✓				
Armeria maritima	Sea thrift	Full sun. Dry soils.	12"	✓	✓		12"	A popular garden flower with a slow-growing spreading habit. Good for cut flower arrangements.	✓	✓				✓

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Bainbridge Island Mitigation Manual Plant List

Groundcovers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Aruncus sylvester	Goat's beard	Part shade. Moist soil.	3'- 5'	✓		✓	4'	A deciduous wildflower with large masses of airy white flowers that turn brownish-red as the seasons progress. This plant has a great form throughout the winter and resprouts new arching stems each spring.		✓				
Aster subspicatus	Douglas' aster	Part shade to full sun. Moist to dry soils.	3'	✓	✓	✓	3'	A perennial herb with bluish-purple ray flowers. Blooms in late summer.	✓					✓
Athyrium filix-femina	Lady fern	Full shade. Moist to wet soil.	2'-5'	✓		✓	24"	This fern has delicate feathery fronds and red stems. It is a reliable groundcover.		✓	✓			
Blechnom spicant	Deer fern	Full shade. Moist soil.	2'	✓		✓	24"	A low-growing, hardy fern that does well under the shade of plants.		✓				
Camassia quamash	Common camas	Part shade to full sun. Moist to moderately dry soils.	18"-24"	✓	✓	✓	12"	This pale to deep blue, occasionally white, lily has spike with 5 to many flowers. This showy plant blooms over a short few weeks in late spring.	✓	✓				
Clarkia amoena	Dwarf godetia	Full sun. Moist to moderate soils.	8"- 14"	✓	✓	✓	18"	This pink to rose-purple flower blooms in mid-summer and continues to bloom for several weeks. A taprooted species, it is good for drier sites.	✓	✓				
Dicentra formosa	Pacific bleeding heart	Full shade. Moist soil.	18"	✓	✓	✓	24"	A delicate-leaved plant with little pink heart-shaped flowers, this plant spreads by rhizomes (underground root systems).	✓	✓				

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Groundcovers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Epilobium angustifolium	Fireweed	Full sun. Moist to dry soil.	2'-6'		✓	✓	24"	Showy rose to purple flowers in tall spike-like clusters. This plant spreads by seed and rhizome and will continue to thrive as long as it gets sun.	✓	✓				
Fragaria chiloensis	Coastal strawberry	Part shade to full sun. Sandy soil.	6"	✓	✓	✓	12"- 18"	A hardy, small strawberry plant that will colonize open areas and create a dense groundcover.	✓	✓				✓
Heuchera micrantha	Alumroot	Full shade. Moist soil.	18"-24"	✓		✓	18"	A delicate native with a tall spike of small white flowers. Great for shady sites.	✓	✓				
Lupinus polyphyllus	Large-leaf lupine	Part shade. Moist soil.	12"-36"	✓	✓	✓	12"	Big, robust plant with bold, rich-green palmate leaves. The flowers are large spikes of deep-blue to purplish flowers. This plant blooms biennially and will spread from seed.	✓	✓				
Mimulus guttatus	Yellow monkey flower	Full sun. Moist to wet soil.	18"- 30"	✓		✓	24"	This perennial herb spread by rhizomes and has bright happy yellow flowers with crimson to reddish-brown spots.		✓	✓			
Oxalis oregana	Sorrel	Full shade. Moist soil.	12"	✓	✓	✓	14"	This clover-like species spreads by rhizomes and forms a nice groundcover. The small white flowers bloom in spring and summer.	✓	✓				

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Bainbridge Island Mitigation Manual Plant List

Groundcovers				Plant Placement					Seasonal Water Level Tolerance					Marine Shoreline (Saltwater Tolerant)
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	
Plectritis congesta	Sea blush	Full sun. Moist to wet soil.	6"-24"	✓		✓	12"	This small herb has an upright stem that supports a head of showy pink flowers.	✓	✓				
Polystitchum munitum	Sword fern	Moist to dry soil.	2'- 5'	✓	✓	✓	24"	One of the most adaptable, hardy ferns this species stays green year-round.	✓	✓				
Potentilla anserina var. pacifica	Silverweed	Part shade to full sun. Moist to wet soil.	18"	✓			24"	Small spreading plant with yellow flowers. Blooms late spring through mid-summer.		✓				✓
Sedum spathulifolium	Broad-leaved stonecrop	Full sun. Dry soils.	6"		✓	✓	12"	A native sedum with green and red succulent foliage. The yellow flowers bloom in June and July.	✓					✓
Sidalcea hendersonii	Henderson's checkermallow	Full sun. Moist to wet soil.	5'	✓			3'	A tall native herbaceous perennail with a stalk of pink to mauve flowers that bloom early to mid-summer.		✓				✓
Sisyrinchium idahoense	Blue eyed grass	Part shade to full sun. Moist soils.	24"	✓	✓	✓	12"	This perennial herb has grass-like leaves, but has a light blue to dark purple (sometimes white) flower.	✓	✓				
Tellima grandiflora	Fringecup	Part shade. Moist soil.	14"- 30"	✓		✓	18"	A perennial herb with a spike of fragrant, greenish-white flowers that turn pink or reddish as the flowers age.	✓	✓				
Tolmiea menziesii	Youth-on-age	Full shade. Moist soil.	6" -12"	✓		✓	12"	Small plant that forms a delicate groundcover. The tiny flowers are brownish-purple.	✓	✓				

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Bainbridge Island Mitigation Manual Plant List

Grasses, Sedges, and Rushes				Plant Placement					Seasonal Water Level Tolerance					
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	Marine Shoreline (Saltwater Tolerant)
Agrostis exarata	Spiked bentgrass	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-3'	✓			12"	A perennial grass that grows in tufted form and has erect spikes, as its name suggests.		✓	✓			
Beckmannia syzigachne	American sloughgrass	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-3'	✓			12"	A stout grass with somewhat spongy stems, this plant grows on its own or in groups. This species can be planted or seeded.		✓	✓			
Bromus sitchensis	Sitka brome	Full sun. Dry soils.	6"- 18"			✓	12"	A stout perennial grass with flowers in open, airy panicles.	✓					
Carex lyngbyei	Lyndgye's sedge	Part shade to full sun. Wet soils.	3'	✓			12"	A wetland sedge with lime to medium green foliage. Tops of leaf blades sometimes slightly arching. Brown flower stalks.		✓				✓
Carex obnupta	Slough sedge	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-3'	✓			12"	A large tufted sedge with erect, then arching leaf blades and large brown arching flower heads.		✓	✓	✓		
Carex stipata	Saw beaked sedge	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-3'	✓			12"	A tufted arching sedge, this plant has pyramidal flower clusters that turn from light green to golden as they mature. Flower stems are erect and leaves are bright spring green.		✓	✓			
Danthonia californica	California oat grass	Full sun. Dry to moist soil.	10"- 12"		✓	✓	12"	A delicate, native, clumping grass with purplish-red flowers.	✓	✓				
Deschampsia cespitosa	Tufted hairgrass	Full sun. Moist to wet soil.	18"- 4'	✓	✓	✓	12"	This large, clumping grass has big feathery flower heads with bronze arching flowers.	✓	✓	✓			✓
Eleocharis palustris	Common spikerush	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-3'	✓			12"	A mat-forming perennial spikerush with erect slender stems.		✓	✓	✓	✓	
Elymus glaucus	Blue wildrye	Full shade to full sun. Dry to moist soil.	2'-4'	✓	✓	✓	12"	A tufted perennial grass that forms small clumps and has light blue-green green leaf blades.	✓	✓				✓

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Bainbridge Island Mitigation Manual Plant List

Grasses, Sedges, and Rushes				Plant Placement					Seasonal Water Level Tolerance					
Latin Name	Common Name	Site Conditions	Mature Height	Wet Slopes (WS)	Dry Slopes (DS)	Top of Bank (TOB) or Upland (U)	Spacing On Center (O.C.)	Maintenance Notes and Aesthetic Qualities	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet	Marine Shoreline (Saltwater Tolerant)
Elymus mollis	Dune grass	Full sun. Moist to wet soil.	3'	✓			24"	An industrial strength dune grass that forms large clumps and spreads via underground stems. A hearty weed competitor.		✓				✓
Festuca rubra	Red fescue	Full sun to full shade. Dry to moist soil.	2'	✓	✓	✓	12"	A versatile grass that spreads by rhizome. One of the few shade tolerant grasses.	✓	✓				
Glyceria occidentalis	Northwestern mannagrass	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	1'-5'	✓			12"	A tall perennial wetland grass.		✓	✓	✓	✓	
Hordeum brachyantherum	Meadow barley	Full sun. Dry to moist soil.	1'-3'	✓	✓	✓	12"	A hardy native tolerant of wet, dry, and saline sites. This species is used for erosion control and as a groundcover. Can sometimes compete with reed canary grass.	✓	✓				
Juncus ensifolius	Dagger-leaf rush	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	6" to 2.5'	✓			12"	A small rush with an erect form, this wetland species spreads by rhizome.		✓	✓	✓		
Juncus tenuis	Slender rush	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	6" to 2'	✓			12"	This rush is best planted, due to its low seed fertility rate. A clump forming perennial rush.		✓	✓	✓		
Schoenoplectus acutus	Hardstem bulrush	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	3' to 6'	✓			12"	A good wetland species to use for soil stabilization and water treatment. Birds eat the seeds, but this plant is not a preferred food of deer and elk.		✓	✓	✓	✓	
Schoenoplectus microcarpus	Soft stem bulrush	Full sun to part shade. Moist, saturated, or seasonally to permanently flooded conditions.	2' to 3'	✓			12"	A good soil stabilization and water quality species, this plant spreads readily by rhizome.		✓	✓	✓		

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Bainbridge Island Emergent Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Beckmannia syzigachne	American sloughgrass	20		✓	✓	✓	
Carex obnupta	Slough sedge	10					
Eleocharis palustris	Common spikerush	10					
Elymus glaucus	Blue wildrye	20					
Glyceria occidentalis	Northwestern mannagrass	10					
Juncus ensifolius	Dagger-leaf rush	10					
Juncus tenuis	Slender rush	10					
Schoenoplectus acutus	Hardstem bulrush	5					
Schoenoplectus microcarpus	Soft stem bulrush	5					

Bainbridge Island Wetland Bottom Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Agrostis exarata	Spiked bentgrass	20		✓	✓	✓	✓
Carex stipata	Saw beaked sedge	30					
Glyceria occidentalis	Northwestern mannagrass	20					
Schoenoplectus microcarpus	Soft stem bulrush	30					

Bainbridge Island Moist to Dry Slope Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Deschampsia cespitosa	Tufted hairgrass	20	✓	✓			
Hordeum brachyantherum	Meadow barley	30					
Elymus glaucus	Blue wildrye	15					
Festuca rubra var rubra	Red fescue	20					
Bromus carinatus	California brome	15					

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Bainbridge Island Mitigation Manual Plant List

Bainbridge Island Emergent Wildflower/Pollinator Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Camassia quamash	Common camas	25	✓	✓			
Erigeron speciosus	Aspen daisy	25					
Lupinus polyphyllus	Large-leaf lupine	25					
Sisyrinchium idahoense	Blue eyed grass	25					

Bainbridge Island Upland Grass Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Bromus carinatus	California brome	20	✓				
Festuca rubra var. rubra	Red fescue	30					
Hordeum brachyantherum	Meadow barley	50					

Bainbridge Island Upland Forb Seed Mix			Seasonal Water Level Tolerance				
Latin Name	Common Name	% Mix	Dry	Moist to Saturated	0 to 1 foot	1 to 2 feet	2 to 3 feet
Achillea millefolium	Yarrow	25	✓				
Clarkia amoena	Farewell-to-spring	25					
Lupinus bicolor	Bicolor lupine	25					
Solidago canadensis	Canada goldenrod	25					

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Existing Use/Expansion	Allowed?	Conditions
Structural Expansion – Within Buffers		
Vertical Expansion	Allowed	• Does not exceed height standard of 35 feet above average grade level.
Parallel or Landward Expansions	Allowed with Mitigation	• Minimum native vegetation is removed. • Expansions and native vegetation removal shall restore a portion of the shoreline buffer with riparian vegetation at a 1:1 area ratio to offset the adverse impact. • Stormwater is handled consistent with Eastern Washington Stormwater Management Manual.
Waterward Expansions	Prohibited	• Expansions further waterward are prohibited within the standard buffer.
Appurtenant Structures within Buffers	Allowed with Mitigation	• New structures or developments, including, but not limited to, pools, decks, patios, additions, sheds, fences, or other appurtenances, are not permitted in shoreline buffers without mitigation. • Expansions shall restore a portion of the shoreline buffer with riparian vegetation at a 1:1 area ratio to offset the adverse impact.

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Two recent studies provide helpful guidance in developing mitigation strategies and restoration opportunities. Ecology's *Puget Sound Characterization Project* has identified characteristics for Puget Sound basins useful for assessing mitigation opportunities. The project includes landscape assessments of fish and wildlife habitat in terrestrial, freshwater and marine environments. The assessments prioritize small watersheds, or habitat areas, relative to one another for their protection and restoration value and are designed to help planners in the Puget Sound region make better decisions about land use and effective protection, restoration, and conservation strategies for the Sound's natural resources by:

- "Describing a multi-scale framework for land-use planning that integrates information on water flow, water quality, and habitat.
- Providing results from assessments that can help guide the protection and restoration of watersheds and the habitats they support.
- Explaining how to interpret and apply the results of these assessments" (WDFW, 2013).

Similarly, the Puget Sound Nearshore Ecosystem Restoration Project's *Strategies for Nearshore Protection and Restoration in Puget Sound* identifies the locations on Puget Sound and its tributaries that are best suited to restoration and enhancement (PSNERP, 2012).

IN-KIND MITIGATION (ON-SITE AND OFF-SITE)

SMA policy provides important guidance on how to compensate for lost functions, which is to protect and restore the ecology and natural character. Thus, when natural features that provide ecological functions are eliminated or degraded to a lower level, they need to be replaced with features that perform the lost functions. In addition, compensation should take place where the impact happened for those impacted functions that are site-specific.

"In-kind" "on-site" mitigation is the most common and, for site-specific functions that need to be maintained on-site, the preferred method of compensatory mitigation. Examples of in-kind mitigation include:

Development Activity	Example of in-kind mitigation
Clearing native vegetation	Planting native vegetation
Installation of new over-water structures	Removal of over-water structures
Installation of new impervious surface	Removal of impervious surface
Installation of new armoring	Removal of adjacent armoring

In-kind mitigation is often the preferred form of mitigation.

Mitigation for some functions *must* take place on-site. For example, at a site where part of a stream is filled, mitigation to replace the lost flow capacity must be provided on-site. It may be preferable for other functions to be mitigated off-site. Since it can be difficult to replace certain functions on-site and mitigation may not be successful if the site is not suited to the mitigation work, off-site mitigation, when done well, can result in a greater certainty that the functions will be replaced.

When mitigation takes place off-site, issues related to the ownership and control of the mitigation site need to be addressed. For mitigation banks and in-lieu-of programs those issues are addressed upfront. Examples where off-site mitigation may be suitable include the following situations:

- The proposed development site already has largely intact vegetation so adding replacement vegetation is not feasible.
- The site is so intensely developed there is no room or no suitable site for compensating mitigation such as vegetation enhancement.
- The site is so small there are no onsite mitigation opportunities after the development is complete.
- Mitigation is done in advance so it is known that mitigation is working to replace the lost functions. (See description of in-lieu and similar programs starting on page 54).
- There are nearby in-kind mitigation opportunities such as reducing a nearby dock to mitigate the overwater coverage of new dock.

Because of the historic loss of estuarine wetlands in Washington and their ecosystem functional importance, the agencies will require in-kind compensation, that is, with replacement with another estuarine wetland, although often this will be off-site. Freshwater wetlands as mitigation are rarely considered acceptable as compensation for impacts to estuarine systems (Ecology/Corps/EPA, 2006).

Attempts to recreate habitat in new locations can be especially challenging. Projects, for example, to establish vegetation at barren sites is probably unadvisable as there are good reasons why there is no vegetation at these sites in the first place, such as unfavorable temperature, water, or wind conditions. In addition, at newly planted sites vegetation maintenance must be implemented including irrigation and weeding (Quigley and Harper, 2006).

Another issue is the availability of off-site locations that are within the same reach or drift cell, or even in the same watershed. In some highly developed areas, land costs are high and there is a tendency to do mitigation work on public lands.

Replacing ecological functions in off-site locations using programs such as in-lieu and conservation banks (described below) have been slow to catch on. The 2008 *Making Mitigation Work: The Report of the Mitigation that Works*

Forum (Ecology) concluded:

> "Alternatives to on-site mitigation have not been adequately explored or put into place, limiting choices and encouraging site-scale mitigation efforts even when these efforts are not likely to be sustainable over time. Local governments, especially cities, often are reluctant to approve off-site mitigation if it occurs outside their jurisdictional boundaries."

OUT-OF-KIND MITIGATION

While "in-kind" mitigation should be used as much as possible, "out-of-kind" mitigation may be needed. Indeed, out-of-kind mitigation may be more common than in-kind mitigation in some shoreline areas. A local planner said that for docks, especially, it is difficult to get in-kind mitigation:

"What is adequate mitigation for a dock? Can't make them remove another dock."

While there are sometimes opportunities to remove overwater structures to mitigate new docks, where that is not possible, out-of-kind mitigation such as planting on the beach and placing in-water woody debris is often the only available fallback. It is important to try to use the out-of-kind mitigation to reverse, or mitigate for, the impacts of the new development. For example, freshwater docks can create habitat for non-native fish that prey on salmon so it is desirable for required out-of-kind mitigation to focus on habitat improvements that increase salmon survival and compensate for increase in salmon predation. In that situation, requiring appropriate planting of native vegetation along the shore could provide more insects where conditions are food limited for salmon.

Perhaps the most common out-of-kind mitigation usage is for degraded sites that can be enhanced by planting native vegetation when in-kind compensation options are not available. Out-of-kind mitigation is especially useful for features and functions that are difficult to replace such as for the replacement of some marine habitats. Installing a new bulkhead that removes upper beach functions may, for example, be mitigated in part by beach nourishment, which seeks to replace the sediment that would have been transferred from the site to other beaches through the longshore drift. Another example is the planting overhanging vegetation, which can increase the survival of forage fish eggs, where bulkheads damage forage fish spawning beaches.

QUANTIFYING MITIGATION AND MITIGATION RATIOS

A key mitigation question is "how much?" How much replacement of habitat or ecologic function – i.e., replacement ratio - is needed to compensate for the lost value at project sites?

SMP Updates include mitigation ratios for wetlands impacts and some include ratios for buffer impacts. There is a growing body of research about mitigation ratios for riparian vegetation and other critical areas. For SMPs that do not have mitigation ratios, it can be difficult to determine the right mitigation ratios. Nearly all CAOs and SMPs do have fixed ratios for wetlands mitigation and now there is a trend to expand this to riparian areas and ultimately fish and wildlife habitats. For impacts where mitigation ratios are not available, permit writers seek other means to determine the proper level of mitigation.

As summarized by King and Price in 2005 a mitigation ratio should take account of these factors:

- "The existing level of [ecological] function at the site prior to the mitigation;
- The resulting level of [ecological] function expected at the mitigation site after the project is fully successful;
- The length of time before the mitigation is expected to be fully successful;
- The risk that the mitigation project may not succeed; and
- Differences in the location of the [lost function at the site] and the mitigation site that affect the services and values they have the capacity and opportunity to generate."

Determining appropriate replacement ratios has been an ongoing challenge and numerous papers examining decades of wetlands mitigation have shown that replacement ratios have generally been too low to offset adverse impacts. The 1:1 replacement ratio has been shown to be inadequate (King and Price, 2005). Ecology's current wetland recommendations take these studies into account. Those higher ratios are being incorporated into the SMP updates and those ratios should be used for wetland mitigation for standard forms of mitigation.

Looking beyond wetlands, and assessing numerous factors ranging from invertebrates to soil and fish, a study of 16 in-channel and riparian habitat mitigation projects across Canada showed that 63% resulted in a net loss of habitat function. Many sites did not meet their target mitigation ratios, and the authors demonstrated that the mitigation ratios were not high enough. They found that replacement mitigation ratios of 2:1 would not have achieved no net loss of fish productivity. To achieve a net gain, mitigation ratios of "approximately" 5:1 were necessary (i.e., replacement habitat was five times the lost habitat). This study also found that riparian vegetation was difficult to compensate for because of large losses in riparian productivity. In addition, to larger replacement ratios, they note that mitigation success depends on a better understanding and documentation of the compensation sites, maintenance programs, increased monitoring and enforcement, and attention to limiting factors on a watershed basis (Quigley and Harper, 2006). Similar results have been shown (i.e., failure of wetland mitigation) in the United States

(Ambrose, 2004).
The higher ratios found necessary in the Canadian report are similar to the ratios needed to compensate for the losses of moderate to high quality wetlands (Granger et al, 2005). So absent other scientific evidence, replacement compensation for vegetation and habitats relying on vegetation should take place at four to five times the area (or other unit) adversely affected to compensate for failure rates, the difficulty of mitigation, the age and maturity of the vegetation, and the time needed to become fully functional.

It is inappropriate to replace functions derived from natural features with functions derived from artificial features. Replacement compensation should always use more natural options. Attempts to replace lost functions by constructing something artificial usually result in additional impacts to other functions. An example is the elimination of buffer vegetation and replacement of the bank stability functions with shore armoring – other functions are not accounted for. Another example is compensation for impervious surface using storm water facilities placed in a buffer area – it causes other impacts.

Approaches to quantifying mitigation

There have been a variety of approaches developed to quantify mitigation, especially for wetlands. In recent years, there has been a move towards using a credit/debit method to calculate compensatory mitigation.

Habitat Evaluation Procedure (HEP)

U.S. Fish and Wildlife Service developed the Habitat Evaluation Procedure (HEP) in 1980 for use in impact assessment and project planning. HEP uses a species-habitat based approach to impact assessment and can be used to document the predicted effects of proposed management actions, including mitigation. HEPs are based on the assumption that habitat for a selected species can be described by a Habitat Suitability Index (HSI) or habitat quality which compares the habitat at a site to an optimal habitat for a species (scale from 0.0 to 1.0 (optimal). This can be multiplied by the area of the site to give a habitat unit (HU). The assessment process is limited to the species selected for the HEP (USFWS, 1980).

Ecology Wetlands Tool

For freshwater wetlands, Ecology has created a tool that calculates mitigation actions needed to replace the functions and value lost at wetlands that are filled or damaged. The tool is based on the Washington State Wetland Rating System for Western Washington, as well as some previous work by King County to develop a credit system. The credit/debit method generates scores for wetlands ranging from 1-9 for each of three wetland functions: improving water quality; flood storage and flow reductions; and habitat. The score is based on three aspects of each function: the potential of the site to provide the function, the potential of the landscape to maintain each function at the site scale, and the value of each function. A debit score is generated for the impact sites, multiplied by the size of the sites as well as a multiplier with accounts for the temporal loss of functions assumed because of the time lag before mitigation replacement is fully functional. Separately, credit scores are generated for lift sites, multiplied by their sizes, and a multiplier based on risk of failure (i.e., plants dying or other problems). The ratio used to account for the risk of failure is 1.5:1. Mitigation projects are usually deemed adequate when "credit" scores for the projects are higher than "debit" scores for impacted wetlands. The specifics of this tool are only applicable to freshwater wetlands (Ecology, 2012).

Stream Functions Pyramid

Based on a credit/debit system and focusing on restoration and mitigation for altered streams, a new function-based method to calculate mitigation for altered functions, called the Stream Functions Pyramid approach, has been developed under EPA sponsorship (See Side Box on page 50). This approach quantifies the functions in a credit-debit fashion and involves completing a functional or condition assessment at the impact site to quantify ecological losses (debits) and at the mitigation site to quantify projected ecological gains (credits).

Habitat Equivalency Analysis (HEA)

Under Section 7 of the Endangered Species Act, project proponents are required to consult with NOAA to determine impacts and mitigation for their project. NOAA has long used Habitat Equivalency Analysis (HEA) as a method of assessing damage and mitigation requirements for resource impact, to determine the loss or gain from the impact. This method is now being used to quantify project-related habitat impacts and to determine conservation credits for conservation banks. The calculation is used for projects where there is an adverse effect (inputs are area impacted, extent of the impact, and rate at which recovery will occur) and it is believed that adverse effects can be offset. The calculation uses a unit value of service (at landscape scale) which is independent of change in service level at the injured and restored site. For example, if the site involves the last old growth tree needed for marbled murrelet habitat, HEA could not be used, because there is no possible offset. By using this model to calculate mitigation, quicker ESA consultations can be done. In addition, the approach serves as a model for others to use or modify (Fisher and Ehinger, 2014).

Seattle's Habitat Evaluation Procedures (HEP) Program

The City of Seattle has now extended the credit/debit approach to quantifying shoreline functions and mitigation assessment. Seattle's Habitat Evaluation Procedures (HEP) (formerly called SAMP) was developed using USFW's Habitat Evaluation Procedures (see above) and Habitat Suitability curves for ecological needs of juvenile Chinook salmon. Thus features like shallow water and near-water vegetation are important. Scores for impacted sites are totaled so that property owners can then see how much on and off-site mitigation (credit) is needed. HEP was initiated as a pilot project for the Ship Canal area of the city and the program was incorporated into their SMP Update (See Side Box on page 52).

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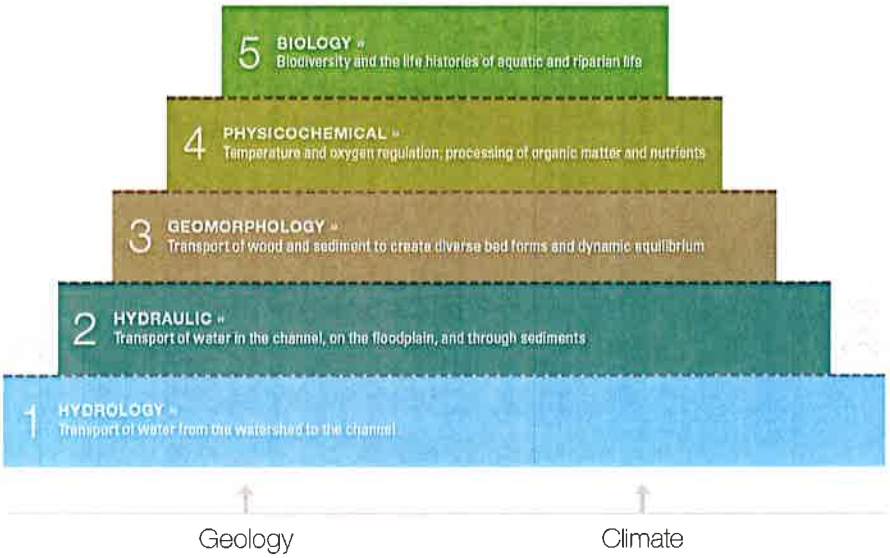
Side Box

STREAM FUNCTIONS APPROACH TO QUANTIFYING MITIGATION

Sponsored by the EPA, a new framework for approaching stream assessment and restoration from a function-based perspective has been recently developed. The Stream Functions Pyramid approach is designed to move *beyond* a wetlands approach to determine ecological functions *to* a fluvial geomorphological and stream ecological approach. The framework can be used to determine compensatory mitigation credits and losses and success standards for **streams, rivers and their riparian zones**.

many projects being evaluated simply on visual observations of channel stability, in-stream structure integrity, and condition of the riparian buffer." The Stream Functions Pyramid, on the other hand, allows for the development of function-based goals and assessments leading to credits based on the potential functional lift.

The Stream Functions Pyramid. The underlying assumption of the approach is that stream functions are interrelated and generally build on each other in a specific order, a functional hierarchy ranging from Level 1 to Level 5: hydrology (Level 1) hydraulic (Level 2), geomorphology (Level 3), physicochemical (Level 4) and biology (Level 5). Higher-level functions are supported by lower level functions, like a pyramid (thus hydraulic functions cannot occur without hydrologic functions, and so on). The Stream Functions Pyramid includes over 30 parameters, not all of which will be needed for each project:



Old mitigation approach versus new approach

Currently, most stream mitigation is based on restoration priority levels and/or changes to stream dimension, pattern and profile to create a stable channel. This results in a push for maximum stream channel shape change to get a maximum number of credits and a focus on shape rather than stream functions. As the authors of this new approach report, "This credit determination method has resulted in

Source: United States Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds. (2012). *A Function-Based Framework for Stream Assessment and Restoration Projects.* Written by Harman, W., R. Starr, M. Carter, K. Tweedy, M. Clemmons, K. Suggs, C. Miller. Washington, DC EPA 843-K-12-006.

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Comprehensive program to determine success of mitigation in King County

In assessing mitigation it is important to determine if the lost functions can be feasibly replaced. The ability to replace lost habitat should be documented by scientific studies of successful mitigation or examples of mitigation projects where monitoring shows success.

Natural resource staff at King County conducted an extensive study of the success of mitigation related to development projects in the county over the past five years. They specifically assessed permitted development in rural transitional watersheds to determine compliance with permits and to determine if the regulatory actions taken by King County in 2005, including critical areas, grading and clearing and stormwater ordinances, are protective of the ecological functions. That is, are they meeting no net loss? The control watersheds for the study are those that are closed to development. (See Side Box on page 53).

ADVANCE MITIGATION

If the available science information indicates that lost functions can be replaced but the proposed mitigation does not have a proven record of success, advance mitigation can be used. Advance mitigation "is a form of permittee-responsible compensatory mitigation constructed in advance of a permitted impact." (Corps/Ecology/WDFW, 2012). An advance mitigation site needs to be planned, designed, permitted, and constructed before a development project can use any mitigation credit generated by the site. Advance mitigation can be a cost-effective and ecologically beneficial mitigation option as the permitting agency may allow a lower mitigation ratio because the actual mitigation success can be shown.

In December 2012, federal and state agency permits released a guide for advance mitigation which includes the following guidance relevant to local shoreline permitting:

- Applicants conduct advance mitigation at their own risk. Establishing compensatory advance mitigation does not guarantee that it will be accepted as adequate and/or suitable mitigation for any specific future project.
- Advance mitigation can be combined with concurrent mitigation required by a Federal, State, or local permit.
- The credit value of mitigation efforts at a site will generally increase over time because the temporal loss is eliminated or decreased if a mitigation effort is established and meeting performance standards.
- When proposing advance mitigation in a service area where a mitigation bank or in-lieu fee program has been approved, the applicant must demonstrate why the advance site is ecologically preferable to other forms of mitigation.
- In some cases it may be necessary to replace critical functions onsite (Corps/Ecology/WDFW, 2012).

Advance mitigation offered in SMPs

In their SMP Updates, Kitsap County and Island County included provisions that offer credit for up to five years of advance mitigation. Island County's advance mitigation applies to the removal of structural shoreline stabilization in advance of shoreline development or redevelopment within five years, and provides (17.05A.090.I.4) that:

- "The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;
- "The County confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and
- "The applicant or property owner provides assurances that the restoration area will be maintained for the life of the project. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism" (Island County, 2012).

MITIGATION MANUALS AND PROGRAMS BUILT INTO SMPS

Some SMPs include built-in programs to mitigate the impacts of common forms of development. These predetermined forms of mitigation can ensure that common impacts are fully mitigated and provide certainty for potential applicants. They can also reduce transaction costs for local governments and applicants by reducing the scope of scientific reports to analyze project impacts and develop appropriate mitigation. Another advantage is the reduction of time needed for expert review of the reports and mitigation associated with qualifying projects.

The use of prescribed replacement vegetation requirements in some of the SMP updates makes it easier for homeowners to do the plantings themselves, without the expense of hiring a landscaper or consultant. A local planner reported that:

"Most homeowners can do it. So no report required. They are developing their mitigation in what is left of the buffer. They use a good mix of plants. They [can get help from the local nurseries] who know the native plants and the ones that are suitable for various locations. They hold their hands."

Case Study

QUANTIFYING "NO NET LOSS" - SEATTLE'S HEP APPROACH

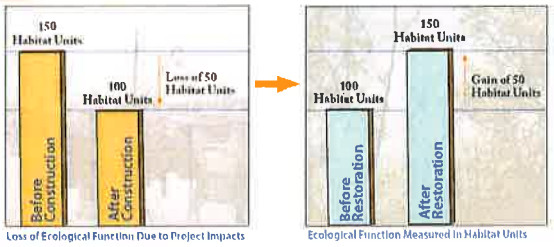
In 2006, the City of Seattle developed a system to calculate habitat unit values as the key driver of a Shoreline Alternative Mitigation Plan (SAMP), part of an initiative, later renamed Habitat Evaluation Procedures (HEP), to support the maritime industry while also promoting shoreline habitat restoration. The focus was on the Ship Canal and Lake Union areas of Seattle, with plans to eventually extend the program to the rest of city. The proposed plan included a form of a mitigation bank in which eligible applicants for water-dependent and water-related land shoreline development permits could, after making project revisions to eliminate or reduce harm, either mitigate remaining shoreline impacts on-site, or contribute to a fund for shoreline restoration mitigation elsewhere within the Ship Canal or Lake Union area. For example, if a project results in the loss of 1000 habitat units, then mitigation must produce 1000 (or more if a ratio is used) new habitat units to offset the loss. Success of offsite restoration mitigation would be tracked; contingency provisions are included in the plan. **Key to the approach was a new system to measure shoreline impacts.**

Calculating habitat values and impacts in shorelines

The city created a baseline map of existing shoreline conditions for the project area in 2006. Seattle derived measurable "habitat unit" values for ecological functions and impacts (see table to right) based on a synthesis of current science and a Habitat Suitability Index model. The approach is based on US Fish and Wildlife *Habitat Evaluation Procedures* using Chinook salmon habitat requirements. Over time, the values for habitat units will be updated as new research on shoreline ecology is conducted. Currently the City is piloting a restoration project in the Ship Canal. This project will help ground truth the cost of habitat units developed in HEP.

Seattle Habitat Equivalency Table (2008 draft)	
Development Activity/Impact	**Habitat Unit Equivalency**
Riparian Vegetation *(vegetated area contiguous to the shoreline. Planting of riparian vegetation refers to planting native plant species at densities specified by City staff)*	
Grass	7 units per linear foot
Shrubs	15 units per linear foot
Native Vegetation 1-3 M tall within:	
0 to 10 feet of shoreline	30 units per linear foot
10 to 100 feet of shoreline	30 units per linear foot
Native Vegetation greater than 3 M tall within:	
0 to 10 feet of shoreline	45 units per linear foot
10 to 100 feet of shoreline	70 units per linear foot
Shoreline Condition	
Natural/Unretained	30 units per linear foot
Sloping Bulkhead	20 units per linear foot
Vertical Bulkhead	10 units per linear foot
Overwater Coverage total	
None	24 units per square foot
Grated Surface Area	11 units per square foot
Solid – less than 3 feet in width	11 units per square foot
Shallow water 12 feet or less in depth *Creation/Reduction in the amount of contiguous shallow water (up to 12 feet in depth) present on submerged portion of subject property*	26 units per square foot
Change in slope of submerged parcel area	
Less than 2% slope	27 units per square foot
Greater than 2 up to 4%	16 units per square foot
In-water Substrate Composition	
Sand/Silt/Gravel	26 units per square foot
Invasive Aquatic Macrophytes/ Submerged Debris	
Absent	44 units per square foot
Moderately Dense	14 units per square foot

Development Activity On-site Habitat Unit Equivalency



Seattle's chart showing how habitat units would be applied at project site and at restoration site.

Sources: Seattle, City of. Department of Planning and Development. (2006, May). *Shoreline Alternative Mitigation Plan: Preliminary Plan.* Retrieved from http://www.seattle.gov/DPD/Planning/Shoreline_Alternative_Mitigation_Plan/Overview
Seattle, City of. Department of Planning and Development. (2008). *Draft Director's Rule XX -2008.* Retrieved from http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterprog/documents/web_informational/dpdp020806.pdf

Side Box

KING COUNTY STUDY: ARE LAND USE REGULATIONS PROTECTING THE ENVIRONMENT?

King County and EPA recently concluded a five-year (2007 – 2012) watershed-scale study of the effectiveness of the County's land use regulations in 6 rural watersheds with ongoing development as compared to 3 undeveloped reference areas. Because of low levels of development during the project, presumably due to the economic downturn, 100 years of land cover history (since ~ 1900), future full build-out and urban watershed scenarios were modeled to provide additional perspective.

Goals of the project

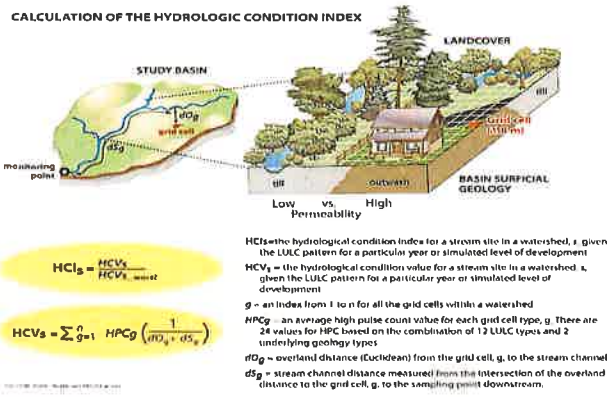
King County wanted to assess effectiveness of - and compliance with - its relatively new (2005) land use regulations, consisting of three ordinances: critical areas, grading and clearing and stormwater. Study goals were to establish and implement a framework for isolating the effect of the County's regulations, quantifying land cover change and environmental response over time and, if a response was detected, to identify possible changes in regulation or management.

Watershed characteristics assessed

The project tracked changes in land cover, land use, permit compliance, hydrology, water quality (conductivity and temperature), biology (benthic invertebrates, BIBI) and channel complexity (salt tracer-based reach-averaged velocities in conjunction with measurements of substrate, thalweg, pools, channel depths and widths, large wood). A novel Hydrologic Condition Index (HCI) was developed to quantify the hydrologic effect of land cover change (not just the change) across differing time and space scales in these lowland watersheds.

Conclusions

Results suggest that in rural areas, King County's existing regulatory structure should protect watershed hydrological attributes as future development occurs. Results should be viewed as preliminary, however, because of the limited development activity observed during the project time period.



Compliance results

With respect to compliance, no large or ongoing problems were observed over the five years. When estimated as the area of land cover change that required and obtained a permit, regulatory compliance was about 63%. The area of land cover change, however, was small relative to the area studied; almost 97% of the watershed area showed no change in land covers at all during the study period. In regulatory stream buffers, land cover change was even smaller than at the watershed scale with over 99% of the buffer area remaining unchanged over five years suggesting regulations may be protective of buffers as well as hydrology.

The study framework and its detailed information across 9 watersheds and 5 years provides the Puget Sound Region with a "watershed laboratory" with potential to assess regulatory effectiveness elsewhere and to assess the future effects of rural land use, climate change and the effectiveness of other management actions, such as for stormwater and habitat protection and restoration. Study results, overview presentations and a final report are at http://www.kingcounty.gov/environment/wlr/sections-programs/science-section/critical-areas.aspx

Sources: King County. Water and Land Resources Division. (2014). *Assessing land use effects and regulatory effectiveness on streams in rural watersheds of King County, Washington.* Written by Lucchetti, G., Burkey, J., Gregersen, C., Fore, L., Knutson, C., Latterell, J., McCombs, P., Timm, R., Vanderhoof, J., and Wilhelm, J. Retrieved from http://your.kingcounty.gov/dnrp/library/water-and-land/critical-areas/CAO-Report-Final-for-Web.pdf

King County. (2008). *Quality Assurance Project Plan for Regulatory Effectiveness Monitoring for Developing Rural Areas.* Written by Lucchetti, Gino and Latterell, Joshua. Retrieved from http://your.kingcounty.gov/dnrp/library/water-and-land/data-and-trends/monitoring/critical-areas/081119-epa-cao-qapp.pdf

King County. (2011). *Assessing the Effectiveness of Land Use Regulations in Developing, Rural King County, WA. Presentation to the American Fisheries Society.* By Lucchetti, Gino, Latterell, Joshua, Timm, Ray, Michalak, Julia, Torgersen, Christian, Alberti, Marina, and Knutson, Christopher B. Retrieved from http://your.kingcounty.gov/dnrp/library/water-and-land/critical-areas/2011-presentations/land-use-regulation-effectiveness.pdf

Some SMP Updates, such as Pierce County (see Side Box on page 55), include tiered levels of required mitigation reports with less complex reports required for projects covered by built-in mitigation and more detailed reports required for other projects.

In their SMP Update, Kitsap County included a Mitigation Options Table to achieve buffer flexibility without the need to hire a professional consultant. The table guides the property owner through mitigation, provides a list of mitigation options to choose from, and also allows for alternative proposals from the applicant (See Side Box on page 56).

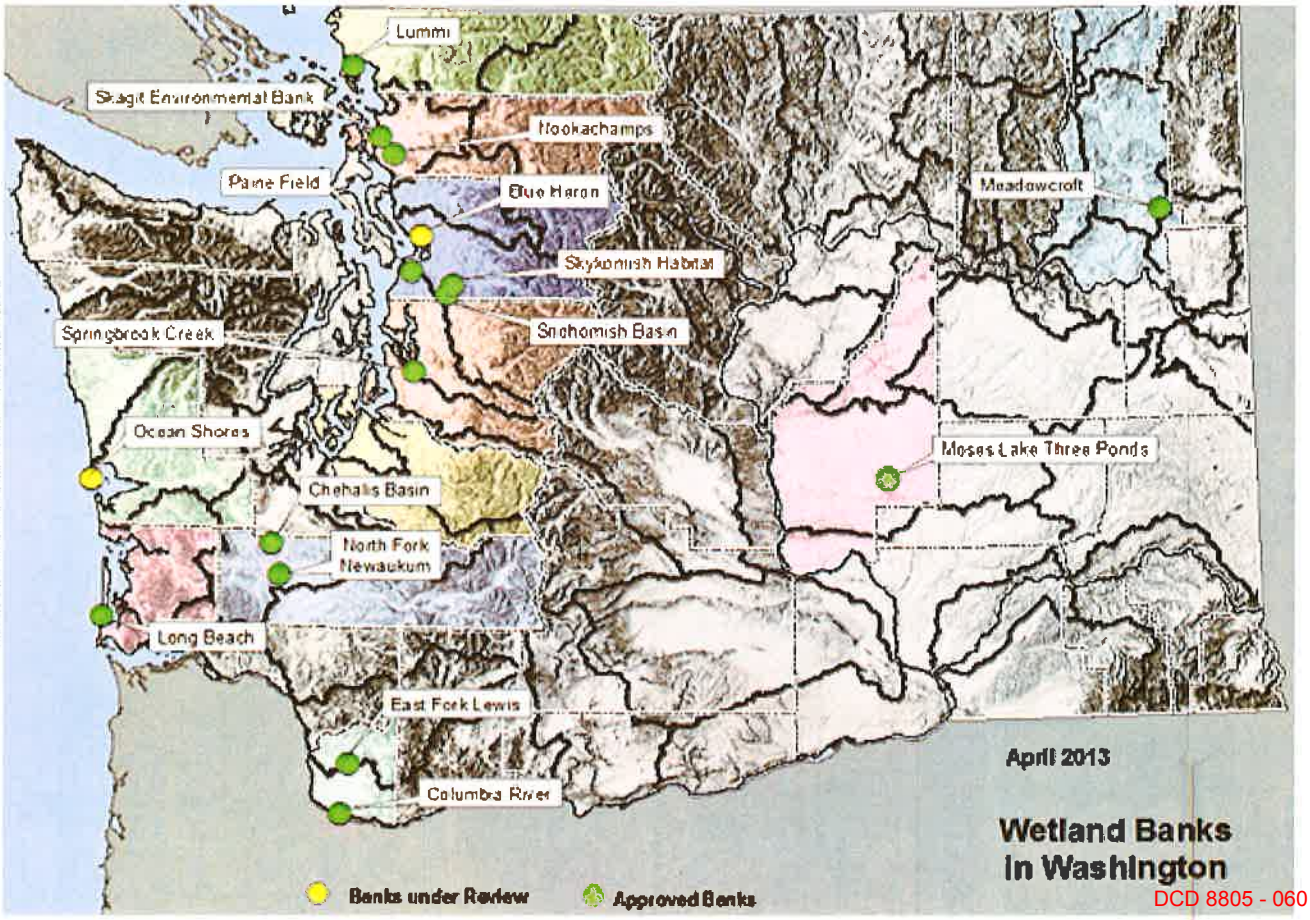
Mitigation manuals, adopted along with SMPs or as later additions, can include methodologies for assessing impacts and determining mitigation, and can set standard mitigation requirements as well as standards for monitoring mitigation. These manuals can be useful tools for permit applicants and permit reviewers. They help improve mitigation and reduce transaction costs. Bainbridge Island has developed a user-friendly mitigation manual for single family properties (See Side Box on page 57).

IN-LIEU MITIGATION PROGRAMS

In-lieu programs perform off-site mitigation for projects for a fee. Jurisdictions can initiate their own programs and some SMPs include in-lieu provisions. In-lieu programs can take different forms including:

- ***Wetland mitigation banks.*** Wetland banks are becoming more common across the nation. Banks for other forms of mitigation are possible as well, though rare or non-existent at this date. Developers purchase mitigation credits from banks, which have created new wetland habitat or other features.
- ***Fee-in-lieu mitigation program.*** Fee-in-lieu mitigation programs are fairly new. They are similar to mitigation banks, but the fee pays for restoration work that happens at a future date.
- ***Less formal programs.*** Other less formal in-lieu programs are possible when they don't require federal or state approval for water and wetland permits. Examples include the Mount Vernon buffer mitigation bank and Seattle's Habitat Evaluation Procedures (HEP) program (See Side Box on page 52) which uses an approach similar to Ecology's new credit-debit system by giving scores to functions (Ecology, 2013c). Other options are only limited by imagination and the willingness to do the work necessary to establish the program.

While in-lieu programs are attractive, innovative and can result in better mitigation outcomes, when well-designed and effectively implemented, they require accurate accounting



Case Study

PIERCE COUNTY TIERED MITIGATION APPROACH

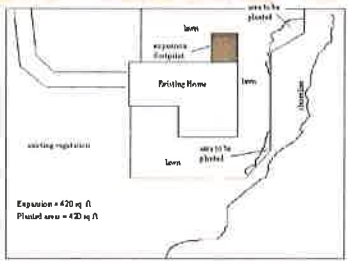
Pierce County's draft SMP Update includes a tiered mitigation strategy (18E.40.050) which prescribes simpler requirements for minor projects and more customized requirements for larger projects:

Larger and more complex projects

Abbreviated Planting Plan

An applicant can submit an *Abbreviated Planting Plan* for expansion or new development projects affecting less than 1,000 square feet of a buffer or setback. An equal area of native vegetation is required to compensate for the additional impervious area including a minimum of one tree species, two shrub species, and two groundcover species, using the following formulas:

Number of Plants to be Installed under Abbreviated Planting Plan		
Plant Type	**Spacing**	**Number of Plants = Square Footage divided by:**
Trees	12-15 feet on-center	144 – 225 square feet
Shrubs	6 feet on-center	36 square feet
Herb/Groundcover	3 feet on-center	9 square feet



Example Abbreviated Planting Plan Site Diagram from Pierce County's draft SMP update

Habitat Assessment Study

An applicant must conduct a *Habitat Assessment Study* for projects that affect 1,000 square feet or more of a buffer or setback. The study includes an environmental baseline, non-field documentation of location and condition of relevant Critical Fish and Wildlife habitat areas and buffers and setbacks, identification of the presence of the habitat area or species on the site, a detailed project description, discussion of how Fish and Wildlife Habitat Conservation Area standards will be met, and proposed mitigation.

Habitat Assessment Report

An applicant must submit a *Habitat Assessment Report* for mitigation plans more complex than simple buffer or setback planting and may include additional mitigation elements such as timing restrictions, clearing limitations, avoidance of specific areas, special construction techniques, Conversion Option [Timber] Harvest Plan conditions, Hydraulic Project Approval permit conditions, habitat enhancement (i.e. fish passage barrier removal), and best management practices.

Source: Pierce County Planning and Land Services. (2012, September 25). *Exhibit "D" to Staff Report, Pierce County Planning Commission.*

Harvey, Diane

From: Ballard, Greg
Sent: Wednesday, July 01, 2020 1:53 PM
To: Harvey, Diane
Subject: HMP/Mitigation Plan

27.12.325 Protection standards for Class II wildlife habitat conservation areas. SHARE
All development within the jurisdiction of designated Class II wildlife habitat conservation areas shall adhere to the following standards:

(1) All new major development within Class II wildlife habitat conservation areas may require the filing of a habitat management plan (HMP). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the review authority.

27.12.830 Habitat management plan. SHARE
(1) This report shall identify how the development impacts Class I or II wildlife habitat conservation areas. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991) may serve as guidance for this report or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended.

(2) The habitat management plan shall contain a map prepared at an easily readable scale, showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date of map revision.

(3) The habitat management plan shall also contain a report which describes the nature and intensity of the proposed development; an analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and a plan which identifies how the applicant proposed to mitigate any adverse impacts to wildlife habitats created by the proposed development.

(4) This plan shall be prepared by a person who has been educated in this field and has professional experience as a wildlife biologist. For minor new development proposals, the Department of Community Development may complete the plan unless the applicant wishes to employ a qualified professional at the applicant's expense. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Department of Fish and Wildlife as required under the Bald Eagle Management Rules.

27.12.835 Mitigation plan – Applicability. SHARE
(1) Applicability. Submittal and approval of a mitigation plan shall be required for the following permits or activities:

(a) Variances, reasonable use exceptions and enforcement orders;

DCD 8805 - 062

(b) Any alteration within 200 feet of a Class I wildlife habitat conservation area, or within a designated critical habitat associated with an threatened or endangered species under ESA;

(c) Development within a landslide hazard area or within 200 feet of a landslide hazard area where the Administrator or Clallam County Building Official determines through a site inspection that required buffers and/or building setbacks, respectively, may not be sufficient to protect public health, safety, and welfare;

(d) Mitigation plans required by the Administrator as part of the certificate of compliance application pursuant to this chapter;

(e) Environmental impacts identified by the Administrator from development proposals located within Class II wildlife habitat conservation areas. This requirement shall not apply to development which is categorically exempt under WAC 197-11-305.

(f) Certain activities located within a critical aquifer recharge area as specified in Part Six of this chapter.

(2) Permit Conditions. Any mitigation plan prepared pursuant to this section and approved by the review authority shall become part of the certificate of compliance, variance, or reasonable use exception approval.

(3) Waiver. The review authority may waive all or portions of the mitigation plan if, in his/her opinion, there is adequate information available on the site to determine its impacts and appropriate mitigating measures.

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THURSTON COUNTY
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COUNTY COMMISSIONERS

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COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

Creating Solutions for Our Future

Joshua Cummings, Director

MEMORANDUM

TO: Planning Commission

FROM: Andy Deffobis, Associate Planner,

DATE: May 9, 2019

SUBJECT: Shoreline Master Program Buffers

Introduction

As part of the overall Shoreline Master Program update, staff have been gathering and analyzing information about shoreline buffers to provide the Planning Commission and Board of County Commissioners (Board) with information to make buffer decisions. This includes research on best available science for shoreline buffers (Appendix A), what other jurisdictions in western Washington have proposed, and what has been approved by the Department of Ecology (Appendix B).

Vegetation along the shoreline provides a myriad of benefits for the water body, the upland area and shoreline residents and users. Vegetation helps to stabilize soils, which filter pollutants and fine sediments, contributing to improved water quality. Trees and shrubs provide habitat for many species and provide food for aquatic species. More stable banks reduce occurrences of landslides, damage to structures and threats to life safety (Ecology SMP Handbook, Chapter 11).

Marine vs. Freshwater Riparian Areas

Shorelines of the state include both marine and freshwater shorelines. Research suggests that freshwater and marine riparian areas adjacent to the water share ecological functions. The Department of Ecology's Shoreline Master Program handbook states:

> "Research on freshwater riparian areas is relevant to marine riparian areas and vice versa. A panel of 14 scientists with expertise related to riparian ecosystems generally agreed that "findings from studies of freshwater riparian areas are transferable to marine riparian areas, although some processes and functions are unique to marine riparian areas." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, Appendix H, 2009.) This document also concludes that "riparian areas provide ecological functions regardless of whether they

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are adjacent to freshwater or marine water bodies" (Section 1). (Ecology SMP Handbook Chapter 11)

What does science say about buffers?

The legislature requires SMP provisions to be based on an analysis incorporating the most current, accurate, and complete scientific or technical information available (WAC 173-26-201(2)(a)). Recommended buffer widths vary, depending on shoreline environment designation and which functions the shoreline is provided in a given area. In order to support conversations about buffers during the SMP update, staff analyzed recommendations from scientific literature and the master programs adopted by other jurisdictions.

The following was adapted from the literature. See Appendix A for more complete documentation.

Function	Recommended Buffer Width (includes literature averages)	Study
Wildlife	100-1,000 ft 287 ft 318 ft 571 ft	Ecology 2013, citing Environmental Law Institute WDFW 1997 Kitsap County Brennan & Culverwell 2009
Sediment removal Fine sediment control Erosion control Sediment filtration	30-100 ft 112 ft 117 ft 190 ft	Ecology 2013, citing Environmental Law Institute WDFW 1997 Kitsap County Brennan & Culverwell 2009
Nitrogen removal	100-180 ft	Ecology 2013, citing Environmental Law Institute
Phosphorus removal	30-100 ft	Ecology 2013, citing Environmental Law Institute
Water quality	358 ft	Brennan & Culverwell 2009
Pollution filtration	78 ft 231 ft	WDFW 1997 Kitsap County
Shade	79 ft 132 ft	Brennan & Culverwell 2009 Kitsap County
Temperature control	90 ft	WDFW 1997
Microclimate	280 ft 412 ft	Kitsap County WDFW 1997
Large woody debris	147 ft 161 ft 180 ft	WDFW 1997 Kitsap County Brennan & Culverwell 2009

Current Buffers in Thurston County SMP/CAO

The existing SMP was adopted in 1990. At that time, buffers established in the adopted SMP were as follows:

1990 Shoreline Environment Designation*	Standard Buffer Width
Urban Environment	20 feet or width prescribed in local zoning ordinance
Suburban Environment	50 feet
Rural	50 feet
Conservancy	100 feet
Natural	100 feet

*The current SMP also contains provisions for special management areas.

In 2010, Substitute House Bill 1653 clarified that critical area regulations adopted under the GMA apply within shoreline areas until Ecology approves either a comprehensively updated SMP, or a SMP amendment specifically related to critical areas. The County's CAO update was adopted in 2012. It currently prescribes 250' buffers for marine shorelines and for Type S streams, with an additional 50 foot vegetation management zone in which vegetation removal must be limited. The CAO defers to the SMP on lakes, and on marine shorelines with the "Rural" environmental designation.

2012 Shoreline Environment Designation*	Standard Buffer Width		
	Marine	Lakes	Streams
Urban Environment	250 feet	100 feet	250 ft
Suburban Environment	50 feet	50 feet	250 ft
Rural	250 feet	100 feet	250 ft
Conservancy	250 feet	100 feet	250 ft
Natural	250 feet	100 feet	250 ft

*The current SMP/CAO also contains provisions for special habitat management areas. See Chapters 24.25.045-060 TCC.

Proposed Buffers in Thurston County Draft Shoreline Master Program Update

In 2018, staff were directed by the Board to propose buffers in line with those adopted by other jurisdictions and approved by the Washington Department of Ecology. The proposed buffers are intended to represent a moderate risk approach for protecting shoreline function, based on a review of the literature. This means there is a moderate risk that shoreline functions will be impacted by the adoption of the proposed buffer widths. This is the approach that the Washington Department of Ecology used for its recommendations on wetlands in Washington State (see Bunten et al., 2016). The current buffers proposed are:

Designation	Marine (Standard/Reduced Buffer)	Freshwater Lakes (Standard/Reduced Buffer)
Shoreline Residential	50 feet*	50 feet*
Urban Conservancy	125 feet/75-90 feet	125 feet/75-90 feet
Rural Conservancy	150 feet/110 feet	150 feet/110 feet
Natural	200 feet/150 feet	200 feet/150 feet
*No reduction without Type III variance		

		Streams
		250 feet**

**Freshwater stream buffers may be administratively reduced by 10-25% via a Type I or II administrative variance. Reductions greater than 25% require a Type III variance.

Additional Buffer Options

The County has latitude in how it structures its approach to buffers. Currently, buffers are proposed by shoreline environment designation for marine shorelines and lakes, while streams have a proposed fixed buffer width of 250 feet.

One option the Planning Commission could consider is to propose varying buffers for streams, based on shoreline environment designation. They may also consider proposing a fixed buffer width on marine shorelines. This is the approach taken for freshwater and marine riparian areas in the Critical Areas Ordinance.

What buffers have been adopted by other jurisdictions?

As part of the Thurston County SMP update process, staff reviewed buffers adopted by other jurisdictions. Buffer widths discussed here have been approved by Ecology, with the exception of Clallam County, which is currently under review by Ecology.

The SMPs of other jurisdictions take varying approaches to prescribing buffers. Below are a few comparisons of buffer widths in the region. Please refer to Appendix B for more information.

Jurisdictional Buffer Comparison, by Shoreline Environment Designation:

	Thurston County 1990 SMP/2012 CAO	DRAFT Thurston County SMP	Kitsap County SMP	Mason County SMP	Lewis County SMP	Pierce County SMP
Shoreline Residential	Marine/lakes 50 feet	50 feet	85 feet	Marine /lakes 100ft/100ft	150 feet	75 feet
Urban Conservancy	Marine/lakes 250ft/100ft	125 feet (90)	100 feet	Marine/lakes 100ft/100ft	150 feet	100 feet
Rural Conservancy	Marine/lakes 250ft/100ft	150 feet (110)	130 feet	Marine/lakes 150ft/100ft	150 feet	100 feet
Natural	Marine/lakes 250ft/100ft	200 feet (150)	200 feet	Marine/ lakes 150ft/100ft	200 feet	150 feet
Streams	250 feet*	250 feet*	200 feet*	150 feet**	150-200 feet***	100-150 feet**

- * Or the flood hazard area (whichever is larger)
- ** Or the outer extent of the Channel Migration Zone (whichever is larger)
- *** Within the CMZ, SMP flood course or floodway, new development or uses, including subdivision of land, shall not be established when it would be reasonably foreseeable that the development or use would require new structural flood hazard reduction measures.

Jurisdictional Buffer Comparison, by Shoreline Type (if specified):

Jurisdiction	Streams Buffer Width Range (in feet)	Marine Buffer Width Range (in feet)	Lake Buffer Width Range (in feet)
Thurston County Proposed	250	50-200	50-200
Other Jurisdictions	50-250	50-200	30-200

How do Thurston County's proposed buffers measure up to Ecology's recommendations?

The Department of Ecology provides recommendations for buffer widths in Chapter 11 of the SMP handbook.

Ecology recommends that buffers on undeveloped shorelines with largely intact ecological functions should be 150-200 feet. A 200 foot buffer is proposed for 'Natural' marine and lake shorelines in the Thurston County draft SMP.

Ecology further recommends that areas with rural residential development have 150 foot buffers to protect existing functions. The proposed buffer for the 'Rural Conservancy' SED is 150 feet. The proposed buffer for the 'Urban Conservancy' SED is 125 feet.

A 30-60 foot buffer on more densely developed residential shorelines may be appropriate, according to Ecology's guidance. The County's SMP proposes a 50 foot buffer in the 'Shoreline Residential' SED on lakes and marine shorelines.

Streams are proposed to have a 250' buffer, which exceeds Ecology's recommendation of 150-200 feet for the most intact shorelines but is the current buffer in the CAO. Reductions to the current buffer width could impact the County's Community Rating Score through FEMA's National Flood Insurance Program. Thurston County is currently one of only 6 counties in the nation with a CRS rating of Class II.

Literature Cited

Brennan, J., H. Culverwell, R. Gregg, and P. Granger, P.I. 2009. Protection of marine riparian functions in Puget Sound, Washington. Washington Sea Grant. Prepared for Washington Department of Fish and Wildlife.

Bunten, D., R. Mraz., L. Driscoll., and A. Yahnke. 2016. Wetland guidance for CAO updates – Western Washington Version. Washington State Department of Ecology Shorelands and Environmental Assistance Program. Publication No. 16-06-001.

EnviroVision, Herrera Environmental, and Aquatic Habitats Guidelines Program. 2010. Protecting nearshore habitat and functions in Puget Sound.

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Kitsap County Department of Community Development. 2012. Technical Memorandum for Proposed Kitsap County SMP Buffers.

Knutson, K.L., and V.L. Naef. 1997. Management recommendations for Washington's priority habitats: riparian. Washington Department of Fish and Wildlife.

Washington Department of Ecology. 2017. Shoreline Master Programs Handbook. Publication No. 11-06-010.

Appendix A: Scientific Literature Review

Washington Department of Ecology (2013)

The Department of Ecology published guidance for protecting and managing in wetlands in 2005. In 2013, an update on wetland buffer science was published. The document notes that ecological attributes by which buffers protect water quality do not depend on whether the buffer is adjacent to a stream or a wetland (Hruby 2013). The following is an update to the original science synthesis provided by this document is the following:

> Recent synthesis documents recommend a focused approach to buffer widths that is based on the many functions provided by a buffer. In addition, the more recent recommendations specify buffer widths that are larger than those recommended in the 2005 synthesis. The *Planner's Guide to Wetland Buffers for Local Governments,* prepared by the Environmental Law Institute (42), recommends a range of 100ft–1000ft for wildlife, 30–100ft for sediment removal, 100-180ft for nitrogen removal, and 30-100ft for phosphorus removal.
>
> If prescribed buffers are to be used to adequately protect wetland wildlife, they will probably have to be larger than what is currently used. Based on the needs of wildlife species found in Wisconsin (some of which are also found in Washington State), the minimum buffer width is about 400 ft, and the optimal width for sustaining the majority of wildlife species is about 900 ft (81). (Hruby 2013)

Brennan & Culverwell (2009)

Brennan and Culverwell (2009) summarized several studies on buffer effectiveness, reporting on average widths to achieve 80% of a desired function for the marine riparian environment. Their results are summarized as follows.

Function	**Buffer width recommendation to achieve ≥ 80% effectiveness**	**Literature cited**	**Avg of all literature** *(to achieve ≥ 80% effectiveness)*	**Min. buffer width (approximate) based on FEMAT curve to achieve ≥ 80% effectiveness**
Water quality	5-600 m (16 – 1,968 ft) (Appendix C contains specific buffer widths for different water quality parameters)	5 m (16 ft): Schooner and Williard (2003) for 98% removal of nitrate in a pine forest buffer 600 m (1969 ft): Desbonnet et al (1994/1995) for 99% removal	109 m (358 ft)	25 m (82 ft) sediment 60 m (197 ft) TSS 60 m (197 ft) nitrogen 85 m (279 ft) phosphorus

Fine sediment control	25-91 m (92 – 299 ft)	25 m (82 ft): Desbonnet et al (1994/1995) for 80% removal 91 m (299 ft): Pentec Environmental (2001) for 80% removal	58 m (190 ft)	25 m (82 ft) (sediment) 60 m (197 ft) (TSS)
Shade	17-38 m (56 – 125 ft)	17 m (56 ft): Belt et al 1992 *IN* Eastern Canada Soil and Water Conservation Centre (2002) for 90% 38 m (125 ft): Christensen (2000) for 80% temperature moderation	24 m (79 ft)	37 m (121 ft) (.6 SPTH*)
LWD	10-100 m (33 – 328 ft)	10 m (33 ft): Christensen (2000) for 80-90% effectiveness 100 m (328 ft): Christensen (2000) 103 for 80-90% effectiveness	55 m (180 ft)	40 m (131 ft) (.65 SPTH*)
Litter fall	No studies found	N/A	N/A	24 m (79 ft) (.4 SPTH*)
Hydrology/slope stability	No studies found	N/A	N/A	N/A
Wildlife	73-275 m (240 – 902 ft)	73 m (240 ft): Goates (2006) for 90% of hibernation and nesting 275 m (902 ft): Burke and Gibbons 1995 *IN* Goates 2006 for 100% of hibernation and nesting	174 m (571 ft)	N/A

The research presented above is also cited in the 2010 document Protecting Nearshore Habitat and Functions in Puget Sound (EnviroVision, Herrera Environmental, and Aquatic Habitat Guidelines Program). The authors contend:

> "There is consensus in the literature that buffers or protected riparian areas are critical to sustaining many ecological functions. A precautionary approach toward regulating marine riparian habitat areas is recommended. A precautionary approach would rely on using the high end of the ranges required to protect specific functions, where those widths are achievable. Where there is opportunity (e.g., in areas of undeveloped or low-density shorelines with high habitat value), maximum protection will help compensate for unavoidable and cumulative impacts from development and redevelopment elsewhere in the landscape." (EnviroVision et al. 2010)

WDFW Riparian Management Recommendations (1997)

Washington Department of Fish and Wildlife's riparian management recommendations (Knutson & Naef 1997) is an oft-cited document that discusses buffer science. They recommend 250' buffers on shorelines of the state (information adapted from publication):

Stream Type	Recommended Riparian Habitat Area widths (in feet)
Type 1 and 2 streams; or Shorelines of the State, Shorelines of Statewide Significance	250
Type 3 streams; or other perennial or fish bearing streams 5-20 feet wide	200
Type 3 streams; or other perennial or fish bearing streams <5 feet wide	150
Type 4 and 5 streams; or intermittent streams and washes with low mass wasting* potential	150
Type 4 and 5 streams; or intermittent streams and washes with high mass wasting* potential	225

**Mass wasting is a general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity, either slowly or quickly.*

Their general summary of scientific literature is as follows (information adapted from publication):

Riparian habitat function	Range of reported widths (feet)	Average of reported widths (feet)
Temperature control	35-151	90
Large woody debris	100-200	147
Sediment filtration	26-300	138
Pollution filtration	13-600	78
Erosion control	100-125	112
Microclimate maintenance	200-525	412
Wildlife habitat	25-984	287

Federal Emergency Management Agency

In 2008, The National Marine Fisheries Service (NMFS) issued a biological opinion regarding the National Flood Insurance Program (NFIP) operated by the Federal Emergency Management Agency (FEMA). The opinion noted that continued implementation of the NFIP in the Puget Sound adversely affects the habitat of listed salmon species and Orca whales.

In the opinion, FEMA was ordered to modify its floodplain management criteria to allow no development in the riparian buffer zone. In the model ordinance developed for Washington State, FEMA referred to recommended riparian buffers in Knutson and Naef (1997), which include a 250 foot buffer for shorelines of the state.

Kitsap County SMP Buffers Technical Memorandum

For their SMP update, Kitsap County evaluated science for the various buffer functions, and summarized findings in the following tables in a January 2012 technical memorandum.

Buffer Function	References	Recommendation
Microclimate	Knutson and Naef, 1997	412'
	May, 2003	100-328'
Shade	Brennan, et al., 2009	56-125'
	May, 2003	98-262'
	FEMAT	121'
Sediment Filtration	Brennan, et al.,2009	92-299'
	May, 2003	100'
	FEMAT	82-197'
	Knutson and Naef, 1997	78'
	Neibling and Alberts, 1979*	7.9'
	Desbonnet, et al., 1994	82' (80%)
Pollutant Filtration	Brennan, et al. , 2009	16-1,968'
	May, 2003	66-196'
	Knutson and Naef, 1997	78'
	Desbonnet, et.al., 1994	148' ("adequate")
	Larsen, 1994*	2'
	Doyle, 1977*	13'
	Lim, 1998*	20'
	Strivastava, 1996*	10-20'
Large Woody Debris	Brennan, et al., 2009	33-328'
	May, 2003	164'
	FEMAT	131'
	Knutson and Naef, 1997	147'
Wildlife Habitat	Brennan, et al., 2009	240-902'

	May, 2003	100-328'
	Knutson and Naef, 1997	287'
	Desbonnet, et.al., 1994	49' (min. for wildlife + 60% pollutant removal)
All Functions	Desbonnet, et.al., 1994	16.4'(min. for densely developed areas); 49' (min. for moderately developed areas); 164' (undeveloped areas) 82' (min. general wildlife and 70% pollut. removal)
	Castelle, 2000	16-82'

**This reference may not be as applicable to Kitsap County shorelines as others listed here due to the location and type of environment analyzed.*

Buffer Function Average and Median Widths from the Literature

Buffer Function	Average Buffer	Average minus outliers	Median Buffers	Range (Lowest/Highest)
Microclimate	280'	100'	100'	100'-412'
Shade	132'	115'	121'	56'-262'
Sediment Filtration	117' [133']	105' [111']	87' [100']	7.9'-299' [78'-299']
Pollutant Filtration	231' [412']	63' [122']	20' [113']	2'-1,968' [16'-1,968']
Large Woody Debris	161'	147'	147'	33'-328'
Wildlife Habitat	318'	239'	264'	49'-902'
TOTAL	**197' [211']**	**157' [172']**	**100'** (Lower=49' [80']; Upper=196' [257'])	

Numbers in brackets indicate the results when (*) documents were not considered based on their applicability to Kitsap County shorelines.

Appendix B: SMP Buffers Established by Other Jurisdictions

Proposed buffers in the draft SMP were compared to standard buffers in master programs approved by Ecology for other jurisdictions. Master programs are organized differently across jurisdictions, and not all jurisdictions use the same shoreline environment designations or specify buffer widths by type of shoreline. Results of the jurisdictional comparison are in the tables below.

Jurisdictional Buffer Comparison, by Shoreline Environment Designation:

	Thurston County Proposed	Kitsap	Mason	Lewis	Pierce*	Clallam
Shoreline Residential	50	85	100	150	75	
Urban Conservancy	125	100	100	150	100	
Rural Conservancy	150	130	100-150	150	100	
Natural	200	200	100-150	200	150	175

*Most restrictive buffer between CAO and SMP applies (additive buffers if certain characteristics are present).

Jurisdictional Buffer Comparison, by Shoreline Type (if specified):

Jurisdiction	Streams Buffer Width Range (in feet)	Marine Buffer Width Range (in feet)	Lake Buffer Width Range (in feet)
Thuston County proposed	250	50-200	50-200
Mason County	150	100-150	100
Snohomish County	150 (anadromous streams)	150	150
Island County	150*	0-125*	30-130*
Whatcom County	150	150	100
Jefferson County	150	150	100
Clallam County	50-100 "other streams"	50-100	
Kitsap County	200	85-200	85-200
City of Lacey	**	200	**
City of Tumwater	250	N/A	50-100

*Additional 10-45' setback depending on SED.

** Determined with Habitat Management Plan and Chapter 17.41.021-Table 1 of Lacey SMP.

Jurisdictional Buffer Comparison, by Absolute Standard Width Range (includes all SEDs and shoreline types , may not include 100 yr floodplain or channel migration zone areas):

Jurisdiction	Gross Buffer Width Range (in feet)
Mason County	100-150
Pierce County	35-150
King County	115-165
Snohomish County	150
Island County	0-195
Whatcom County	100-150
Jefferson County	100-150
Clallam County	35-175
San Juan County	50-100
Kitsap County	50-200
City of Lacey	50-200
City of Olympia	30-200
City of Tumwater	50-250

WAC 173.26.186 (8)(9)

Mandate preparation of cumulative impacts assessment that "identifies, inventories and ensures meaningful understanding of the current and potential ecological functions provided by affected shorelines"

* A compliant CIA must be proposed before a new SMP can be adopted *

Perform in 2011

Ecology was there throughout this process

If there was an issue with the CIA it had an obligation to tell us early & not wait 8 1/2 years.

WAYS TO RESTORE KOKENE

(1) USE STREAMKEEPERS TO TEST
work with ELWHA TRIBE to
Begin Collecting Fish
Species DATA
So BY Next Periodic
Review we HAVE
Actual Data TO
work with in
OUR ASSESSMENT
[Clallam Permit Allows SK to go ON Property ONCE A YEAR TO TEST]

(2)

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Mailing Address: P.O. Box 43200, Olympia, WA 98504-3200 • (360) 902-2200 • TDD (360) 902-2207
Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

May 16, 2018

TO: Riparian Stakeholders and All Interested Members of the Public

FROM: Terra Rentz, Ecosystem Services Division Manager

SUBJECT: *Riparian Ecosystems, Volume 2: Management Recommendations*

We are pleased to provide our draft Priority Habitats and Species (PHS) guidance on riparian ecosystems in Washington and ask for your review and **comments by July 17, 2018**. We are taking comments at https://wdfw.wa.gov/conservation/phs/mgmt_recommendations/comments.html.

Specifically, we are seeking comments on the attached *Riparian Ecosystems, Volume 2: Management Recommendations*. This volume is an implementation manual for how to protect functions and values of riparian ecosystems and surrounding watersheds. Its recommendations represent our best professional judgement as to how local governments and other stakeholders can use best available science in policies, plans and regulations designed to conserve riparian ecosystems for the protection of fish and wildlife species, and in particular salmon species.

The science this document is based upon is in *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications,* available at https://wdfw.wa.gov/publications/01987/. We are not seeking your review of volume 1. Volume 1 has been reviewed, edited and re-reviewed by the Washington State Academy of Science (WSAS). This review process produced a document that met WSAS standards for a synthesis of current science across the range of topics we covered. We provide Volume 1 here for reviewers of Volume 2 who want to better understand the scientific underpinnings of our recommendations.

Together, Volume 1 and Volume 2 update and expand information provided in our 1997 PHS Riparian Management Recommendations. We look forward to receiving your comments by July 17, 2018 at the website above. Thank you for your assistance making this a useful document.

Attachment: *Riparian Ecosystems, Volume 2: Management Recommendations*

areas. Given its utility, the site-potential height of trees has been described for a wide variety of forest types and can be readily found in silviculture literature. Mean heights of dominant trees in riparian old-growth forest of Washington range from 100 to 240 ft (Fox, 2003). The wide range of heights reflects differences in site productivity, i.e., local differences in soil nutrients and moisture, light and temperature regimes, and topography. Site productivity is described quantitatively through a site index, which is the average height, that dominant trees of a particular species are expected to obtain at a specified tree age. Tables (e.g., King 1966) have been developed to predict the future average height of dominant trees on a site.

Riparian areas may lack trees for a variety of reasons, 1) they occur in areas of the state that do not support forest (in a traditional sense) such as the Columbian Plateau Ecoregion (see Volume 1, Chapter 7), 2) they occur in small areas where local soil or other site specific growing conditions prevent tree growth, or 3) they occur in areas where forests have been converted to other land uses such as development or agriculture. FEMAT curves based on SPTH may not apply, or must be applied differently to areas in the Columbia Plateau and in small, localized areas of other ecoregions that do not support tree growth. We provide guidance below on how to address riparian ecosystems protection in the Columbia Plateau Ecoregion. Addressing riparian protection in localized treeless areas will likely require site-specific information. However, FEMAT curves are appropriately applied to areas that have been converted from forest to other land uses.

3.5 Delineating Riparian Management Zones

The first step to providing management recommendations is to define the area to be protected. Riparian protections should be focused within the area defined as the Riparian Management Zone or RMZ. The RMZ is the area in which full riparian function can potentially occur, and is thus not synonymous with buffers as used in previous guidance or existing regulations. The RMZ differs from buffers in one important way. Buffers are established through policy, whereas the RMZ is a scientifically based description of the area adjacent to rivers and streams that has the potential to provide full function based on the $SPTH_{200}$ conceptual framework.

3.5.1 *RMZs in Forested Ecoregions of the State*

We use the term RMZ to define the stream riparian ecosystem. To operationalize the definition of the RMZ in areas of the state that currently or historically supported forests, we define the RMZ as the distance of one $SPTH_{200}$ where the $SPTH_{200}$ is the average maximum height attained by dominant trees at 200 years of age, measured from the edge of the active channel or Channel Migration Zone (CMZ; whichever is wider). Measuring the RMZ width at the outer edge of the CMZ ensures that when the stream migrates, it will still be adjacent to the zone of influence that can provide riparian function. We recognize that determining the CMZ may be technically challenging and require additional resources. WDFW can provide technical assistance and work cooperatively with local jurisdictions to delineate CMZs.

DCD 8805 - 050

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 3:54 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 27, 2020 11:05 AM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi again, I just wanted to reach-out and confirm you received the draft materials I sent last week.
Also, we'd love to reserve a date & time in the coming weeks for a group discussion.

Thanks & Happy Monday,

~ Michelle McConnell

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

COVID-19 Response: *WA State Department of Ecology offices are closed to public walk-in customers until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available online. We remain committed to service, so don't hesitate to reach out to us. Rely on coronavirus.wa.gov as the state's primary source of coronavirus information and please: practice patience, handwashing & social distancing for your & everyone's health!*

This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: McConnell, Michelle (ECY)
Sent: Monday, April 20, 2020 12:27 PM
To: 'Winborn, Mary Ellen' <mwinborn@co.clallam.wa.us>; Ballard, Greg <gballard@co.clallam.wa.us>
Cc: Blair, Misty (ECY) <mbla461@ECY.WA.GOV>
Subject: SMP - draft ECY changes for staff review

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

Our intent for providing draft materials for staff review is in keeping with our state-local partnership approach and to help avoid any 'surprises' at the Board's final review & approval stage. For the issues identified we include suggested approaches to address our concerns. Attached please find the following materials:

- Draft Attachment B – ECY Required Changes (24);
- Draft Attachment C – ECY Recommended Changes (31); and
- April 2020 WDFW Clarifications to Previous Comments.

Please note, these materials are discussion drafts not intended for distribution. As you may know:

- Required changes are issues of compliance with RCW & WAC that must be addressed before our final approval;
- Recommended changes are optional issues intended to improve the document for more effective implementation.

As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

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Conserve our natural resources – print only as needed!

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Harvey, Diane

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
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State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Coastal Region • Region 6 • 48 Devonshire Road, Montesano, WA 98563-9618
Telephone: (360) 249-4628 • Fax: (360) 249-1229

April 17, 2020

Michelle McConnell
WA Dept. of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

SUBJECT: WDFW ADDITIONAL CLARIFICATIONS AND TECHNICAL DETAILS TO DEPARTMENT OF ECOLOGY ON PROPOSED CLALLAM COUNTY SHORELINE MASTER PROGRAM COMPREHENSIVE UPDATE

Dear Ms. McConnell,

Thank you for welcoming additional collaboration on the Shoreline Master Program (SMP) Comprehensive Update for Clallam County (the County). The Washington Department of Fish and Wildlife (WDFW) applauds the commitment by the Department of Ecology (Ecology), the County, and stakeholders to craft an updated SMP for the County reflective of our shared responsibility of durable land use planning, for which the perpetuation of natural resources is fundamental.

Indian Creek, as a tributary of the Elwha River, was historically part of a thriving ecosystem that proved to be an ideal habitat for anadromous fish. Construction began on the Elwha Dam in 1910, downstream of the Indian Creek confluence with the Elwha River. The dam failed in 1912 and reconstruction was complete in 1913, blocking migration of salmon upstream and disrupting the flow of sediment and wood downstream. The Elwha River Ecosystem and Fisheries Restoration Act, passed by the U.S. Congress and was signed by President Clinton in 1992, authorizing dam removal to restore the ecosystem. The Elwha Dam removal was complete in 2012 and two years later the Glines Canyon Dam was removed, finalizing the largest dam removal project in U.S. history.

The Elwha River and its tributaries, including Indian Creek downstream of US 101, now flows freely from the headwaters to the Strait of Juan de Fuca. Since the dams were removed, anadromous salmon have been observed spawning above the former dam locations. Indian Creek flows from Lake Sutherland where, for a hundred years, a population of land-locked sockeye transitioned to non-anadromous kokanee. Fisheries biologists anticipate that the kokanee currently living in Lake Sutherland will provide the source for new anadromous sockeye runs.

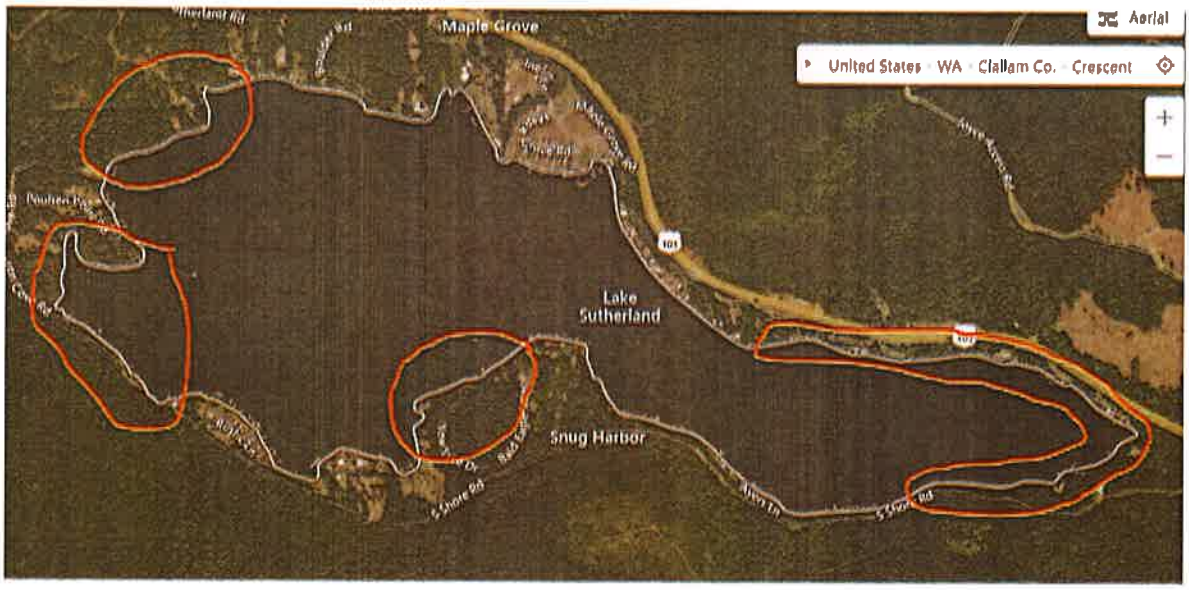
Lake Sutherland currently provides habitat for native kokanee salmon, a relic population from former anadromous sockeye salmon from the pre-dam era, a unique population of cutthroat trout that spawns near the outlet of the Lake and spawns in the fall (typically cutthroat spawn in the spring). Rainbow Trout stocking by the department ended in approximately 2012 with removal of downstream dams.

The downstream crossing of Indian Creek between Lake Sutherland and the Elwha River, one of two water crossings on Indian Creek on State Route 101 owned by Washington State Department of Transportation (WSDOT) are not always passable for fish. The crossing is one of the most impacting in the state, by priority score, whereas the quantity and quality of habitat above the barrier that fish cannot access is ranked, it is the second highest priority to be replaced. And will be the first priority once Chimacum Creek is completed in 2020. Currently the existing crossing is scheduled to go to ad in 2021 and construction completed by 2023. The new crossing will be a bridge with an approximate 45 to 55-foot channel; that meets all requirements of the hydraulic code and fish passage injunction; to pass all fish at all times and all life stages.

Additional habitat largely unavailable to anadromous fish will soon become available with the correction of the barrier crossing. Habitat for fish resources in the lake include additional rearing for coho and steelhead juveniles in the lake as spawning adult fish use ideal habitats located just downstream of the outlet. Coho and Steelhead fry, will seek out low energy shallow areas where they can grow, avoid predation, and conserve energy. The undeveloped shallow habitat around the lake also provides woody material input, fallen trees, limbs and detritus provide shoreline complexity. This complexity can in turn reduce erosion, provide cover and a growth medium for aquatic insects. Terrestrial insects falling from the riparian around the lake provide prey for small fish, shade the shoreline helping to reduce thermal stressors, and in places improving water quality as stormwater filters through functional riparian areas.

None of the shoreline functions listed above can be achieved without an appropriate vegetated buffer on Lake Sutherland. WDFW maintains that a 35-foot standard buffer width on Lake Sutherland may be insufficient to ensure that new permitted developments on the shoreline will not contribute to a net loss of ecological function necessary for fish. This existing condition set poses a considerable challenge to the recovery of the current resident listed fish species, as well as for the anadromous species that are anticipated to use the nearshore habitat of Lake Sutherland after the Highway 101 culvert downstream is corrected. At present, this fish barrier passage work is projected for 2022; therefore, it is appropriate to address anadromous fish species' habitat needs in Lake Sutherland during this present SMP Comprehensive Update. Areas along the western half of the lake and areas near the outlet of the lake still maintain some resemblances of intact riparian areas and can provide functions as described above for the current and future fish in the lake.

While Lake Sutherland does have a substantial amount of existing developed shorelines, it also contains areas less developed, and areas with development and relatively intact riparian areas. The entire lake shoreline is not already intensively developed and is not deserving of a minimum 35 feet buffer. The appropriate Site Potential Tree Height (SPTH) buffer, where the ecological functions of the buffer would provide the most benefit, is 161-213 feet, depending on the location/parcel around the lake. As indicated in circled areas on the figure below, these areas, at a coarse scale, still appear to contain riparian area that is generally protective of the desired ecological functions of the SPTH buffers and would provide the functions and values described above and are more appropriate of a Residential Shoreline-Conservancy Designation similar to the outlet of the lake.



No Net Loss and use of Restoration to achieve NNL.

WDFW is also concerned by the SMP's characterization of restoration as a means of compensating for allowed ecological impacts. Restoration projects, by definition, are intended to result in net ecological lift when compared to the baseline condition. It is inappropriate to rely on restoration to perform the function of compensatory repair; it is not to be used to offset regulatory inabilities to meet no net loss. In addition to eroding the principle of no net loss, this misuse of the restoration tool shifts the responsibility for impact avoidance off of the project proponent causing ecological harm, and onto a surrogate. This raises significant concerns not only from an ecological perspective, but also from the vantage point of financial ethics. For this and other reasons, many restoration funding sources strictly prohibit funding from being used to mitigate impacts from development.

The County appears to be relying on restoration to help achieve no net loss (NNL) of shoreline functions as we have shown below. We firmly hold to the definition of restoration[1] as enhancement for the purpose of generating net ecological gain. In contrast, mitigation standards must be fully sufficient to ensure that each permitted development will not cause a net loss of ecological function of the shoreline, and mitigation is, by definition, a mandatory regulatory requirement, while restoration is inherently voluntary.

1."Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020 (31))

We agree with and support the County's commitment to the sequential prioritization of impact avoidance, minimization, and compensatory mitigation. However, we hold that any impacts which cannot be avoided entirely be fully compensated to meet the principle of NNL through mitigation exclusively, as the use of restoration to meet this standard undermines both the obligation of mitigation and the efficacy of restoration to achieve the State's salmon recovery goals.

Examples in the SMP where Restoration seems to be used to address No Net Loss (NNL).-
The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved. 3.9.9 #4

No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated. Chapter 8.1

These are just a few locations of many throughout the SMP where we felt it was unclear why restoration had to be used to meet no net loss. We would ask Ecology to make a statement that restoration and impacts from violations are intended to lift above base line conditions and not make up for the loss of function that development impacts cannot fully mitigate.

In closing, WDFW appreciates Ecology's willingness to receive our additional comments outside the public comment period for this SMP Comprehensive Update. The shorelines in Clallam County play a crucial role in providing irreplaceable habitat for fish and wildlife, contributing to recreation, and protecting local communities. We look forward to arriving together at a SMP update for Clallam County that meets the State's shared goals and purpose around riparian conservation and salmon recovery. We offer our comments in a spirit of partnership and collaboration, and hope that through this continued dialogue, we have clearly highlighted our outstanding areas of concern. Our relationship with your agency is very important to us, and in deference to that relationship, I welcome any opportunity to be of assistance or to discuss these comments further. Please feel free to contact me with any questions at 360-874-7258.

Sincerely,

Chris Waldbillig

Chris Waldbillig
Assistant Regional Habitat Program Manager

Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Thursday, June 18, 2020 4:26 PM
To: Harvey, Diane; Winborn, Mary Ellen; Blair, Misty (ECY)
Subject: SMP next steps

Hello Diane, Mary Ellen, and Misty –

Thanks again to all of you for our call this morning, we appreciate the opportunity for discussion and feel that valuable progress was made. We already accommodated most of the wordsmithing requests into our change matrices as real-time edits. Just to recap our next steps, here's a quick list of who's doing what 'homework' before our next group call(s):

- **Required #1 MSP –** We'll confirm/correct if it's June or August.
- **Required #8 ORMA/MSP** – Misty is wrapping-up the draft guidance and will provide to you for consideration so we can work together to figure out where in the document the needed language is best added, and specifically what the words on the page will say. Look for those materials in the next ~10 days. Then we'll schedule another call for ~1 hour to discuss.
- **Required #9 Lake Sutherland Buffer** – You'll send us 1) a USB drive with the GIS mapping of 50-100-150' along the lake shoreline (my PO Box is noted below); and 2) proposed text for an added provision to require a NNL/biological assessment report at the project level. Then we'll schedule another call for ~1 hour to discuss.
- **Required #23 List of Waterbodies** – We'll send you an example from another jurisdiction of an approach we've approved; then you'll send us proposed language that we'll add to our change matrix.
- **Recommended #4 MSP** - We'll confirm/correct if it's June or August. [duplicate of Req#1 – drop the matrix row?]
- **Recommended #10 Resource Conservancy** – You'll follow-up with us to confirm/deny that the RC designation is applied to areas outside any UGAs; we'll adjust the redline text as needed.
- **Recommended #17 Photo Series** – You'll follow-up with us to confirm either 30- or 50-year photo series; we'll adjust the redline text as needed.
- **Recommended #21 Ag Land Definition** – We'll revise the Description/Rationale text to provide more robust explanation for the proposed edits.
- **Additional Staff Request Changes** – You'll send me any other text revisions you want to address so we can include them in our Recommended Changes, such as:
  - **SMP 8.2 Mitigation & NNL Policy #3 –** Rephrasing "*Specific indicators that should be measured on frequent and regular basis at least once every five years and compared to 2012 baseline levels…*"
- **Options for Combining Comprehensive Update & Periodic Review Processes** – We'll send you a description of the options, including 1) Add the PR Process into the BoCC's response to our Conditional Approval decision on the Comprehensive Update; or 2) Complete the Comprehensive Update first, then conduct a subsequent PR process.
- **EAGL Application** – Once you get all the forms completed, I'll take a look at everything to catch/correct any issues before you submit & avoid the Modifications Required process, as needed.

'll, that should be enough to keep us busy! Please let me know if I've omitted/misrepresented any items 'ir discussion.

Looking forward to moving this ahead towards our formal ECY decision and – ultimately – completion!

Have a great weekend & we'll be in touch soon,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

Ecology celebrates **LGBTQ Pride Month**! Learn more: RAIN; Pride Video

□ Ecology stands in solidarity with our co-workers, colleagues, partners & customers of the Black Community and other Communities of Color: we cannot ignore racism – we must recognize it & work to eradicate it. Learn more: https://www.buildwa.org/

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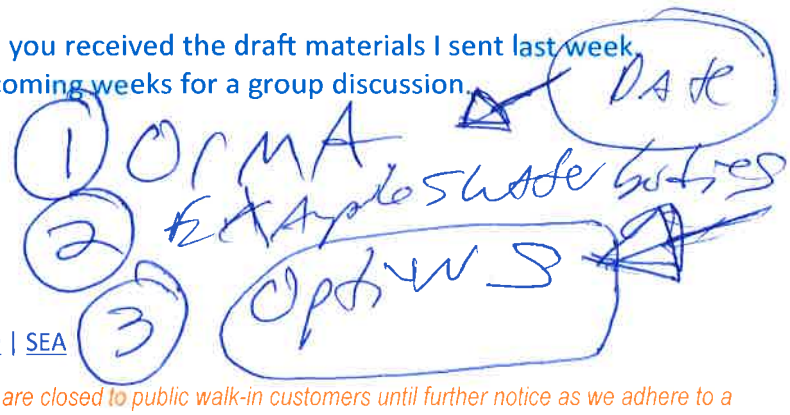
Winborn, Mary Ellen

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Monday, April 27, 2020 11:05 AM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi again, I just wanted to reach-out and confirm you received the draft materials I sent last week. Also, we'd love to reserve a date & time in the coming weeks for a group discussion.



Thanks & Happy Monday,

~ *Michelle McConnell*
Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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From: McConnell, Michelle (ECY)
Sent: Monday, April 20, 2020 12:27 PM
To: 'Winborn, Mary Ellen' <mwinborn@co.clallam.wa.us>; Ballard, Greg <gballard@co.clallam.wa.us>
Cc: Blair, Misty (ECY) <mbla461@ECY.WA.GOV>
Subject: SMP - draft ECY changes for staff review

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Best regards,

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Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Explain why

Kitsap

22.700.115

Habitat Management Plan

put under Buffer Section After Lake Sutherland Special buffer Rules for

Harvey, Diane

From: Ballard, Greg
Sent: Tuesday, May 05, 2020 7:10 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Location of SMP docs

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, April 24, 2020 10:10 AM
To: Kucipeck, Deborah
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

THANKS

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Kucipeck, Deborah
Sent: Friday, April 24, 2020 10:08 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Good morning,

I'm not exactly sure what are looking for, but there are word versions of the 2018 Draft on the J drive under: file:///J:\nr%20N%20through%20Z\Shoreline%20Master%20Program\DRAFT%20SMP\2018_BOCC_Draft_SMP

Hope that helps!

Deb

From: Ballard, Greg
Sent: Friday, April 24, 2020 9:19 AM
To: Kucipeck, Deborah
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Could you send me the specific language for the SMP text.

We are supposed to make changes for the 2018 SMP Update (attached) & I want to know where the word files are found.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Best regards,

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360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

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Harvey, Diane

From: Gray, Steve
Sent: Tuesday, May 12, 2020 9:49 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Diane,

Our contract with ESA has expired. Margaret Clancy was the ESA project manager and the primary person I worked with extensively on the SMP and supporting documents over the years.

Margaret is vested in seeing the County being successful to obtain final state approval and was always willing to support related to work they provided to the County. If she is still with ESA, she would likely assist on questions she could quickly respond too. If we want any significant work, we would likely need another contract.

Copies of our past ESA contracts should be with Lori Kennedy. They may also be in the SMP files I left with Kevin. However, likely quickest to obtain from Lori.

-Steve

From: Harvey, Diane
Sent: Tuesday, May 12, 2020 9:26 AM
To: Gray, Steve
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Steve,

Here is what Ecology sent to the Director.

Do we still have ESA under contract? If so, can you tell me where the contract is located so I can read it.

See you Thursday morning.

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director

Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Tuesday, May 12, 2020 4:09 PM
To: Winborn, Mary Ellen
Cc: Harvey, Diane; Ballard, Greg
Subject: RE: SMP new planner introduction (External Email: USE Caution)

Hello Diane,
So nice to 'e-meet' you! Please let me know if you have questions as you get started on the SMP project. This has been a long process and we're eager to wrap-up the final steps – you're really jumping in at a unique phase of the effort! Just in case you're new to shoreline planning &/or Washington's Shoreline Management Act (RCW 90.58), our website has some helpful information, including the Shoreline Planners Toolbox and our SMP Handbook. Of course at this final stage, we're down to some rather 'surgical' fixes to specific SMP provisions so you don't necessarily need to have the whole world of SMA memorized. And for reference, here is our Clallam SMP project webpage – I promise we won't give you a pop-quiz on all those maps! :D

Thank you, Mary Ellen!

Best wishes that all of you are staying safe, healthy & sane these days,

~ *Michelle McConnell*

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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From: Winborn, Mary Ellen <mwinborn@co.clallam.wa.us>
Sent: Tuesday, May 12, 2020 2:08 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Cc: Harvey, Diane <dharvey@co.clallam.wa.us>; Ballard, Greg <gballard@co.clallam.wa.us>
Subject: SMP new planner introduction

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Michelle,

I am including Diane Harvey on this email as an introduction. She will be working on the SMP from this point forward. Greg has some other projects that he is working on that are requiring a good amount of his time and attention.

Diane is a retired attorney and is very good at researching, reading and comprehending complex documents. I believe you will quickly understand that she is the right person to handle this last component of the process.

Hope all is well and maybe one day we will see each other in person, again.
Mary Ellen

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

Harvey, Diane

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

HI Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

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Sent: Monday, April 20, 2020 12:27 PM
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Cc: Blair, Misty (ECY)
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From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

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To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

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Thanks for your input.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM
To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Clallam County
dharvey@co.clallam.wa.us

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Cc: Harvey, Diane
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Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

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From: Ballard, Greg
Sent: Friday, June 05, 2020 9:52 AM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)

fyi

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From: Mike McHenry [mailto:mike.mchenry@elwha.org]
Sent: Friday, June 05, 2020 9:22 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)

Greg,
The species we have seen that inhabit Sutherland (so far) include: kokanne, cutthroat (several life histories), coho, red-side shiners, prickly sculpin, sticklebacks, and bluegill (introduced). None of these are listed. The listed species do utilize the lower reaches of Indian Creek for spawning and rearing. There is a significant thermal gradient as you move upstream and this in my opinion limits the distribution of chinook, steelhead and bull trout.

For what its worth I agree with WDFW about the 35' buffer being grossly inadequate. The county probably views 161' as too much. Is there a middle ground?

Mike

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 4:42 PM
To: Mike McHenry <mike.mchenry@elwha.org>
Cc: Harvey, Diane <dharvey@co.clallam.wa.us>
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Thanks, I feel bad. I was trying to help.

Sometimes I try to get too many things done & proceed too quickly (info from Elwha & Vandewege (HPA)) & don't read things like Michele's memo before I proceed.

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D.

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Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

Our intent for providing draft materials for staff review is in keeping with our state-local partnership approach and to help avoid any 'surprises' at the Board's final review & approval stage. For the issues identified we include suggested approaches to address our concerns. Attached please find the following materials:

- Draft Attachment B – ECY Required Changes (24);
- Draft Attachment C – ECY Recommended Changes (31); and
- April 2020 WDFW Clarifications to Previous Comments.

Please note, these materials are discussion drafts not intended for distribution. As you may know:

- Required changes are issues of compliance with RCW & WAC that must be addressed before our final approval;
- Recommended changes are optional issues intended to improve the document for more effective implementation.

As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

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Conserve our natural resources – print only as needed!

Public Record: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

Harvey, Diane

From: Kevin Van De Wege <kevinvandewege@hotmail.com>
Sent: Friday, June 05, 2020 3:45 PM
To: Harvey, Diane; Ballard, Greg
Subject: Re: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)
Attachments: HPA.pdf; SEPA.pdf

Hi Diane and Greg,
Happy things are well. Thank you for wading through this virus - I know it has been difficult and you both have been juggling stuff from different angles. Thank you.

Thank you as well for the insight here. I will keep it private but obviously am very concerned, not just because this is an unwarranted government overreach but because it could potentially make our lot not able to have a home on it in addition to our garage, as was our original plan.

Once you give me the OK I will be happy to start pressuring WDFW as to why this is not needed.

Attached is HPA and SEPA. Let me know if you need more or were looking for something else.

Many thanks,
Kevin
360-477-0548
Diane - let me know if you need anything on Midway Metals

Sent from Outlook

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 7:58 PM
To: Kevin Van De Wege <kevinvandewege@hotmail.com>
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Senator Van De Wege,

The Fish and Wildlife letter Mr. Ballard referred to in his email to you is not public and is part of a conversation Clallam County is having with the Department of Ecology. It is Fish and Wildlife that requested the buffer change, not Ecology. Ecology has raised the issue for discussion. I would be most happy to talk to you about the issue, but at this point we are in preliminary discussions where no decisions have been made.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
360 417-2520
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

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We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

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Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Tuesday, June 16, 2020 3:49 PM
To: Harvey, Diane
Cc: Blair, Misty (ECY)
Subject: RE: June 18th Call

Hello Diane – thanks for sending these. Yes, we still plan start at 9am and will send out WebEx call-in information soon!

~ *Michelle McConnell*

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

Ecology celebrates **LGBTQ Pride Month**! Learn more: RAIN; Pride Video

Ecology stands in solidarity with our co-workers, colleagues, partners & customers of the Black Community and other Communities of Color: we cannot ignore racism – we must recognize it & work to eradicate it. Learn more: https://www.buildwa.org/

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From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Tuesday, June 16, 2020 3:07 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: June 18th Call

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Michelle,

Hope all is well with you. In anticipation of our call on Thursday, I wanted to forward to you two documents I plan on referring to during our call that you may not have in your possession.

Do you and Misty still want to start at 9am?

Regards,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

Subject:	Clallam SMP draft changes
Location:	open for WEbEx details
Start:	Thu 6/18/2020 9:00 AM
End:	Thu 6/18/2020 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McConnell, Michelle (ECY)

6/17 UPDATE: Let's consider this agenda for tomorrow's discussion:

- Draft Required Changes, including:
  - #8 – Ocean Management, Marine Spatial Plan (Misty will provide materials for consideration)
  - #9 – Lake Sutherland buffer, SEDs
- Draft Recommended Changes
- Overall process for Comprehensive Update, Periodic Review, and the EAGL grant

Here's the Web-Ex call in info – we're looking forward to our discussion:

Clallam SMP draft changes

Thursday, June 18, 2020

9:00 am | (UTC-07:00) Pacific Time (US & Canada) | 3 hrs

Meeting number (access code): 133 787 5358

Meeting password: cVTHVRP3z48

Join meeting

Join by video system, application or Skype for business

Dial 1337875358@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

Tap to call in from a mobile device (attendees only)

+1-415-655-0001 US Toll

Toll Free
+1-855-929-3239

Can't join the meeting?

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Staff-level discussion of 4/2020 draft Required and Recommended changes.

Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Thursday, June 18, 2020 4:26 PM
To: Harvey, Diane; Winborn, Mary Ellen; Blair, Misty (ECY)
Subject: SMP next steps

Hello Diane, Mary Ellen, and Misty –

Thanks again to all of you for our call this morning, we appreciate the opportunity for discussion and feel that valuable progress was made. We already accommodated most of the wordsmithing requests into our change matrices as real-time edits. Just to recap our next steps, here's a quick list of who's doing what 'homework' before our next group call(s):

- **Required #1 MSP** – We'll confirm/correct if it's June or August.
- **Required #8 ORMA/MSP** – Misty is wrapping-up the draft guidance and will provide to you for consideration so we can work together to figure out where in the document the needed language is best added, and specifically what the words on the page will say. Look for those materials in the next ~10 days. Then we'll schedule another call for ~1 hour to discuss.
- **Required #9 Lake Sutherland Buffer** – You'll send us 1) a USB drive with the GIS mapping of 50-100-150' along the lake shoreline (my PO Box is noted below); and 2) proposed text for an added provision to require a NNL/biological assessment report at the project level. Then we'll schedule another call for ~1 hour to discuss.
- **Required #23 List of Waterbodies** – We'll send you an example from another jurisdiction of an approach we've approved; then you'll send us proposed language that we'll add to our change matrix.
- **Recommended #4 MSP** - We'll confirm/correct if it's June or August. [duplicate of Req#1 – drop the matrix row?]
- **Recommended #10 Resource Conservancy** – You'll follow-up with us to confirm/deny that the RC designation is applied to areas outside any UGAs; we'll adjust the redline text as needed.
- **Recommended #17 Photo Series** – You'll follow-up with us to confirm either 30- or 50-year photo series; we'll adjust the redline text as needed.
- **Recommended #21 Ag Land Definition** – We'll revise the Description/Rationale text to provide more robust explanation for the proposed edits.
- **Additional Staff Request Changes** – You'll send me any other text revisions you want to address so we can include them in our Recommended Changes, such as:
  - **SMP 8.2 Mitigation & NNL Policy #3 –** Rephrasing *"Specific indicators that should be measured on frequent and regular basis at least once every five years and compared to 2012 baseline levels..."*
- **Options for Combining Comprehensive Update & Periodic Review Processes** – We'll send you a description of the options, including 1) Add the PR Process into the BoCC's response to our Conditional Approval decision on the Comprehensive Update; or 2) Complete the Comprehensive Update first, then conduct a subsequent PR process.
- **EAGL Application** – Once you get all the forms completed, I'll take a look at everything to catch/correct any issues before you submit & avoid the Modifications Required process, as needed.

Well, that should be enough to keep us busy! Please let me know if I've omitted/misrepresented any items from our discussion.

Looking forward to moving this ahead towards our formal ECY decision and – ultimately – completion!

Have a great weekend & we'll be in touch soon,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, Diane

From: Gray, Steve
Sent: Tuesday, May 12, 2020 9:13 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Hi Diane,

9:30 am on Thursday works for me. Please send me the Ecology comments so I can be better prepared to answer your questions. Plus, given the time I sunk into the SMP process and coordinating with Ecology, I am simply curious on the results of their review. Sounds like most comments are minor, but with a few more substantive required or requested changes such as Lk. Sutherland buffers.

As I noted previously, Resolution 91, 2018 contains a summary of the entire SMP process thru adoption of our locally-approved October 2018 SMP. Below are key action steps by the County and Ecology taken since local approval of the October 2018 SMP under Resolution 91,2018:

Description	Action Date	Comments
Clallam County Locally-Approved SMP	Oct. 30, 2018	Prior to this action, the BOCC held a public hearing on December 12, 2017 and held 16 subsequent work sessions on the public comments received and Planning Commission recommendation.
County SMP Submittal Package to Ecology	Nov. 8, 2018	This included completion of a required state SMP Checklist and submittal of a significant number of supporting reports/documents (e.g., evidence of public process) that were required to document our process. This package and related letter/memo I submitted to Ecology is a good resource for summarizing our SMP update process.
Ecology Acceptance of Our SMP Submittal Package	Dec. 4, 2018	This step allowed Ecology to begin their formal state review process for determining whether submittal is consistent with RCW 90.58 and WAC 173-26.
Ecology Public Comment Period on our October 2018 Locally-Approved SMP	Jan. 14-Feb. 28, 2019	Ecology provided us electronic copies of all public testimony they received. I prepared binders and table of contents of these comments for BOCC review by topic area.
Received Ecology's Public Comment Summary Table for County Response	April 23, 2019	County responded per WAC 173-26-120 (2e).
County Response to Ecology Public Comment Summary Table	June 10, 2019	This 60-plus page response I prepared to the public comments received was reviewed with the County Commissioners.
Decision by Ecology on County SMP.	May 2020	WAC directs Ecology to complete this review within 30 days of receipt of the County response. Ecology notified us early that they were anticipating upwards of 90 days due to other work load. Ecology did affirm in writing that the review of the SMP would also cover our 2020 periodic update review.

As you likely now know, there is an extensive record associated with this SMP update dating back 10-years. I organized key SMP hard copy documents such as various SMP draft, supporting SMP documents (e.g., inventory and characterization), SMP Committee deliberations, public process , public comments, etc... prior to leaving. Most of those key documents are in binders. These documents and others are also part of extensive SMP electronic files on the DCD

J:drive. One of the electronic folders includes all the documents part of our full November 8, 2018 Ecology Submittal described above that also contains supporting SMP documents (e.g., public participation plan, inventory and characterization, cumulative impact analysis, consistency review, etc....) and required documentation (e.g., SMP checklist) by Ecology. Please note that Starla has the binders of hard copies of public comments received. The good news is that the key SMP documents are on the SMP web page.

Good luck taking the SMP to the finish line! Please don't hesitate to ask questions. I will do what I can to help. See you Thursday morning.

-Steve

Steve Gray
Transportation Program Manager
Clallam County Public Works / Road Department
360-417-2290; sgray@co.clallam.wa.us

From: Harvey, Diane
Sent: Monday, May 11, 2020 5:55 PM
To: Gray, Steve
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Steve,

Thank you for the historical download. We aren't quite past the goal line just yet. Ecology sent us a 9 page list of" required" changes and an additional 10 page list of recommended changes. The required changes deal mostly with wordsmithing in order to be consistent with certain WAC provisions, some internal inconsistencies that need to be corrected in certain Tables, seeking newly drafted sections on implementation of the MSP, changes to certain definitions and seeking to change the 35' uniform buffer at Lake Sutherland. I have some ideas on the proposed ordinance and would be most appreciative to be able to discuss them with you.

Thursday morning would work for me. Would 9:30 am work for you in your office?

Regards,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Gray, Steve
Sent: Monday, May 11, 2020 5:24 PM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Hi Diane,

That is great news to hear that Ecology has finally concluded their review! It has been over 16-months since they accepted our SMP submittal package.

Since Ecology's changes are "proposed," it sounds like they would approve our October 2018 SMP update document with recommended changes versus mandatory or conditional needed changes. Is that the case?

I would be happy to schedule a time that works to answer your questions either by phone or in person. In terms of this week, Thursday would likely be the best day for me.

In terms of your question: Did any expert or staff begin to draft the Title 35 Ordinance that would be proposed to the Board assuming Ecology grants approval of the SMP?

The development of our "locally-approved", October 2018 SMP was led by ESA Consultants and yours truly. This process included a very extensive and comprehensive public process at key phases of the update process that culminated in public hearings with the Planning Commission and Board of County Commissioners. Resolution 91, 2018 that adopted our "locally-approved" October 2018 SMP provides a comprehensive summary of the update process. Therefore, the October 2018 SMP would be the substantive content of any Ordinance to incorporate the SMP update under Title 35 CCC.

Per Resolution 91, 2018, the locally-approved October 2018 SMP submitted to Ecology for state review was approved by the BOCC with the intent to update and replace: (1) the 1976 SMP (last amended 1992); and (2) Chapter 35.01 CCC, Shoreline Management. The current Chapter 35.01 CCC, Shoreline Management, is mostly administrative procedures to administer the 1976 SMP (last amended 1992). Chapter 10 of our October 2018 SMP update covers administrative procedures and was intended to update and replace those in Chapter 35.01 CCC.

Once Ecology completed their review the plan was for the County to take final action to amend the October 2018 SMP to incorporate any needed changes and adopt (by Ordinance) into the Clallam County Code. Since the SMP is a regulatory document, final adoption by Ordinance is best versus a Resolution. There are three basic ways to adopt the final October 2018 SMP and any amendments by ordinance to update and replace Chapter 35.01 CCC:

1. Replace the current Chapter 35.01 CCC with the full contents of the October 2018 SMP and any amendments. One issue with this option is that due to the nature of the SMP document it was not put into the County codification format under CCC 1.01 CCC. I believe the intent of the County codification requirements can still be met if we adopt the SMP under a "new" section and make it clear as to the intent of that section. [Note: The current 1976 SMP was not codified only the administrative procedures found under Chapter 35.01 CCC.]

2. Adopt an ordinance that adopts the contents of the October 2018 SMP and any amendments by reference under Chapter 35.01 CCC. Under this option, the final SMP (as updated) would be an attachment to the ordinance.

3. Re-format the entire SMP to fit in the County's code codification format. This option is not recommended due to the time to re-format and update all internal cross-references in the document. More importantly, the codification format is not ideal for this document that is both a policy and regulatory document from a readability standpoint.

I would recommend either option 1 or 2 above. DCD may want to obtain early input from legal on the approach. I would be happy to join the conversation if that would help you.

To comply with the County Home Rule Charter, a minimum of one public hearing will need to be held by the BOCC prior to adoption of the SMP by ordinance. This would even be the case if no additional changes were made to the October 2018 SMP that was approved by Resolution to send to Ecology for review. Additional public process considerations would depend on the nature of any recommended changes to the October 2018 SMP.

The notice of any public hearing should be very clear that the intent is to focus on gathering comments on any proposed revisions to the October 2018 SMP. The notice should reference the prior extensive public process as noted under Resolution 91, 2018. If no changes are to be made, the public notice would reflect Ecology did not require any mandatory or conditional changes for state approval.

Some additional code clean-up should also be done such as repealing Chapter 26.02, Shorelines and Sensitive Areas Committee.

Let me know whether Thursday works for you. My schedule right now on Thursday is wide open.

Regards, Steve

Steve Gray
Transportation Program Manager
Clallam County Public Works / Road Department
360-417-2290; sgray@co.clallam.wa.us

From: Harvey, Diane
Sent: Monday, May 11, 2020 9:34 AM
To: Gray, Steve
Subject: SMP Question

Good morning Steve,

Ecology has provided some proposed changes to the SMP draft submitted last year. The DCD Director has asked me to take over the project. I would greatly appreciate it if we could sit down for about 20 minutes this week or early next week to discuss some historical background. I'm working mostly from home, but could come in any time that works for you. In the meantime, I'm reviewing the binders that have been created to get up to speed as quickly as possible.

One initial question, did any expert or staff begin to draft the Title 35 Ordinance that would be proposed to the Board assuming Ecology grants approval of the SMP?

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 1:31 PM
To: Harvey, Diane
Cc: Jodoin, Starla
Subject: RE: Request for Lake Sutherland Map with certain features

Hi Starla,

I asked Diane to send me an email requesting that you help her with the Draft SMP regarding the Lake Sutherland buffers. Please see the email below and coordinate with Diane on the timing.

Thank you,
Mary Ellen

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Harvey, Diane
Sent: Wednesday, June 03, 2020 12:55 PM
To: Winborn, Mary Ellen
Subject: Request for Lake Sutherland Map with certain features

Director,

As we discussed today, in connection with the County's communications with Ecology regarding the Draft SMP, it would be extremely helpful to have a map of Lake Sutherland that shows (highlighted) which parcels have not been developed. The map would require a measurement overlay that shows a 50 ft, 100 ft and 150 ft contour line beginning at the shoreline and drawn in a fashion that would allow me to understand the length of the parcels (i.e., the approximate distance of the parcels measured from the shoreline to the back of the parcels. There is also a map that Fish and Wildlife used in a letter in which they have circled certain of Lake Sutherland. It appears on the attached letter at page 3. If those four red circles could be drawn on the created map, that would also be extremely helpful. I realize the red circles won't be very precise since the Fish and Wildlife map is small, but we are trying to get an idea of where the no development parcels are located and the length of those parcels.

Thank you for any assistance in this matter,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Jodoin, Starla
Sent: Wednesday, June 03, 2020 2:04 PM
To: Winborn, Mary Ellen; Harvey, Diane
Subject: RE: Request for Lake Sutherland Map with certain features

Good afternoon,

In reading your request I have to point out that I cannot identify which parcels are "developed". This question has come up many times and the Assessor's office cannot seem to identify them either. Part of the problem is the definition of "developed".

I will phone Diane Harvey and explain further and answer any questions I can.

I will do my best to assist, but am limited by the data I have available and it's accuracy.

Starla Jodoin
GIS Coordinator
Clallam County
Community Development
223 E. 4th St.
Port Angeles, WA 98362
Ph: 360-417-2496

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 1:31 PM
To: Harvey, Diane
Cc: Jodoin, Starla
Subject: RE: Request for Lake Sutherland Map with certain features

HI Starla,

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Thank you,
Mary Ellen

Mary Ellen Winborn, Director
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E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

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dharvey@co.clallam.wa.us

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 2:55 PM
To: Jodoin, Starla; Harvey, Diane
Subject: RE: Request for Lake Sutherland Map with certain features

Can you determine which parcels have homes on them?

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Harvey, Diane

From: Jodoin, Starla
Sent: Monday, June 08, 2020 10:03 AM
To: Harvey, Diane
Subject: Lake Sutherland test map

Diane,
I have placed a draft version of your map at the 50 ft buffer over on the server at D:\GIS\PROJECT DATA\SMP\Lake Sutherland\Parcels_150ft.xlsx .

Please review and let me know if this scale works for you.

I can also create a map to go along with it that does not have the ID number if that obscures your vision of the photography.

Let me know.

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From: Jodoin, Starla
Sent: Monday, June 08, 2020 3:42 PM
To: Harvey, Diane
Subject: RE: Lake Sutherland test map

Ok. Just what I wanted to hear!!

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From: Jodoin, Starla
Sent: Tuesday, June 09, 2020 2:18 PM
To: Harvey, Diane
Subject: RE: Lake Sutherland test map

Diane,

Your maps and excel spreadsheets are at: J:\dcd\Maps\SMP

I hope this meets your needs. I will consider this project complete.

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Harvey, Diane

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM
To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Hi Greg,

The Fish and Wildlife Letter has not been made public. Ecology provided it to Clallam County only. The Drafts were not to be distributed outside the County. Please explain this to Mr. McHenry and ask him to not distribute it to any one else and that you sent it in error.

Diane Harvey
Acting Manager to Code Enforcement
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From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

HI Mike was wandering if you know if ESA Species are in Lake Sutherland?

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

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Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

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Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, Diane

From: Harvey, Diane
Sent: Friday, June 05, 2020 9:56 AM
To: Ballard, Greg; Michael McHenry (mike.mchenry@elwha.nsn.us)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mr. McHenry,

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dharvey@co.clallam.wa.us

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From: Harvey, Diane
Sent: Friday, June 05, 2020 10:13 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

No harm, no foul. Life happens.

Talk to you next week.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 10:10 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

I didn't realize it was not for distribution until I just read Michele's e-mail.

Greg Ballard
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Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
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Harvey, Diane

From: Harvey, Diane
Sent: Wednesday, June 17, 2020 12:43 PM
To: 'McConnell, Michelle (ECY)'
Subject: Accepted: Clallam SMP draft changes

DCD 8805 - 075

Harvey, Diane

From: Harvey, Diane
Sent: Tuesday, May 12, 2020 9:26 AM
To: Gray, Steve
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Steve,

Here is what Ecology sent to the Director.

Do we still have ESA under contract? If so, can you tell me where the contract is located so I can read it.

See you Thursday morning.

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

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From: Harvey, Diane
Sent: Thursday, June 04, 2020 7:58 PM
To: 'Kevin Van De Wege'
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Senator Van De Wege,

The Fish and Wildlife letter Mr. Ballard referred to in his email to you is not public and is part of a conversation Clallam County is having with the Department of Ecology. It is Fish and Wildlife that requested the buffer change, not Ecology. Ecology has raised the issue for discussion. I would be most happy to talk to you about the issue, but at this point we are in preliminary discussions where no decisions have been made.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
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360 417-2520
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223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

Our intent for providing draft materials for staff review is in keeping with our state-local partnership approach and to help avoid any 'surprises' at the Board's final review & approval stage. For the issues identified we include suggested approaches to address our concerns. Attached please find the following materials:

- Draft Attachment B – ECY Required Changes (24);
- Draft Attachment C – ECY Recommended Changes (31); and
- April 2020 WDFW Clarifications to Previous Comments.

Please note, these materials are discussion drafts not intended for distribution. As you may know:

- Required changes are issues of compliance with RCW & WAC that must be addressed before our final approval;
- Recommended changes are optional issues intended to improve the document for more effective implementation.

As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

COVID-19 Response: WA State Department of Ecology offices are closed to public walk-in customers until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available online. We remain committed to service, so don't hesitate to reach out to us. Rely on coronavirus.wa.gov as the state's primary source of coronavirus information and please: practice patience, handwashing & social distancing for your & everyone's health!

Conserve our natural resources – print only as needed!

Public Record: *This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.*

Harvey, Diane

From: Harvey, Diane
Sent: Friday, June 05, 2020 10:22 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

I explained it to Vander Wege. So you don't have to send him an email.

Don't be too hard on yourself. Your heart was in the right place.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 10:20 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Thanks, I feel bad. I was trying to help.

Sometimes I try to get too many things done & proceed too quickly (info from Elwha & Vandewege (HPA)) & don't read things like Michele's memo before I proceed.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Friday, June 05, 2020 10:13 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

No harm, no foul. Life happens.

Talk to you next week.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 10:10 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

I didn't realize it was not for distribution until I just read Michele's e-mail.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Friday, June 05, 2020 9:56 AM
To: Ballard, Greg; Michael McHenry (mike.mchenry@elwha.nsn.us)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mr. McHenry,

All of the documents Mr. Ballard sent to you in error are confidential and were not intended to be distributed outside of Clallam County employees. Ecology requested that no such distribution occur. Our apologies for any confusion.

Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 9:51 AM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Mike, I guess the WDFW letter was not public so please don't distribute it.

Thanks for your input.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM

To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Greg,

The Fish and Wildlife Letter has not been made public. Ecology provided it to Clallam County only. The Drafts were not to be distributed outside the County. Please explain this to Mr. McHenry and ask him to not distribute it to any one else and that you sent it in error.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

HI Mike was wandering if you know if ESA Species are in Lake Sutherland?

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
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Cc: Harvey, Diane
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Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

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We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

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Conserve our natural resources – print only as needed!!

Public Record: *This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.*

Harvey, Diane

From: Alvarez, David
Sent: Wednesday, May 27, 2020 11:21 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: Shoreline Master Program (SMP)

Hi Diane:
I'm doing fine.
How are your goats doing?
Anyway, I am available tomorrow (Thursday) all day.
Or next week Tuesday or Wednesday at 9 am.
Your choice.

David Alvarez Working from home Work cell: 360 477 3125

From: Harvey, Diane
Sent: Wednesday, May 27, 2020 11:06 AM
To: Alvarez, David
Cc: Winborn, Mary Ellen
Subject: Shoreline Master Program (SMP)

Hi David,

Hope all is well with you. Director Winborn has assigned me to be the project lead on addressing the Draft SMP/Periodic Review with Ecology. We have received an Ecology "draft" of required changes and recommended changes to the Draft SMP. There is one "required" change that I would like to discuss with you – listed by Ecology as Item 9. Would you have a telephone time slot for me sometime next week, about 20 minutes?

Regards,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Alvarez, David
Sent: Monday, June 29, 2020 11:49 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: Executive Session SMP not stormwater



David Alvarez
Chief Civil DPA
Working from home
360-477-3125

From: Harvey, Diane
Sent: Monday, June 29, 2020 11:35 AM
To: Alvarez, David
Cc: Winborn, Mary Ellen
Subject: RE: Executive Session (June 29, 2020) - Confidential Handout

David,



Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Alvarez, David
Sent: Monday, June 29, 2020 11:29 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: Executive Session (June 29, 2020) - Confidential Handout

Hi Diane



David Alvarez
Chief Civil DPA
Working from home
360-477-3125

From: Harvey, Diane
Sent: Monday, June 29, 2020 9:22 AM
To: Alvarez, David
Subject: Executive Session (June 29, 2020) - Confidential Handout

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Mike McHenry <mike.mchenry@elwha.org>
Sent: Tuesday, June 09, 2020 10:24 AM
To: Harvey, Diane
Subject: RE: Lake Sutherland (External Email: USE Caution)

Ill call you next week. Heading out of town shortly to the east side for some dispersed camping!

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Tuesday, June 9, 2020 10:02 AM
To: Mike McHenry <mike.mchenry@elwha.org>
Subject: Lake Sutherland

Hi Mr. McHenry,

Rebecca was kind enough to show me the Indian Creek trap yesterday and we had a very informative chat. She indicated that I could reach out to you to speak in a little more detail about the ecological function in Lake Sutherland. Here is my number: 360 417-2520.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Rebecca Paradis <rebecca.paradis@Elwha.org>
Sent: Tuesday, June 09, 2020 8:35 AM
To: Lear, Cathy; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Attachments: mcmillan et al 2014 unusual fall spawning cutthroat elwha river TAFS.pdf

---

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Monday, June 8, 2020 5:43 PM
To: Rebecca Paradis; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Great conversation today! Thanks for teaching us about the creek and the lake. It feels like a system that will become richer and richer in species.

Cathy

360.417.2361

All you *have* to decide is what to do with the time that is given you.

-- Gandalf

Progress, not perfection

-- Jeff Ward

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Monday, June 08, 2020 4:55 PM
To: Lear, Cathy; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

I am sorry I am just seeing your messages now. I was out in the field already.

It was great meeting you Diane and always good to see you Cathy! Here is some reading material. I have the data and other articles on my computer in the office. I will send them either wed or thurs this week.

Cheers,
Rebecca

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Monday, June 8, 2020 12:49 PM
To: Harvey, Diane
Cc: Rebecca Paradis
Subject: Re: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Hi, my neighbors are unloading horses, so I will be late.

Sent from my iPhone

On Jun 5, 2020, at 9:22 AM, Harvey, Diane <dharvey@co.clallam.wa.us> wrote:

> Ok. See you there.
>
> Diane Harvey
> Acting Manager to Code Enforcement
> Clallam County
> dharvey@co.clallam.wa.us
>
> **From:** Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
> **Sent:** Friday, June 05, 2020 8:57 AM
> **To:** Harvey, Diane; Lear, Cathy
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
>
> 1pm works for me. There is a place to pull off the road right before the bridge on the west side of the road.
>
> ---
>
> **From:** Harvey, Diane <dharvey@co.clallam.wa.us>
> **Sent:** Thursday, June 4, 2020 12:12 PM
> **To:** Rebecca Paradis; Lear, Cathy
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
>
> 1pm?
>
> Cathy, can we touch base on the phone – so I park my car in the right place. Wish we could go together in one car, but I know that is not how the World is operating right now.
>
> D.
>
> Diane Harvey
> Acting Manager to Code Enforcement
> Clallam County
> dharvey@co.clallam.wa.us
>
> **From:** Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
> **Sent:** Thursday, June 04, 2020 10:50 AM
> **To:** Harvey, Diane; Lear, Cathy
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
>
> Diane,
> I am open so whatever works best for you and Cathy. I can meet you at our screw trap on Indian Creek. It's by the bridge where Olympic raft and kayak used to be. Does that work? We can look at Little river too. I have the afternoon blocked off for you.

Cheers,
Rebecca

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 10:26 AM
To: Rebecca Paradis; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Rebecca,

Where would you like Cathy and me to meet you on Monday, June 8th? What time works for you in the afternoon?

Thanks,

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Friday, May 29, 2020 10:35 AM
To: Harvey, Diane; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Monday the 8th in the afternoon works for me. Do you want to touch base next week to decide on meeting place and time?

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Friday, May 29, 2020 10:20:05 AM
To: Rebecca Paradis; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution)

Cathy/Rebecca,

Monday afternoon (June 8)? Middle of the week looks like heavy rain.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County

dharvey@co.clallam.wa.us

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Friday, May 29, 2020 9:49 AM
To: Lear, Cathy
Cc: Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution)

Hi Cathy and Diane,

I am pretty flexible and have lots of open time. Whatever works best for you.

Cheers,
Rebecca

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Thursday, May 28, 2020 5:28 PM
To: Rebecca Paradis
Cc: Harvey, Diane
Subject: RE: Lake Sutherland question

Rebecca,
How does week after next look for you? I am open Monday all day, Tuesday and Thursday in the afternoon and Wednesday in the morning. I am including Diane on the email so that we can all talk to each other.
Cathy
360.417.2361
All you *have* to decide is what to do with the time that is given you.
-- Gandalf

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Thursday, May 28, 2020 1:38 PM
To: Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Yes so much has changed! If you guys want to do a site visit I would be happy to be a tour guide.

Rebecca Paradis
Natural Resource Biologist
Lower Elwha Klallam Tribe
760 Stratton Road
Port Angeles, WA 98363
360-457-4012 ext. 7498

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Thursday, May 28, 2020 1:34 PM

To: Rebecca Paradis <rebecca.paradis@Elwha.org>
Subject: Re: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Diane Harvey is working on the Shoreline Master Program and I had very dated (pre dam removal) information. So much has changed, and we want to be as current as possible.

Sent from my iPhone

On May 28, 2020, at 12:09 PM, Rebecca Paradis <rebecca.paradis@elwha.org> wrote:

> Are you working on anything particular with Indian creek and Lake Sutherland?
>
> Rebecca Paradis
> Natural Resource Biologist
> Lower Elwha Klallam Tribe
> 760 Stratton Road
> Port Angeles, WA 98363
> 360-457-4012 ext. 7498
>
> **From:** Lear, Cathy <CLear@co.clallam.wa.us>
> **Sent:** Thursday, May 28, 2020 11:37 AM
> **To:** Rebecca Paradis <rebecca.paradis@Elwha.org>
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution)
>
> Sol Cool!
> Thanks for the update.
> Cathy
> 360.417.2361
> All you *have* to decide is what to do with the time that is given you.
> -- Gandalf
>
> **From:** Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
> **Sent:** Thursday, May 28, 2020 10:22 AM
> **To:** Lear, Cathy
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution)
>
> Hi Cathy,
> Yes! We have seen 2 adults swimming up Indian Creek but we have yet to catch any fry in our screw trap on Indian. We have been seeing very large coho smolts (300mm) coming out of Sutherland. We are in the process of collecting tissue samples and scales for aging and isotope analysis for diet. Pretty exciting stuff! I have also heard that fishermen are catching coho in Sutherland. We are working with the state to get a sign up with pictures of them so people know what they are.
>
> Cheers,
> Rebecca
>
> Rebecca Paradis
> Natural Resource Biologist
> Lower Elwha Klallam Tribe
> 760 Stratton Road
> Port Angeles, WA 98363

360-457-4012 ext. 7498

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Wednesday, May 27, 2020 2:42 PM
To: Rebecca Paradis <rebecca.paradis@Elwha.org>
Subject: Lake Sutherland question

Hi, Rebecca,
I have another fish question. Did Lake Sutherland and its tributaries historically support a run of sockeye salmon?
Thank you
Cathy Lear
Habitat Biologist
Clallam County Department of Community Development
360.417.2361
clear@co.clallam.wa.us

If your vision can be accomplished in your lifetime, it's too small.
--- Joel Salatin

Harvey, Diane

From: Rebecca Paradis <rebecca.paradis@Elwha.org>
Sent: Monday, June 08, 2020 4:55 PM
To: Lear, Cathy; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Attachments: Hansen et al 2016 Sockeye recovery & smolt carrying capacity after Elwha dam removal.pdf; 2019 Elwha Smolt Outmigration Report Final 041520 (2).pdf

I am sorry I am just seeing your messages now. I was out in the field already.

It was great meeting you Diane and always good to see you Cathy! Here is some reading material. I have the data and other articles on my computer in the office. I will send them either wed or thurs this week.

Cheers,
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To: Harvey, Diane
Cc: Rebecca Paradis
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> Acting Manager to Code Enforcement
> Clallam County
> dharvey@co.clallam.wa.us
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> ---
>
> **From:** Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
> **Sent:** Friday, June 05, 2020 8:57 AM
> **To:** Harvey, Diane; Lear, Cathy
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
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> 1pm works for me. There is a place to pull off the road right before the bridge on the west side of the road.

From: Harvey, Diane <dharvey@co.clallam.wa.us>
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To: Rebecca Paradis; Lear, Cathy
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1pm?

Cathy, can we touch base on the phone – so I park my car in the right place. Wish we could go together in one car, but I know that is not how the World is operating right now.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Thursday, June 04, 2020 10:50 AM
To: Harvey, Diane; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Diane,
I am open so whatever works best for you and Cathy. I can meet you at our screw trap on Indian Creek. It's by the bridge where Olympic raft and kayak used to be. Does that work? We can look at Little river too. I have the afternoon blocked off for you.

Cheers,
Rebecca

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 10:26 AM
To: Rebecca Paradis; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Rebecca,

Where would you like Cathy and me to meet you on Monday, June 8th? What time works for you in the afternoon?

Thanks,

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Friday, May 29, 2020 10:35 AM
To: Harvey, Diane; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Monday the 8th in the afternoon works for me. Do you want to touch base next week to decide on meeting place and time?

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Friday, May 29, 2020 10:20:05 AM
To: Rebecca Paradis; Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution)

Cathy/Rebecca,

Monday afternoon (June 8)? Middle of the week looks like heavy rain.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Friday, May 29, 2020 9:49 AM
To: Lear, Cathy
Cc: Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution)

Hi Cathy and Diane,

I am pretty flexible and have lots of open time. Whatever works best for you.

Cheers,
Rebecca

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Thursday, May 28, 2020 5:28 PM
To: Rebecca Paradis
Cc: Harvey, Diane
Subject: RE: Lake Sutherland question

Rebecca,

How does week after next look for you? I am open Monday all day, Tuesday and Thursday in the afternoon and Wednesday in the morning. I am including Diane on the email so that we can all talk to each other.
Cathy
360.417.2361
All you *have* to decide is what to do with the time that is given you.
-- Gandalf

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Thursday, May 28, 2020 1:38 PM
To: Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Yes so much has changed! If you guys want to do a site visit I would be happy to be a tour guide.

Rebecca Paradis
Natural Resource Biologist
Lower Elwha Klallam Tribe
760 Stratton Road
Port Angeles, WA 98363
360-457-4012 ext. 7498

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Thursday, May 28, 2020 1:34 PM
To: Rebecca Paradis <rebecca.paradis@Elwha.org>
Subject: Re: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution)

Diane Harvey is working on the Shoreline Master Program and I had very dated (pre dam removal) information. So much has changed, and we want to be as current as possible.

Sent from my iPhone

On May 28, 2020, at 12:09 PM, Rebecca Paradis <rebecca.paradis@elwha.org> wrote:

> Are you working on anything particular with Indian creek and Lake Sutherland?
>
> Rebecca Paradis
> Natural Resource Biologist
> Lower Elwha Klallam Tribe
> 760 Stratton Road
> Port Angeles, WA 98363
> 360-457-4012 ext. 7498
>
> **From:** Lear, Cathy <CLear@co.clallam.wa.us>
> **Sent:** Thursday, May 28, 2020 11:37 AM
> **To:** Rebecca Paradis <rebecca.paradis@Elwha.org>
> **Subject:** RE: Lake Sutherland question (External Email: USE Caution)
>
> So! Cool!
> Thanks for the update.

Cathy
360.417.2361
All you *have* to decide is what to do with the time that is given you.
-- Gandalf

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Thursday, May 28, 2020 10:22 AM
To: Lear, Cathy
Subject: RE: Lake Sutherland question (External Email: USE Caution)

Hi Cathy,
Yes! We have seen 2 adults swimming up Indian Creek but we have yet to catch any fry in our screw trap on Indian. We have been seeing very large coho smolts (300mm) coming out of Sutherland. We are in the process of collecting tissue samples and scales for aging and isotope analysis for diet. Pretty exciting stuff! I have also heard that fishermen are catching coho in Sutherland. We are working with the state to get a sign up with pictures of them so people know what they are.

Cheers,
Rebecca

Rebecca Paradis
Natural Resource Biologist
Lower Elwha Klallam Tribe
760 Stratton Road
Port Angeles, WA 98363
360-457-4012 ext. 7498

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Wednesday, May 27, 2020 2:42 PM
To: Rebecca Paradis <rebecca.paradis@Elwha.org>
Subject: Lake Sutherland question

Hi, Rebecca,
I have another fish question. Did Lake Sutherland and its tributaries historically support a run of sockeye salmon?
Thank you
Cathy Lear
Habitat Biologist
Clallam County Department of Community Development
360.417.2361
clear@co.clallam.wa.us

If your vision can be accomplished in your lifetime, it's too small.
--- Joel Salatin

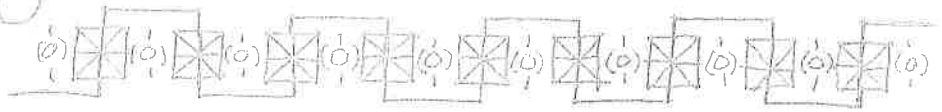
Redacted

NON Responsive

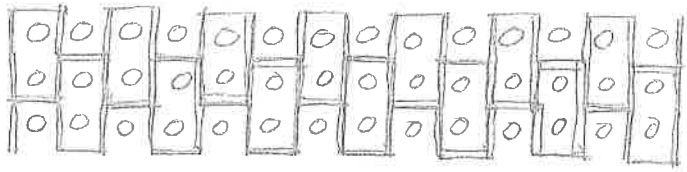
6/1/2020
Lake Sutherland
Ocean Management

— overall process
—

inventory characterization - 8½ years
buffer
Lake Sutherland/Indian Creek - tribe data
tribe real concerns to help them on Lake Sutherland
w/ Mike McHenry



Buffer inconsistant
peer review data
public record - 2012 Feb - 35'-50' - 7 months later
ESA/Margaret Clancy analized & continue 35'
2014/2017 study - Margaret - said 35'
affluent people on Lk Sutherland
- public Comment never talked about
County acting as an agent
Chain Case: Eay
Tribe: 1) like Fish & Wildlife for help - signs to not fish smolts & dates for fishing & when
2) F&W granting special permits for dredging - sending loads of sediment & change in flow neighbors went out & did dredging
3) 85% developed -
4) assessment report - instead of moving buffer
5) Tribe - bad blood - w/ home owners association

Ecy: Where they are? 

Misty - understands & concerns same
appreciates effort
- requirement of no net loss - part permit review
Mr McHenry - add sentence biological
assessment to make sure no net loss on
fish project by project assessment - & make
recomendations
How to trigger review - new concept, but no doubt
what would trigger
list — zo-plankton; spawning;
287 parcels - just those properties
GREAT thing to "Do" - resolve the way we want
to pursue
- will respond to WDFW
letter not consistent with data ~~gap~~ in lake
2018
responce -

buffer 131-140 ft no consistent 161-231 ft.
not published
volume II draft on website - need to look up.
reports show smolts driving water quality not bad not
great

WDFW; letter to discuss; Ecy asked -
8 people in room better clarity -
sister agencies
obligation where came from
} does WDFW know letter & Ecy rec.

* science & actual conditions

parcels & canopy cover; some more than others
broader than fish. <10R

USB2 50'; 100'; 150;
fish & W items circled

adress comments & Ecy. feels like it can defend
realist plan envelope
Diane reach out —
needs to be address

Missty

periodic review: draft periodic review checklist
one more public hearing; Charter
Clallam
movement of buffer - remand to P.C.

several different ways:
think sent review

Aiger/Low
end
1) public outreach: 30 day Comment Hearing
...
modified into comprehensive update
wrap into interim

what about buffer requirement?

#2 three way
wrap comp. as is w/o period review
think about & let know —

? How to combine periodic review
language per forma WAC 173 applies even
public outreach
timing ck list by end of next week (10 day 2 weeks)
follow up meeting

Michelle
Mitsy Blaire

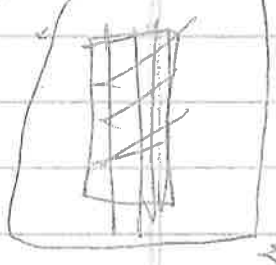
Process

Ocean Management

Spatial

Draft Form

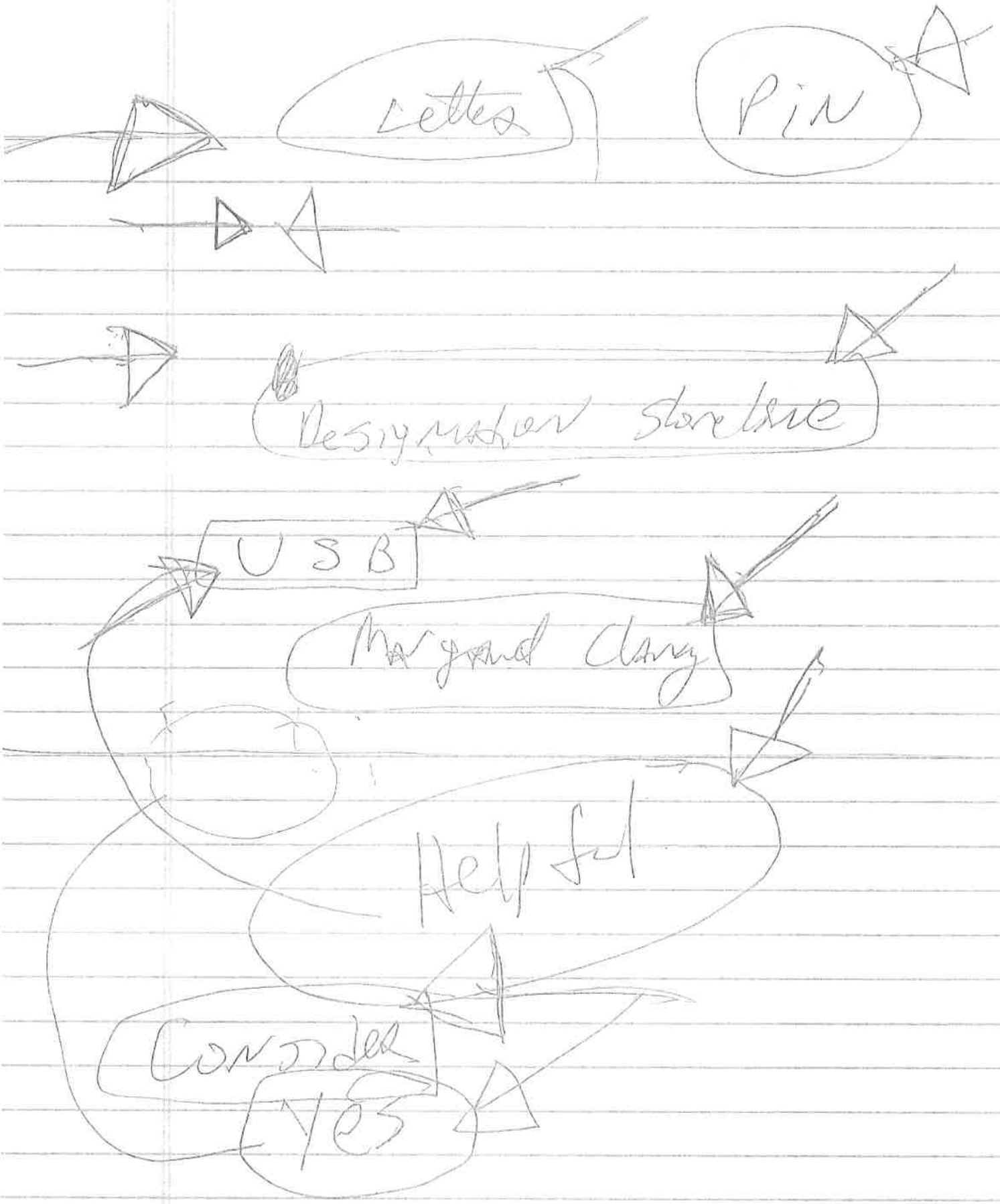
Next week

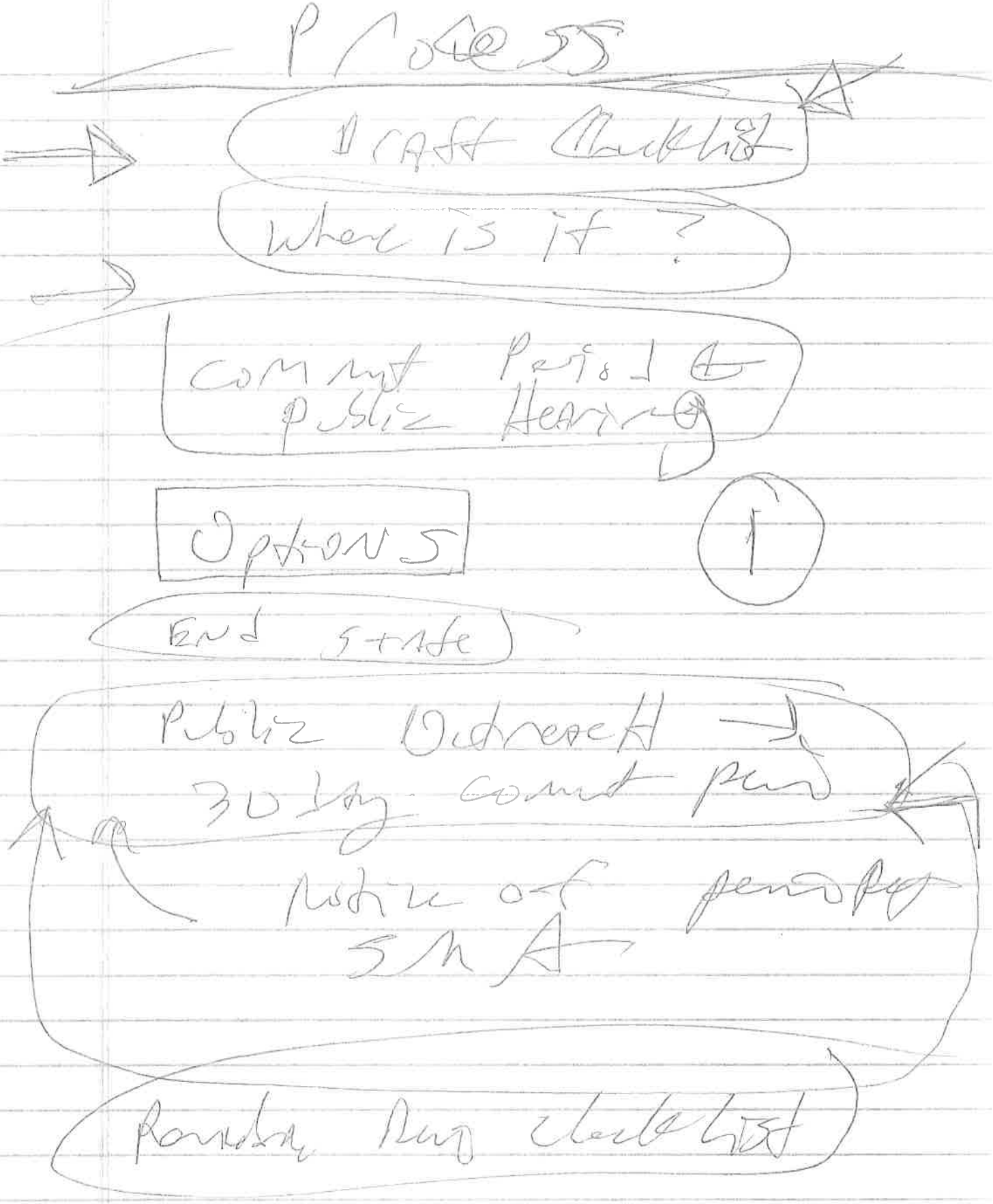


Same Concerns

Biological Assessment

35 foot buffer


Letter
Pin
USB
Helpful
Consider
Yes



Process

Draft Checklist

Where is it?

Comment Period & Public Hearing

Options

1

End State

Public Outreach → 30 day comment period

Notice of period SMA

Reviewing Dept checklist

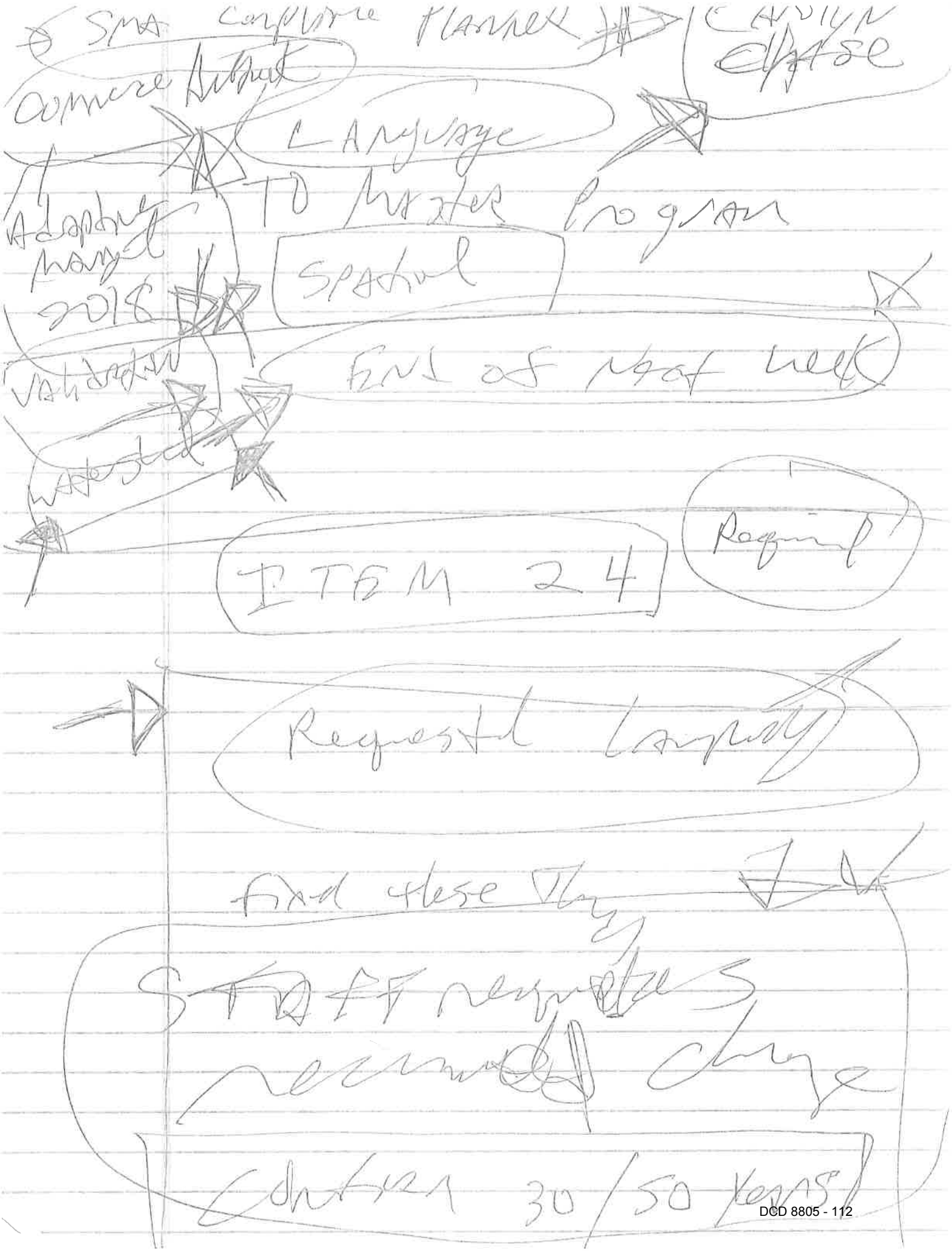
(2) Contract This Review

Ump Up Company

Public Process

Finding of Adequacy

Which would be determined



SMA Compliance Planner → Carolyn Chase

Commerce Ambient

Language

Adaptive Management 2018

TO Master Program

Spatial

Validation

End of Next Week

Watershed

ITEM 24

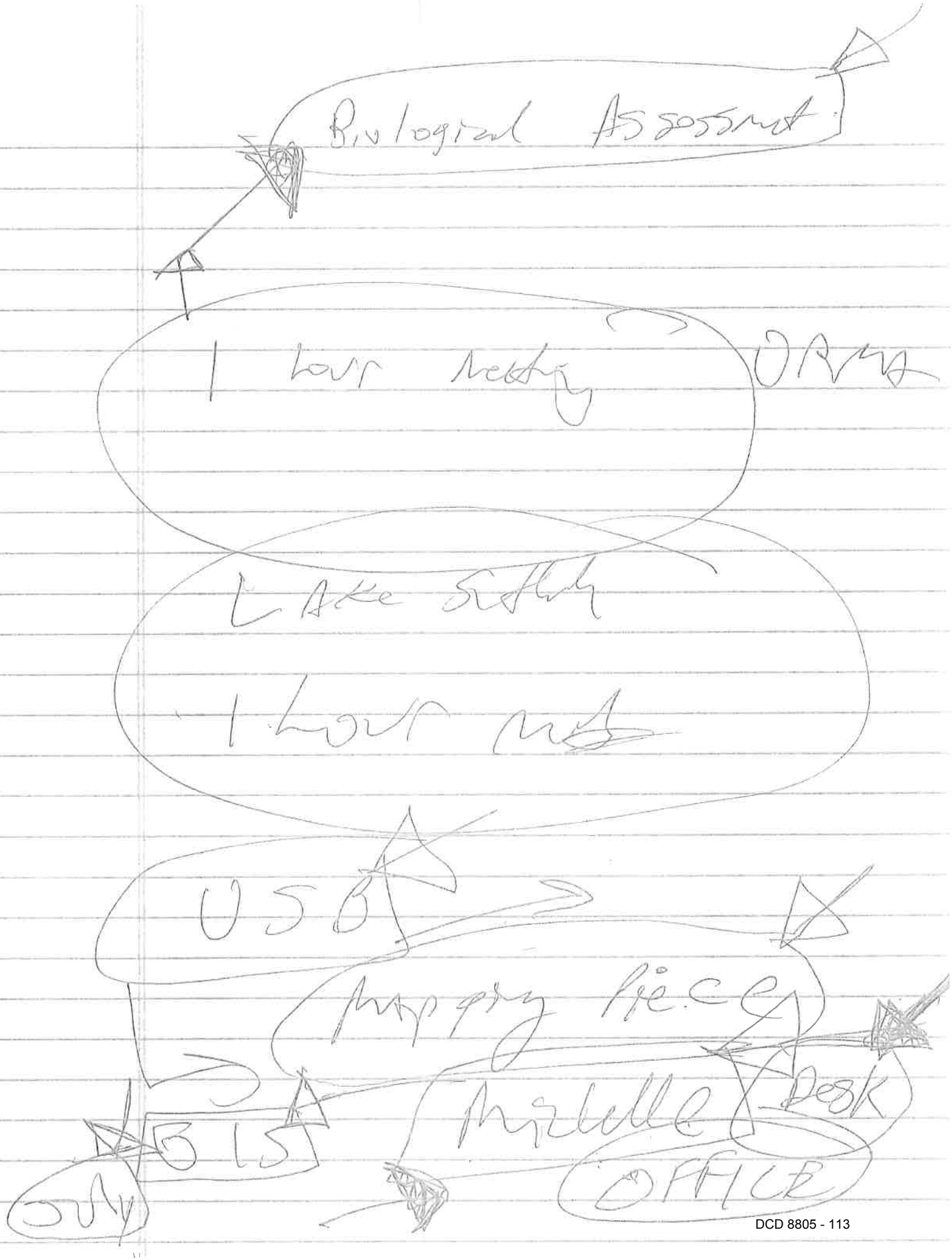
Required

Requested Language

Find these Thing

STAFF requires recommended change

Contain 30/50 years



Biological Assessment

1 hour Meeting

ORMA

Lake Sutton

1 hour meeting

USB

Mapping Piece

Michelle

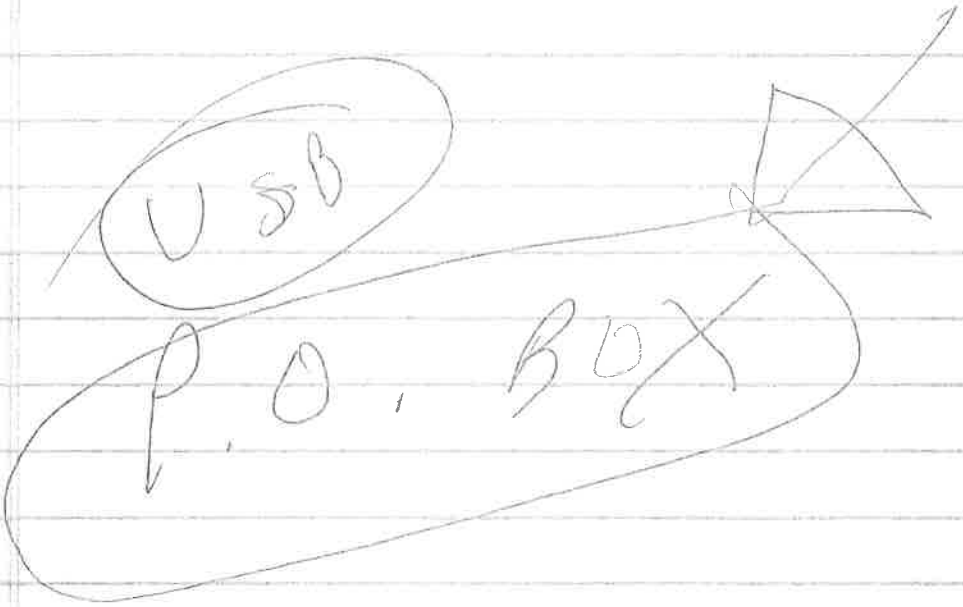
Desk

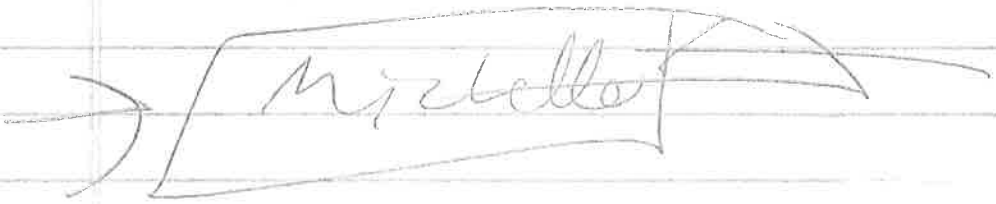
OFFICE

GIS

July


Alison Meyers


USB
P.O. BOX

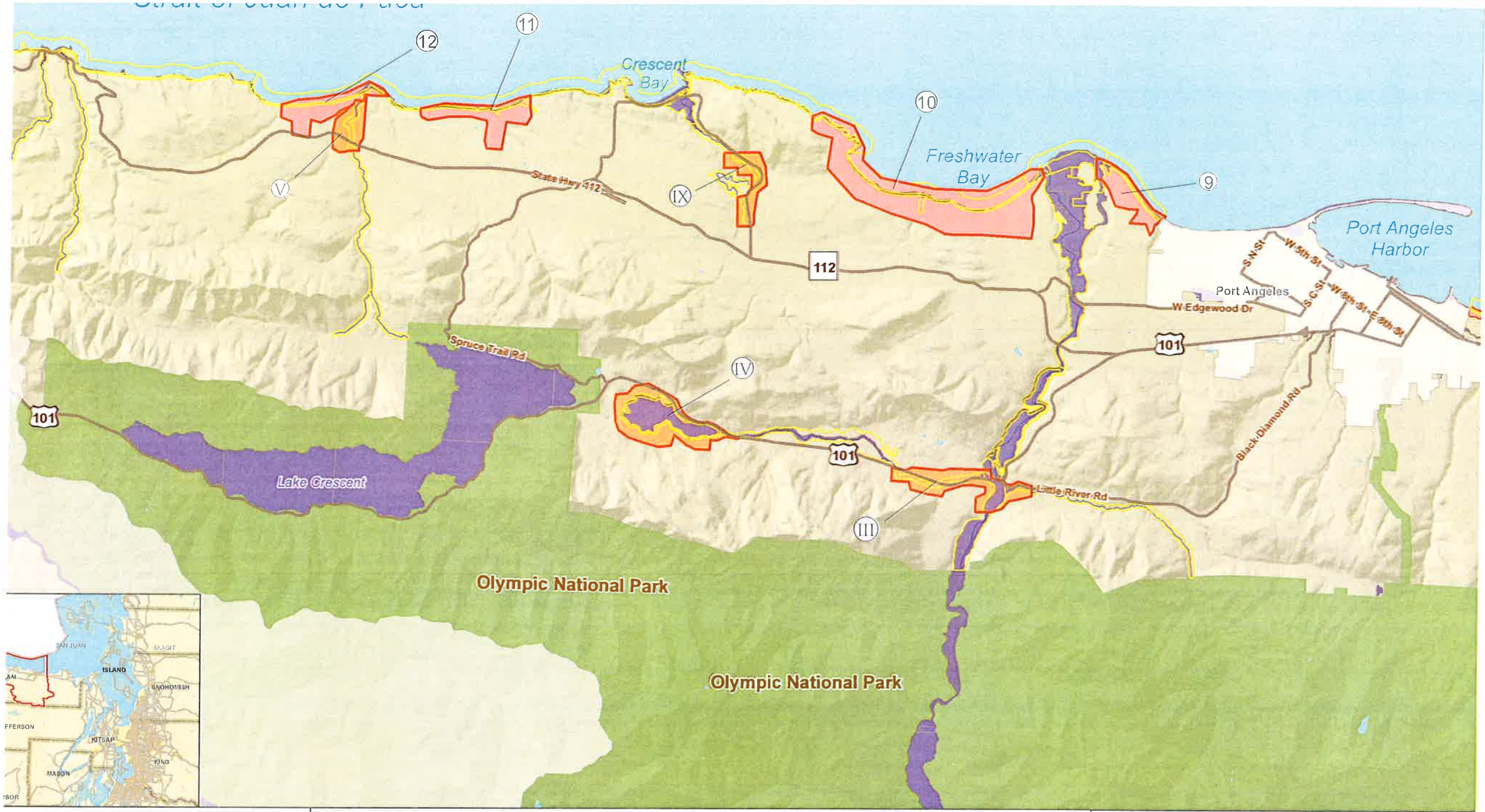

Michelle

Any way to highlight Parcels That Have NOT Been developed AT ALL ?

GIS MAP

LAKE Sutherland Large MAP/Parcels on Shoreline

Parcels ON Shoreline with measurement from water shoreline to back end of property 50ft /100ft /150ft 75ft



COUNTY
egion - Shoreline Master

Legend

NNL Analysis Areas
- Freshwater
- Marine

SMA Streams
Major Roads
Reservation Lands

Numerical: Marine AA
⑧ Morse Creek to Port Angeles

Roman: Freshwater AA
Ⅲ Morse Creek to Port Angeles

0 1 2 4 Miles

NOTE: Inventory includes only portions of WRIAs 17, 18, and 19 under county jurisdiction. Federal Land and

Coordinate
1983 (Ft) V

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
2.	**1.5 SMP Goals**	5. To accommodate and give ~~priority~~ preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
3.	**2.3 Aquatic Designation**	3. Management Policies i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised), and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of ORMA. The applicability of this provision needs to be clarified to include both shoreline development and activities considered as "new use & development" by the MSP to ensure proper implementation. Ecology requires text revisions for clarity and for improved consistency with the 2018 MSP, and for internal consistency. See also related edits to 1.4 above and 5.6 below.

<table>
<tr>
<td>4.</td>
<td>3.6.2 Parking - Regulations</td>
<td>2. Parking as a primary use shall be prohibited in all shoreline designations,~~except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~

4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.</td>
<td>2. Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2.

4. Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy.

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10.

<table>
<tr><th>Use/Development/ Modification</th><th>Aquatic – Straits[1]</th><th>Aquatic – Pacific Ocean[1]</th><th>Marine Waterfront</th><th>Shoreline Residential - Intensive</th><th>Shoreline Residential - Conservancy</th><th>Resource Conservancy</th><th>Natural</th></tr>
<tr><td>Parking: (see Section 3.6)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>As a primary use</td><td>X</td><td>X</td><td>X/C[11]</td><td>X</td><td>X</td><td>X</td><td>X</td></tr>
<tr><td>Accessory to a permitted use</td><td>X</td><td>X</td><td>P</td><td>P</td><td>C</td><td>C</td><td>X</td></tr>
<tr><td>Public disabled parking</td><td>X</td><td>X</td><td>P</td><td>P</td><td>P</td><td>C</td><td>C</td></tr>
</table>
</td>
</tr>
<tr>
<td>5.</td>
<td>4.2.4 Regulations – Piers, Docks, Floats, Non-residential</td>
<td>1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:
a. The dock/pier/float is required to accommodate a water-dependent use or public access; and
b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.</td>
<td>WAC 173-26-231(3.b) Piers and docks. New piers and docks shall be allowed only for water-dependent uses or public access.</td>
</tr>
<tr>
<td>6.</td>
<td>5.2.2 Clearing, Grading, Filling –</td>
<td>Regulations
2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, and carried out in a manner that:
a. Minimizes land disturbance to the minimum necessary for the intended development; and
b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and
c. Includes plans to revegetate or otherwise stabilize areas of exposed soil</td>
<td>WAC 173-26-231(3.c) Fill. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.</td>
</tr>
</table>

		following construction; and d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place. ;and g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.	
7.	**5.3.2 Public Access – Regulations**	2. Multi-family residential use and subdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: …	**WAC 173-26-241(3.j.A):** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter
8.	**5.6 Ocean Management**	5.6 Ocean Management …	The SMP includes a vision statement and management policies regarding the Marine Spatial Plan but also needs provisions to implement the MSP. Add a new section for consistency with **WAC 173-26-360** and ORMA. The SMP needs to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses. Ecology is currently finalizing guidance on approaches to incorporating ORMA and MSP requirements into SMPs and will make this available to the County as soon as it's ready.
9.	**6.3 General Shoreline Buffer & Vegetation Requirements**	**6.** Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. … **Table 6-1 Shoreline Buffer Widths**	Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35' buffer at Lake Sutherland. Ecology has concern that the uniform 35' buffer on Lake Sutherland is not fully supported by the record for the entire lake shoreline. Parcels with existing residential development that propose enlargement would be subject to Chapter 5.1 standards. An additional concern is whether it's appropriate for all

<table>
<tr>
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<table>
<tr><th rowspan="2">Shoreline Environment Designation</th><th colspan="3">Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension
(Measured from the ordinary high water mark–OHWM)</th></tr>
<tr><th>Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line</th><th>Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line</th><th>Major New Development, including all Land Divisions</th></tr>
<tr><td>Marine Waterfront</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr>
<tr><td>Shoreline Residential - Intensive</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr>
<tr><td>Shoreline Residential - Conservancy</td><td>100 feet</td><td>125 feet</td><td>150 feet</td></tr>
<tr><td>Resource Conservancy</td><td>150 feet</td><td>150 feet</td><td>150 feet</td></tr>
<tr><td>Natural</td><td>175 feet</td><td>175 feet</td><td>175 feet</td></tr>
</table>
[1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply.

Footnote 2. Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.
</td>
<td>shorelines of the lake to be designated Shoreline Residential-Intensive when Shoreline Residential-Conservancy may be more appropriate in some locations, based on SMP 2.6 and 2.7 designation criteria and current conditions.

Further discussion with the County regarding changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 6.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15. See also Periodic Checklist #2017.g Nonconforming Uses & Development.</td>
</tr>
<tr>
<td>10.</td>
<td>7.6 Regulations - Wetland Protection Standards</td>
<td>1. ~~New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:~~
~~a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact.~~
~~b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:~~
~~i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and~~
~~ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.~~
~~c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation~~</td>
<td>As presented, Regulation #1.a – g allow impacts based on wetland category and are not consistent with WAC 173-26-221 Use of scientific and technical information, WAC 173-26-201(2)(c) Protection of ecological functions of the shorelines, and WAC 173-26-221(2.c.i.C) Alterations to wetlands.

Wetlands within the shoreline jurisdiction contribute to the shoreline ecological function, as such all wetland (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size.

All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision.

Even in situations where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Ecology requires revision to delete the proposed Regulation #1.a – g and</td>
</tr>
</table>

		~~for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~ ~~d. The use or development is specifically allowed by this Program.~~ ~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~ ~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~ ~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~ The following shoreline use and development activities in or near regulated wetlands shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function: a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater; c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table; d. The driving of pilings; e. The placing of obstructions; f. The construction, reconstruction, demolition, or expansion of any structure; g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or i. Activities reducing the functions of buffers.	replace with inserted text consistent with WAC 173-26-221(2.c.i.A).
11.	**7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas**	**1. Designation:** Class I Terrestrial Habitat Conservation Areas shall include the following: a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens. ~~b. Critical saltwater habitats.~~	As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c). Ecology required revision to correct this error.

12.	**10.1 Administrative Authority and Responsibility**	1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: ... ... d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, including formal written interpretations in consultation with Ecology per WAC 173-26-140;	**WAC 173-26-140:** As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
13.	**10.2.9 Permit Revisions**	3. "Within the scope and intent of the original permit" means all of the following: a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less; ...	This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent. **WAC 173-27-100(2):** "Within the scope and intent of the original permit" means all of the following: (a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; ...
14.	11.A	**4. Accessory use** means any legally established use ~~or structure which is necessary for the full use and enjoyment of the primary use of the property,~~ that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use. **Appurtenance** means a structure that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield, and grading.	Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance. Appurtenance is not defined but used in the SMP at: **4.6.5(2.c) New/Expanded Stabilization** that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)' Revision required for internal consistency and consistency with WAC 173-27-040(2.g).
15.	11.F	**121. Fill** means the addition of ~~solid or semi-solid material such as~~ soil, sand, rock, gravel, sediment, ~~wood chips, mining overburden,~~ earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.

16.	**11.G**	**144. Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including stripping, cutting, filling, or stockpiling earth to create new grade.	**WAC 173-26-020(22): "Grading"** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
17.	**11.H**	**158. Height** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~**building** means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~	**WAC 173-27-030(9): "Height"** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
18.	**11.P**	**230. Parties of record** means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~	**WAC 173-27-030(12): "Party of record"** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;
19.	**11.R**	**266. Recreational development** means ~~development that include~~ commercial and public facilities designed and used to provide recreational opportunities to the public. ~~but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~ **267. Recreational use** means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.	**WAC 173-26-241(3.i): Recreational development** includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Ecology requires revision for consistency with WAC and RCW 90.58.020(7).

20.	11.R	**270. Residential development** means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.	SMP does not contain a definition for 'dwelling unit'. **WAC 173-26-241(3.j): Residential development** - Single-family residences ... Residential development also includes multifamily development and the creation of new residential lots through land division. Ecology requires revision for internal consistency and consistency with WAC.
21.	11.S	**307. Shorelines of statewide significance** with respect to Clallam County are identified as follows: a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands. ~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~ c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets. d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide. e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more. f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.	#307.b does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County. **RCW 90.58.030(2.f):** (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows: (A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay Ecology requires revision to correct this error.
22.	11.S	**313. Single-family residence** means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). ~~Accessory uses~~ Appurtenances include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	**WAC 173-27-040(2.g): "Single-family residence"** means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

			Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.
23.	11.W	**351. Water-dependent use** means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a ~~preferred~~ priority use of shorelines of the state (RCW 90.58.020).	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
24.	Missing	**Exhibit C** - List of SMP Waterbodies...	WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. Typically the list will include all waterbodies covered by the SMP, freshwater and marine. Ecology requires revisions to add this list to the SMP, proposed as a new Exhibit C. The Table of Contents would also need revision to reflect this change. See also Periodic Review Checklist #2007.b This item also identified by S. Gray Feb '19 email re: PR items.

Staff Discussion Draft

The following changes are recommended to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions, ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**Cover Page**	Note: This Clallam County Shoreline Master Program (SMP) ~~is intended to~~ update<u>s</u> and replace<u>s</u>: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has <u>completed</u> the process ~~of~~ <u>for a comprehensive</u> update ~~ing~~ <u>and periodic review of</u> the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~ <u>All amendments</u> to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review~~. ...	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
CHAPTER 1 INTRODUCTION & OVERVIEW			
2.	**General**	...the <u>most current, accurate, complete, available and applicable</u> ~~best available~~ science...	**Global Change** - 'Best available science' (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern". Ecology recommends the County consider scrubbing the document to replace "best available" with the SMA terminology (i.e. "most current, accurate, complete available information"), including the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).
3.	**1.1 Background Information**	Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally <u>approve</u> ~~adopt~~ the SMP on <u>October 30, 2018</u> ~~(Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to~~ <u>After</u> the Department of Ecology ~~for~~ state review <u>and approval, the BOCC adopted the final SMP by ordinance</u> (Ordinance No. [[insert ###-###]]) ~~and subject to additional public review~~. <u>This SMP is effective as of [[*insert date upon ECY final action*]].</u>	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
4.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, <u>including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan</u>	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018.

		was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
5.	1.5 Shoreline Master Program Goals	10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.	WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses. Ecology recommends revision to improve accuracy and clarity.
6.	1.7 Exceptions to Applicability	1. This Program shall not apply to: a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. 2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process,	WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation. Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners. See also Periodic Review Checklist #2017.c This item also identified by S. Gray Feb '19 email re: PR items.

		pursuant to chapter 80.50 RCW.	
7.	**1.10 Authority**	3. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure: a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC. b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable. c. That the Program reflects any changes in local circumstance, new information or improved data. 4. The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.	WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including 'changing local circumstance, new information or improved data' and the two presented as written. Ecology recommends text revisions to add the third required category for clarity.
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
8.	**2. Shoreline Environment Designations**	2.1 Basis of the Designations … 4. Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront. 2.4 Natural Designation; 1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark…	**Global Change** - This statement about Figure 2-2 photographs is repeated for each SED at §2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers. Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at: 2.5 Resource Conservancy Designation; 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation And we suggest moving the deleted text to SMP 2.1 as a new #4.
9.	**2.4 Natural Designation**	1. Criteria: …The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics: …	Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).

10.	**2.5 Resource Conservancy**	**1. Criteria:** … The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located outside a UGA, within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics: a. Typically associated with large, contiguous blocks of forest lands and natural resource areas; b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments; c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices; d. Minimal constraints to overbank flooding and/or channel migration; or e. Forest fragmentation or conversion of forest cover to other land cover types is minimal. f. High recreational value or unique historic or cultural resources. g. LAMIRDs with low-intensity water-dependent uses. **2. Purpose:** The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or low-intensity outdoor recreational use~~,~~ while protecting existing ecological functions and processes.	This 'locally tailored' SED appears to be a primarily timber/forest practices-focused version of the WAC's Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED. **Ch 11 Definition 109. Low intensity land use** means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts. **1. Criteria** – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs. The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency: **a.** Natural resource areas are different than natural areas; **b.** Low density/intensity, water-oriented uses **f.** Recreational , historic, cultural **g.** Low intensity water-dependent uses in LAMIRDs Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS			
11.	**3.2.1 Aquaculture - Policies**	8. The County recognizes that potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and the technology associated with some forms of existing aquaculture is still in its formative stages, and that these factors necessitate some latitude in the development of this use and its potential impacts. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.

12.	**3.2.2 Aquaculture Regulations - General**	15. Where aquaculture use and development are authorized to use ~~public~~ county facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Response to Comments (R2C) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
13.	**3.2.2 Aquaculture Regulations - General**	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in R2C Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
14.	**3.2.5 Aquaculture – Application Requirements**	5. An application for commercial geoduck aquaculture shall include: ... n. Whether the site contains existing public access to publicly-owned lands and any recommendations from WDNR or other landowning agencies regarding protection of the existing public access; and ...	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.iv.L.XII).
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
15.	**7.3 General Critical Areas Regulations**	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. ...	For internal consistency this list should also include Terrestrial Habitat Conservation Areas.
16.	**7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards**	**2.** New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. **3.** New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse	Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSA aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

		impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. 4. The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to: ...	
17.	7.14 Regulations – Geologically Hazardous Areas Protection Standards	**10. Channel Migration Zone Protection Standards:** ... **b. CMZ Checklist and Review.** Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: ... ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public; iii. Review whether any significant channel movement has occurred between available County aerial ~~orthophoto data layers since Year 2000~~ photo series spanning at least 50 years where available; ... **c. CMZ Assessment Report.** If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following: ... ... ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least 50 years where available; and other available information. ...	County suggested revisions to address issues raised by Futurewise comments in R2C Item #100. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
18.	8.3 Regulations – General Mitigation Requirements	**3.** The Administrator shall require compensatory mitigation for development proposals that: **a.** Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or **b.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of	County suggested revisions to address issues raised by Futurewise comments in R2C Item #103. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.

		shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or **c.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.	
19.	**10.2.5 Exemptions from SSDP**	**11.** No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d)~~.~~ , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.	**WAC 173-27-040(2.d):** Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency; Ecology recommends revision for clarity & to aid the reader during implementation
CHAPTER 11 DEFINITIONS			
20.	11	Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute/rule, the RCW and WAC definitions shall prevail.	Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.
21.	**11.A**	16. **Agricultural land** means those specific land areas on which agriculture activities are conducted ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.~~ 17. **Agricultural products** means to includes, but is not limited to, horticultural, viticultural, … … poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~	As written, the added text is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture: • Regulation #4 addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 addresses upland finfish aquaculture. Ecology recommends text revisions for improved consistency with RCW 90.58.065.

22.	11.A	**25. Aquatic Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ 365 ~~-~~190-130(21~~)~~ that occur in the water.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.
23.	11.C	**81. Critical freshwater habitats** includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(3129), have a primary association.	Incorrect WAC citation, should be -020(31)
24.	11.D	**89. Development** or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.	See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items
25.	11.F	**132. Floodway** means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.	**RCW 90.58.030(2.b): "Floodway" means the area, as identified in a master program, that** either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state; Ecology recommends revision for consistency with SMA. See also Periodic Review Checklist #2007.a
26.	11.T	**331. Terrestrial Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC 365 ~~395~~ 190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.

27.	**Exhibit A. Shoreline Environment Designation (SED) Maps**	**Map 2** - Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	County suggested revisions to address issues raised by USFWS comments in R2C Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
28.	**Exhibit A. SED Maps**	**Map 2 –** Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS what how this block of USFWS owned land should be referenced on the map.	County suggested revisions to address issues raised by USFWS comments in R2C Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
29.	**Exhibit A. SED Maps**	**Map 7 –** Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	County suggested revisions to address issues raised by USFWS comments in R2C Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
30.	**Exhibit A. SED Maps**	**Map 7 -** Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in R2C Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
31.	**Exhibit B. Shoreline Checklist & Statement of Exemption Form**		This Exhibit B checklist/exemption form is referenced at three locations in the SMP: **8. Mitigation & NNL** Note: … The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met. **8.2 Policies** 4. The County should use a ~~the~~ checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. **10.2.5 Exemptions from SSDP:** **#9.** All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

			Will the County final-adopt/codify the user Notes at each Chapter beginning? Does the County intent to final adopt/codify the checklist/exemption form itself? Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Also consider renaming the form for brevity, clarity, and to avoid confusion with two existing submittal Checklist forms required by Ecology.

Staff Discussion Draft

THURSTON COUNTY
WASHINGTON
SINCE 1852

COUNTY COMMISSIONERS

John Hutchings
District One
Gary Edwards
District Two
Tye Menser
District Three

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

Creating Solutions for Our Future

Joshua Cummings, Director

MEMORANDUM

TO: Planning Commission

FROM: Andy Deffobis, Associate Planner,

DATE: May 9, 2019

SUBJECT: Shoreline Master Program Buffers

Introduction

As part of the overall Shoreline Master Program update, staff have been gathering and analyzing information about shoreline buffers to provide the Planning Commission and Board of County Commissioners (Board) with information to make buffer decisions. This includes research on best available science for shoreline buffers (Appendix A), what other jurisdictions in western Washington have proposed, and what has been approved by the Department of Ecology (Appendix B).

Vegetation along the shoreline provides a myriad of benefits for the water body, the upland area and shoreline residents and users. Vegetation helps to stabilize soils, which filter pollutants and fine sediments, contributing to improved water quality. Trees and shrubs provide habitat for many species and provide food for aquatic species. More stable banks reduce occurrences of landslides, damage to structures and threats to life safety (Ecology SMP Handbook, Chapter 11).

Marine vs. Freshwater Riparian Areas

Shorelines of the state include both marine and freshwater shorelines. Research suggests that freshwater and marine riparian areas adjacent to the water share ecological functions. The Department of Ecology's Shoreline Master Program handbook states:

> "Research on freshwater riparian areas is relevant to marine riparian areas and vice versa. A panel of 14 scientists with expertise related to riparian ecosystems generally agreed that "findings from studies of freshwater riparian areas are transferable to marine riparian areas, although some processes and functions are unique to marine riparian areas." (*Protection of Marine Riparian Functions in Puget Sound, Washington*, Appendix H, 2009.) This document also concludes that "riparian areas provide ecological functions regardless of whether they

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are adjacent to freshwater or marine water bodies" (Section 1). (Ecology SMP Handbook Chapter 11)

What does science say about buffers?

The legislature requires SMP provisions to be based on an analysis incorporating the most current, accurate, and complete scientific or technical information available (WAC 173-26-201(2)(a)). Recommended buffer widths vary, depending on shoreline environment designation and which functions the shoreline is provided in a given area. In order to support conversations about buffers during the SMP update, staff analyzed recommendations from scientific literature and the master programs adopted by other jurisdictions.

The following was adapted from the literature. See Appendix A for more complete documentation.

Function	Recommended Buffer Width (includes literature averages)	Study
Wildlife	100-1,000 ft	Ecology 2013, citing Environmental Law Institute
	287 ft	WDFW 1997
	318 ft	Kitsap County
	571 ft	Brennan & Culverwell 2009
Sediment removal	30-100 ft	Ecology 2013, citing Environmental Law Institute
Fine sediment control	112 ft	WDFW 1997
Erosion control	117 ft	Kitsap County
Sediment filtration	190 ft	Brennan & Culverwell 2009
Nitrogen removal	100-180 ft	Ecology 2013, citing Environmental Law Institute
Phosphorus removal	30-100 ft	Ecology 2013, citing Environmental Law Institute
Water quality	358 ft	Brennan & Culverwell 2009
Pollution filtration	78 ft	WDFW 1997
	231 ft	Kitsap County
Shade	79 ft	Brennan & Culverwell 2009
	132 ft	Kitsap County
Temperature control	90 ft	WDFW 1997
Microclimate	280 ft	Kitsap County
	412 ft	WDFW 1997
Large woody debris	147 ft	WDFW 1997
	161 ft	Kitsap County
	180 ft	Brennan & Culverwell 2009

Current Buffers in Thurston County SMP/CAO

The existing SMP was adopted in 1990. At that time, buffers established in the adopted SMP were as follows:

1990 Shoreline Environment Designation*	Standard Buffer Width
Urban Environment	20 feet or width prescribed in local zoning ordinance
Suburban Environment	50 feet
Rural	50 feet
Conservancy	100 feet
Natural	100 feet

*The current SMP also contains provisions for special management areas.

In 2010, Substitute House Bill 1653 clarified that critical area regulations adopted under the GMA apply within shoreline areas until Ecology approves either a comprehensively updated SMP, or a SMP amendment specifically related to critical areas. The County's CAO update was adopted in 2012. It currently prescribes 250' buffers for marine shorelines and for Type S streams, with an additional 50 foot vegetation management zone in which vegetation removal must be limited. The CAO defers to the SMP on lakes, and on marine shorelines with the "Rural" environmental designation.

2012 Shoreline Environment Designation*	Standard Buffer Width		
	Marine	Lakes	Streams
Urban Environment	250 feet	100 feet	250 ft
Suburban Environment	50 feet	50 feet	250 ft
Rural	250 feet	100 feet	250 ft
Conservancy	250 feet	100 feet	250 ft
Natural	250 feet	100 feet	250 ft

*The current SMP/CAO also contains provisions for special habitat management areas. See Chapters 24.25.045-060 TCC.

Proposed Buffers in Thurston County Draft Shoreline Master Program Update

In 2018, staff were directed by the Board to propose buffers in line with those adopted by other jurisdictions and approved by the Washington Department of Ecology. The proposed buffers are intended to represent a moderate risk approach for protecting shoreline function, based on a review of the literature. This means there is a moderate risk that shoreline functions will be impacted by the adoption of the proposed buffer widths. This is the approach that the Washington Department of Ecology used for its recommendations on wetlands in Washington State (see Bunten et al., 2016). The current buffers proposed are:

Designation	Marine (Standard/Reduced Buffer)	Freshwater Lakes (Standard/Reduced Buffer)
Shoreline Residential	50 feet*	50 feet*
Urban Conservancy	125 feet/75-90 feet	125 feet/75-90 feet
Rural Conservancy	150 feet/110 feet	150 feet/110 feet
Natural	200 feet/150 feet	200 feet/150 feet
*No reduction without Type III variance		

		Streams
		250 feet**

**Freshwater stream buffers may be administratively reduced by 10-25% via a Type I or II administrative variance. Reductions greater than 25% require a Type III variance.

Additional Buffer Options

The County has latitude in how it structures its approach to buffers. Currently, buffers are proposed by shoreline environment designation for marine shorelines and lakes, while streams have a proposed fixed buffer width of 250 feet.

One option the Planning Commission could consider is to propose varying buffers for streams, based on shoreline environment designation. They may also consider proposing a fixed buffer width on marine shorelines. This is the approach taken for freshwater and marine riparian areas in the Critical Areas Ordinance.

What buffers have been adopted by other jurisdictions?

As part of the Thurston County SMP update process, staff reviewed buffers adopted by other jurisdictions. Buffer widths discussed here have been approved by Ecology, with the exception of Clallam County, which is currently under review by Ecology.

The SMPs of other jurisdictions take varying approaches to prescribing buffers. Below are a few comparisons of buffer widths in the region. Please refer to Appendix B for more information.

Thurston County Planning Commission
May 15, 2019 SMP Buffers

Jurisdictional Buffer Comparison, by Shoreline Environment Designation:

	Thurston County 1990 SMP/2012 CAO	DRAFT Thurston County SMP	Kitsap County SMP	Mason County SMP	Lewis County SMP	Pierce County SMP
Shoreline Residential	Marine/lakes 50 feet	50 feet	85 feet	Marine /lakes 100ft/100ft	150 feet	75 feet
Urban Conservancy	Marine/lakes 250ft/100ft	125 feet (90)	100 feet	Marine/lakes 100ft/100ft	150 feet	100 feet
Rural Conservancy	Marine/lakes 250ft/100ft	150 feet (110)	130 feet	Marine/lakes 150ft/100ft	150 feet	100 feet
Natural	Marine/lakes 250ft/100ft	200 feet (150)	200 feet	Marine/ lakes 150ft/100ft	200 feet	150 feet
Streams	250 feet*	250 feet*	200 feet*	150 feet**	150-200 feet***	100-150 feet**

- * Or the flood hazard area (whichever is larger)
- ** Or the outer extent of the Channel Migration Zone (whichever is larger)
- *** Within the CMZ, SMP flood course or floodway, new development or uses, including subdivision of land, shall not be established when it would be reasonably foreseeable that the development or use would require new structural flood hazard reduction measures.

Jurisdictional Buffer Comparison, by Shoreline Type (if specified):

Jurisdiction	Streams Buffer Width Range (in feet)	Marine Buffer Width Range (in feet)	Lake Buffer Width Range (in feet)
Thurston County Proposed	250	50-200	50-200
Other Jurisdictions	50-250	50-200	30-200

How do Thurston County's proposed buffers measure up to Ecology's recommendations?

The Department of Ecology provides recommendations for buffer widths in Chapter 11 of the SMP handbook.

Ecology recommends that buffers on undeveloped shorelines with largely intact ecological functions should be 150-200 feet. A 200 foot buffer is proposed for 'Natural' marine and lake shorelines in the Thurston County draft SMP.

Ecology further recommends that areas with rural residential development have 150 foot buffers to protect existing functions. The proposed buffer for the 'Rural Conservancy' SED is 150 feet. The proposed buffer for the 'Urban Conservancy' SED is 125 feet.

A 30-60 foot buffer on more densely developed residential shorelines may be appropriate, according to Ecology's guidance. The County's SMP proposes a 50 foot buffer in the 'Shoreline Residential' SED on lakes and marine shorelines.

Streams are proposed to have a 250' buffer, which exceeds Ecology's recommendation of 150-200 feet for the most intact shorelines but is the current buffer in the CAO. Reductions to the current buffer width could impact the County's Community Rating Score through FEMA's National Flood Insurance Program. Thurston County is currently one of only 6 counties in the nation with a CRS rating of Class II.

Literature Cited

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Kitsap County Department of Community Development. 2012. Technical Memorandum for Proposed Kitsap County SMP Buffers.

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Washington Department of Ecology. 2017. Shoreline Master Programs Handbook. Publication No. 11-06-010.

Appendix A: Scientific Literature Review

Washington Department of Ecology (2013)

The Department of Ecology published guidance for protecting and managing in wetlands in 2005. In 2013, an update on wetland buffer science was published. The document notes that ecological attributes by which buffers protect water quality do not depend on whether the buffer is adjacent to a stream or a wetland (Hruby 2013). The following is an update to the original science synthesis provided by this document is the following:

> Recent synthesis documents recommend a focused approach to buffer widths that is based on the many functions provided by a buffer. In addition, the more recent recommendations specify buffer widths that are larger than those recommended in the 2005 synthesis. The *Planner's Guide to Wetland Buffers for Local Governments,* prepared by the Environmental Law Institute (42), recommends a range of 100ft–1000ft for wildlife, 30–100ft for sediment removal, 100-180ft for nitrogen removal, and 30-100ft for phosphorus removal.
>
> If prescribed buffers are to be used to adequately protect wetland wildlife, they will probably have to be larger than what is currently used. Based on the needs of wildlife species found in Wisconsin (some of which are also found in Washington State), the minimum buffer width is about 400 ft, and the optimal width for sustaining the majority of wildlife species is about 900 ft (81). (Hruby 2013)

Brennan & Culverwell (2009)

Brennan and Culverwell (2009) summarized several studies on buffer effectiveness, reporting on average widths to achieve 80% of a desired function for the marine riparian environment. Their results are summarized as follows.

Function	**Buffer width recommendation to achieve ≥ 80% effectiveness**	**Literature cited**	**Avg of all literature** *(to achieve ≥ 80% effectiveness)*	**Min. buffer width (approximate) based on FEMAT curve to achieve ≥ 80% effectiveness**
Water quality	5-600 m (16 – 1,968 ft) (Appendix C contains specific buffer widths for different water quality parameters)	5 m (16 ft): Schooner and Williard (2003) for 98% removal of nitrate in a pine forest buffer 600 m (1969 ft): Desbonnet et al (1994/1995) for 99% removal	109 m (358 ft)	25 m (82 ft) sediment 60 m (197 ft) TSS 60 m (197 ft) nitrogen 85 m (279 ft) phosphorus

Fine sediment control	25-91 m (92 – 299 ft)	25 m (82 ft): Desbonnet et al (1994/1995) for 80% removal 91 m (299 ft): Pentec Environmental (2001) for 80% removal	58 m (190 ft)	25 m (82 ft) (sediment) 60 m (197 ft) (TSS)
Shade	17-38 m (56 – 125 ft)	17 m (56 ft): Belt et al 1992 *IN* Eastern Canada Soil and Water Conservation Centre (2002) for 90% 38 m (125 ft): Christensen (2000) for 80% temperature moderation	24 m (79 ft)	37 m (121 ft) (.6 SPTH*)
LWD	10-100 m (33 – 328 ft)	10 m (33 ft): Christensen (2000) for 80-90% effectiveness 100 m (328 ft): Christensen (2000) 103 for 80-90% effectiveness	55 m (180 ft)	40 m (131 ft) (.65 SPTH*)
Litter fall	No studies found	N/A	N/A	24 m (79 ft) (.4 SPTH*)
Hydrology/slope stability	No studies found	N/A	N/A	N/A
Wildlife	73-275 m (240 – 902 ft)	73 m (240 ft): Goates (2006) for 90% of hibernation and nesting 275 m (902 ft): Burke and Gibbons 1995 *IN* Goates 2006 for 100% of hibernation and nesting	174 m (571 ft)	N/A

The research presented above is also cited in the 2010 document Protecting Nearshore Habitat and Functions in Puget Sound (EnviroVision, Herrera Environmental, and Aquatic Habitat Guidelines Program). The authors contend:

> "There is consensus in the literature that buffers or protected riparian areas are critical to sustaining many ecological functions. A precautionary approach toward regulating marine riparian habitat areas is recommended. A precautionary approach would rely on using the high end of the ranges required to protect specific functions, where those widths are achievable. Where there is opportunity (e.g., in areas of undeveloped or low-density shorelines with high habitat value), maximum protection will help compensate for unavoidable and cumulative impacts from development and redevelopment elsewhere in the landscape." (EnviroVision et al. 2010)

WDFW Riparian Management Recommendations (1997)

Washington Department of Fish and Wildlife's riparian management recommendations (Knutson & Naef 1997) is an oft-cited document that discusses buffer science. They recommend 250' buffers on shorelines of the state (information adapted from publication):

Stream Type	Recommended Riparian Habitat Area widths (in feet)
Type 1 and 2 streams; or Shorelines of the State, Shorelines of Statewide Significance	250
Type 3 streams; or other perennial or fish bearing streams 5-20 feet wide	200
Type 3 streams; or other perennial or fish bearing streams <5 feet wide	150
Type 4 and 5 streams; or intermittent streams and washes with low mass wasting* potential	150
Type 4 and 5 streams; or intermittent streams and washes with high mass wasting* potential	225

**Mass wasting is a general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity, either slowly or quickly.*

Their general summary of scientific literature is as follows (information adapted from publication):

Riparian habitat function	Range of reported widths (feet)	Average of reported widths (feet)
Temperature control	35-151	90
Large woody debris	100-200	147
Sediment filtration	26-300	138
Pollution filtration	13-600	78
Erosion control	100-125	112
Microclimate maintenance	200-525	412
Wildlife habitat	25-984	287

Federal Emergency Management Agency

In 2008, The National Marine Fisheries Service (NMFS) issued a biological opinion regarding the National Flood Insurance Program (NFIP) operated by the Federal Emergency Management Agency (FEMA). The opinion noted that continued implementation of the NFIP in the Puget Sound adversely affects the habitat of listed salmon species and Orca whales.

In the opinion, FEMA was ordered to modify its floodplain management criteria to allow no development in the riparian buffer zone. In the model ordinance developed for Washington State, FEMA referred to recommended riparian buffers in Knutson and Naef (1997), which include a 250 foot buffer for shorelines of the state.

Kitsap County SMP Buffers Technical Memorandum

For their SMP update, Kitsap County evaluated science for the various buffer functions, and summarized findings in the following tables in a January 2012 technical memorandum.

Buffer Function	References	Recommendation
Microclimate	Knutson and Naef, 1997	412'
	May, 2003	100-328'
Shade	Brennan, et al., 2009	56-125'
	May, 2003	98-262'
	FEMAT	121'
Sediment Filtration	Brennan, et al.,2009	92-299'
	May, 2003	100'
	FEMAT	82-197'
	Knutson and Naef, 1997	78'
	Neibling and Alberts, 1979*	7.9'
	Desbonnet, et al., 1994	82' (80%)
Pollutant Filtration	Brennan, et al. , 2009	16-1,968'
	May, 2003	66-196'
	Knutson and Naef, 1997	78'
	Desbonnet, et.al., 1994	148' ("adequate")
	Larsen, 1994*	2'
	Doyle, 1977*	13'
	Lim, 1998*	20'
	Strivastava, 1996*	10-20'
Large Woody Debris	Brennan, et al., 2009	33-328'
	May, 2003	164'
	FEMAT	131'
	Knutson and Naef, 1997	147'
Wildlife Habitat	Brennan, et al., 2009	240-902'

	May, 2003	100-328'
	Knutson and Naef, 1997	287'
	Desbonnet, et.al., 1994	49' (min. for wildlife + 60% pollutant removal)
All Functions	Desbonnet, et.al., 1994	16.4'(min. for densely developed areas); 49' (min. for moderately developed areas); 164' (undeveloped areas) 82' (min. general wildlife and 70% pollut. removal)
	Castelle, 2000	16-82'

** This reference may not be as applicable to Kitsap County shorelines as others listed here due to the location and type of environment analyzed.*

Buffer Function Average and Median Widths from the Literature

Buffer Function	Average Buffer	Average minus outliers	Median Buffers	Range (Lowest/Highest)
Microclimate	280'	100'	100'	100'-412'
Shade	132'	115'	121'	56'-262'
Sediment Filtration	117' [133']	105' [111']	87' [100']	7.9'-299' [78'-299']
Pollutant Filtration	231' [412']	63' [122']	20' [113']	2'-1,968' [16'-1,968']
Large Woody Debris	161'	147'	147'	33'-328'
Wildlife Habitat	318'	239'	264'	49'-902'
TOTAL	**197' [211']**	**157' [172']**	**100'** (Lower=49' [80']; Upper=196' [257'])	

Numbers in brackets indicate the results when (*) documents were not considered based on their applicability to Kitsap County shorelines.

Appendix B: SMP Buffers Established by Other Jurisdictions

Proposed buffers in the draft SMP were compared to standard buffers in master programs approved by Ecology for other jurisdictions. Master programs are organized differently across jurisdictions, and not all jurisdictions use the same shoreline environment designations or specify buffer widths by type of shoreline. Results of the jurisdictional comparison are in the tables below.

Jurisdictional Buffer Comparison, by Shoreline Environment Designation:

	Thurston County Proposed	Kitsap	Mason	Lewis	Pierce*	Clallam
Shoreline Residential	50	85	100	150	75	
Urban Conservancy	125	100	100	150	100	
Rural Conservancy	150	130	100-150	150	100	
Natural	200	200	100-150	200	150	175

*Most restrictive buffer between CAO and SMP applies (additive buffers if certain characteristics are present).

Jurisdictional Buffer Comparison, by Shoreline Type (if specified):

Jurisdiction	Streams Buffer Width Range (in feet)	Marine Buffer Width Range (in feet)	Lake Buffer Width Range (in feet)
Thuston County proposed	250	50-200	50-200
Mason County	150	100-150	100
Snohomish County	150 (anadromous streams)	150	150
Island County	150*	0-125*	30-130*
Whatcom County	150	150	100
Jefferson County	150	150	100
Clallam County	50-100 "other streams"	50-100	
Kitsap County	200	85-200	85-200
City of Lacey	**	200	**
City of Tumwater	250	N/A	50-100

*Additional 10-45' setback depending on SED.

** Determined with Habitat Management Plan and Chapter 17.41.021-Table 1 of Lacey SMP.

Jurisdictional Buffer Comparison, by Absolute Standard Width Range (includes all SEDs and shoreline types , may not include 100 yr floodplain or channel migration zone areas):

Thurston County Planning Commission
May 15, 2019 SMP Buffers

Jurisdiction	Gross Buffer Width Range (in feet)
Mason County	100-150
Pierce County	35-150
King County	115-165
Snohomish County	150
Island County	0-195
Whatcom County	100-150
Jefferson County	100-150
Clallam County	35-175
San Juan County	50-100
Kitsap County	50-200
City of Lacey	50-200
City of Olympia	30-200
City of Tumwater	50-250

WAC 173.26.186 (8)(9)

Mandate preparation of cumulative impacts assessment that "identifies, inventories and ensures meaningful understanding of the current and potential ecological functions provided by affected shorelines"

* A compliant CIA must be proposed before a new SMP can be adopted *

Perform in 2011

Ecology was the thought this process

If there was an issue with the CIA it had an obligation to tell us early & not wait 8 1/2 years.

WAYS TO RESTORE KOKENE

(1) USE STREAMKEEPERS TO TEST
work with ELWHA TRIBE TO
Begin Collecting FISH
SPECIES DATA
SO BY Next Periodic
Review we HAVE
Actual Data TO
work with in
OUR ASSESSMENT
[Clallam Permit Allows SK to go ON Property ONCE A YEAR TO TEST]

(2)

Various methods for determining buffers or setbacks are site-specific and land-use specific, making them inappropriate to apply on a more regional or watershed scale. Setbacks on a broader scale can be delineated using aerial videography as described above. Riparian assessments such as those provided by Cows and Fish would be more localized. As well, the field manual created by Agriculture and Agri-Food Canada on buffer designs (Stewart, et al., 2010) is more site-specific, but is designed for landowners to do their own assessment.

Another more site specific method is the Riparian Setback Matrix Model (RSMM) (White & Gray, 2007). This method has been incorporated into the Lakeland County (Lac La Biche) Land Use Bylaw, and other counties are developing similar approaches. The RSMM delineates the width of an ER based on the slope of the land, height of banks, groundwater influence, soil type, and vegetative cover (Appendix D). If no vegetation exists, the ER is determined from the edge of water (White & Gray, 2007). AESRD (2012) guidelines pertaining to setbacks and buffers incorporate similar factors.

Buffer width will vary according to what extent the strip is meant to be established for wildlife habitat. Different wildlife groups have different habitat requirements that dictate the size of buffer strip. The standard 20m or 30m buffer strip contributes minimally to wildlife habitat, except for small rodents and shrews. Most amphibians ideally require at least 50 m (Hannon, et al., 2002), though for the Northern Leopard Frog (*Lithobates pipiens*) it extends to 100m (Government of Alberta, 2011). Songbirds, avian raptors, ungulates, and mammalian carnivores (species ranging in size from cougar to weasel) all require much larger buffers, ranging between 100-400m (AESRD, 2012; Environment Canada, 2013; Hannon, et al., 2002). Species at Risk and other sensitive species may have specific recommendations.

10.3 Restoration Approaches

A number of techniques exist to help restore riparian areas. Most restoration projects include many different techniques, often combining "hard" structural approaches and "soft" bioengineering approaches (Brown, 2013). Depending on the issue, terrain, soils, weather/climate, size, and land use, different techniques are more appropriate. All

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May 16, 2018

TO: Riparian Stakeholders and All Interested Members of the Public

FROM: Terra Rentz, Ecosystem Services Division Manager

SUBJECT: *Riparian Ecosystems, Volume 2: Management Recommendations*

We are pleased to provide our draft Priority Habitats and Species (PHS) guidance on riparian ecosystems in Washington and ask for your review and **comments by July 17, 2018**. We are taking comments at https://wdfw.wa.gov/conservation/phs/mgmt_recommendations/comments.html.

Specifically, we are seeking comments on the attached *Riparian Ecosystems, Volume 2: Management Recommendations*. This volume is an implementation manual for how to protect functions and values of riparian ecosystems and surrounding watersheds. Its recommendations represent our best professional judgement as to how local governments and other stakeholders can use best available science in policies, plans and regulations designed to conserve riparian ecosystems for the protection of fish and wildlife species, and in particular salmon species.

The science this document is based upon is in *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications,* available at https://wdfw.wa.gov/publications/01987/. We are not seeking your review of volume 1. Volume 1 has been reviewed, edited and re-reviewed by the Washington State Academy of Science (WSAS). This review process produced a document that met WSAS standards for a synthesis of current science across the range of topics we covered. We provide Volume 1 here for reviewers of Volume 2 who want to better understand the scientific underpinnings of our recommendations.

Together, Volume 1 and Volume 2 update and expand information provided in our 1997 PHS Riparian Management Recommendations. We look forward to receiving your comments by July 17, 2018 at the website above. Thank you for your assistance making this a useful document.

Attachment: *Riparian Ecosystems, Volume 2: Management Recommendations*

RIPARIAN ECOSYSTEMS, VOLUME 2: MANAGEMENT RECOMMENDATIONS

A PRIORITY HABITATS AND SPECIES DOCUMENT OF THE WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

Public Review Draft

May 2018

This document should be cited as follows:

Riparian Ecosystems, Volume 2: Management Recommendations. 2018. Amy Windrope, Timothy Quinn, Keith Folkerts, and Terra Rentz. A Priority Habitat and Species Document of the Washington Department of Fish and Wildlife, Olympia.

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We appreciatively acknowledge the participation of our Technical Advisory Group:

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The scientific rigor of this document was improved through the peer review provided by the Washington State Academy of Sciences, with coordination provided by Dr. Robert Bates.

Draft versions of this document were reviewed by numerous staff in state agencies, including the Department of Ecology, Department of Natural Resources, Department of Commerce, Recreation and Conservation Office, State Conservation Commission, and Puget Sound Partnership. These reviews improved the document and we are appreciative of the helpful input we received from the state family.

We also appreciate the review by federal and tribal entities including EPA, NOAA Fisheries, Northwest Indian Fisheries Commission, Columbia River Inter-Tribal Fish Commission, Upper Columbia United Tribes, and individual tribes.

Finally, we acknowledge and express our appreciation for all local governments and individuals who provided feedback to us during our public comment period.

While we acknowledge and have deep appreciation for all the review and comments provided, WDFW bears sole responsibility for this document and any errors contained in it.

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PREFACE

This Priority Habitats and Species (PHS) document of the Washington Department of Fish and Wildlife (WDFW) is provided in support of the agency's mission to protect fish and wildlife—public resources the agency is charged with managing and perpetuating. WDFW works cooperatively with land use decision makers and landowners to facilitate land use solutions that accommodate local needs *and* needs of fish and wildlife. WDFW's role in land use decision making is that of technical advisor: we provide information about the habitat needs of fish and wildlife and the likely implications of various land use decisions for fish and wildlife.

The five chapters of Volume 2 are a partial update of an earlier document entitled *Management Recommendations for Washington's Priority Habitats: Riparian* (Knutson and Naef, 1997). This document, called *Protecting Riparian Ecosystems, Volume 2: Management Recommendations* is a partial update because it addresses only aquatic species. Riparian needs of terrestrial species will be updated later. Until the terrestrial species update is completed, readers can consult the 1997 document, available at http://wdfw.wa.gov/publications/00029/ for information about riparian ecosystems and terrestrial species.

Priority Habitats are places that warrant special consideration for protection when land use decisions are made. To qualify as a "Priority Habitat" in WDFW's PHS program a habitat must provide unique or significant value to many species. It must meet at least one of the following criteria (WDFW, 2008):

- Comparatively high fish and wildlife density
- Comparatively high fish and wildlife species diversity
- Important fish and wildlife breeding habitat
- Important fish and wildlife seasonal ranges
- Important fish and wildlife movement corridors
- Limited availability
- High vulnerability to habitat alteration
- Unique or dependent species

Riparian areas meet all of these criteria. Because of the many important ecosystem services (hydrologic, geomorphic, and biological) riparian areas provide, they were among the first PHS Priority Habitats identified and described by WDFW.

The PHS program provides land use decision support to clients such as local governments, developers, agencies, tribes, and landowners. PHS consists of PHS List, PHS Maps (available online at http://wdfw.wa.gov/mapping/phs/), PHS Management Recommendations, Technical Assistance (available from our Regional Habitat Biologists), Customer Service, and the newest component PHS Adaptive Management Support.

This PHS riparian document compliments a family of PHS document including *Landscape Planning For Washington's Wildlife: Managing for Biodiversity in Developing Areas* and *Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery* available at http://wdfw.wa.gov/conservation/phs/mgmt_recommendations/)

List of Acronyms

ACS	Aquatic Conservation Strategy
BAS	Best Available Science
BLM	(US) Bureau of Land Management
BFW	Bankfull width
BMP	Best Management Practice
CAO	Critical Areas Ordinance
CMER	Cooperative Monitoring, Evaluation, and Research
CMZ	Channel Migration Zone
DBH	Diameter at breast height
DNR	(Washington) Department of Natural Resources
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FEMAT	Forest Ecosystem Management Assessment Team
GIS	Geographic Information System
GMA	Growth Management Act
GMHB	Growth Management Hearings Board
HCP	Habitat Conservation Plan
NEPA	National Environmental Policy Act
NFMA	National Forestry Management Act
NOAA	National Oceanographic and Atmospheric Administration
NNL	No Net Loss
NRC	National Research Council
NRCS	Natural Resources Conservation Service
PHS	Priority Habitats and Species
PSMEP	Puget Sound Ecosystem Monitoring Program
RCW	Revised Code of Washington
RMZ	Riparian Management Zone
SMA	Shoreline Management Act
SMP	Shoreline Master Program
SPTH	Site-Potential Tree Height
$SPTH_{200}$	Site-Potential Tree Height (200-year-old tallest dominant trees)

150	TAG	Technical Advisory Group
151	TFW	Timber/Fish/Wildlife
152	USFWS	United States Fish and Wildlife Service
153	VSP	Voluntary Stewardship Program
154	WAC	Washington Administrative Code
155	WDFW	Washington Department of Fish and Wildlife
156	WSAS	Washington State Academy of Sciences

GLOSSARY

Adaptive management: The systematic acquisition and application of reliable information to improve management over time. It treats management decisions as experiments in order to address critical *uncertainties* and learn more quickly from experience. It involves setting targets, monitoring benchmarks, and adjusting management decisions based on results. The hallmarks of a sound adaptive management program are: 1) adequate funding for research, 2) a willingness to change course when pre-established triggers are reached, and 3) a commitment to gather and evaluate conditions at appropriate spatial extents for necessary time scales. See Ecosystem-based management.

Anthropogenic: Related to human activity.

Aquatic species: Wildlife species that live in freshwater including fish, shellfish (clams, snails, mussels), amphibians (e.g., frogs, salamanders), turtles, crustaceans (e.g., crayfish), insects (e.g., larval mayflies, stoneflies, caddisflies, dragonflies) and various other invertebrates.

Bias (scientific): The phenomenon of gathering information that is not representative of the system as a whole. It can result from study design, conscious decisions (e.g., selecting sites for an experiment that hold some variables constant to study the effects of the variable of interest), or unconscious actions (e.g., assuming a theory is true or false without evidence).

Channel confinement: An indicator of how much a channel can move within its valley determine by the ratio of valley width (distance between toe of hillslopes on both sides of a stream) to active channel width. Typically, a segment is considered confined if the ratio is less than 2 and unconfined if greater than 4.

Channel migration zone: The area within which a river channel is likely to move over a period of time (e.g., 100 years).

Channel reach (stream): A specific portion of a channel that has similar physical features, such as gradient and confinement.

Channel slope or gradient: The average steepness of a stream segment measured as its change in elevation divided by its length. Typically, a segment's gradient is considered low if less than 2%, moderate between 2% and 4%, and high if greater than 4%.

Complexity: The complicated state seen in dynamic environments that contain multiple components and *processes* that interact with one another in a complex web of interactions whose outcomes are often unpredictable. Complexity can be described with conceptual models; outcomes of well-understood complex phenomena can be partially predicted using computer models.

Composition: A term describing the all parts of an ecosystem that include both living (biotic) and nonliving (abiotic) elements. Ecosystem composition is an important consideration in conservation.

Disturbance regime: The frequency, magnitude, and duration of *disturbance* events.

Disturbance: A temporary change in environmental conditions (*composition*, *structure*, and *function*) within an ecosystem.

Dynamic equilibrium: An ecological system's long-term state of relative stability which is brought about through opposing, dynamic forces and continual states of flux. Activities such as urbanization, forestry, windthrow, landslides and forest fire can compromise dynamic equilibrium in riparian–stream systems. Protecting a *watershed's* dynamic behavior (rather than any specific feature) is an overarching goal of ecosystem-based *riparian* management.

Ecological integrity: The *structure*, *composition*, and *function* of an ecosystem operating within the bounds of natural or historical *disturbance regimes*. See Historical condition and Range of natural variability.

Ecosystem composition: All living (biotic) and nonliving parts of an ecosystem.

Ecosystem function(ing): 1) The *process* or the cause-effect-relationship underlying two or more interacting components, e.g., terrestrial plant material as food/substrate for aquatic invertebrates, 2) The sum of *processes* that sustain the system, and 3) the capacity of natural processes and components to provide goods and services that satisfy human needs, either directly or indirectly. Ecosystem functions can be conceived as a subset of ecological processes and ecosystem components and structure (see ecosystem process).

Ecosystem process (or ecological process): Complex interactions between biotic (living organisms) and abiotic (chemical and physical) components of ecosystems through the universal driving forces of matter and energy (see ecosystem functioning).

Ecosystem structure: The arrangement of and relations among the parts or elements (components) of an ecosystem.

Ecosystem: A spatially explicit unit of the Earth that includes all of the organisms, along with all components of the abiotic environment. Ecosystems have *composition*, *structure*, and *functions*.

Ecosystem-based management: Management driven by explicit goals, executed by policies, protocols, and practices, and made adaptable by monitoring and research based on our best understanding of the ecological interactions and *processes* necessary to sustain ecosystem *composition*, *structure*, and *function*. EMB acknowledges that humans are an important ecosystem component and focuses on managing human activities within ecosystems. EMB often involves balancing ecological, economic, and social objectives within the context of existing laws and policies.

Erosion: The loosening and transport of soil particles and other sediment by water. Terrestrial erosion includes raindrop splash erosion, overland flow sheet erosion, surface flow rill (shallow) and gully (deeper) erosion. Channel erosion includes streambank erosion and channel *incision*. Rill and gully erosion in *riparian areas* diminishes its ability to trap sediment and pollutants and often can be avoided with intact *riparian* vegetation.

FEMAT curve: A conceptual model that describes the relationship between various *riparian ecosystem functions* and distance from channel. The model consists of generalized curves that show the cumulative effectiveness of litter fall, root strength, shading, and coarse wood debris to stream as a function of distance from channel (measured in fraction of a *Site-Potential Tree Height*).

Flow regime (stream): The distribution of stream flow through space and time. Flow regimes can be described by their magnitude (e.g., mean annual, hourly maximum), timing, frequency or return periodicity, duration, spatial distribution, and rate of change. The pathways that water takes to reach a stream (e.g., surface runoff) and within a stream exert a strong influence on the flow regime.

Function: Discrete *ecosystem processes* used to define the ecosystem. See Ecosystem Function(ing) and Ecosystem process.

Historical condition: The dynamic state of a place prior to the arrival of non-indigenous peoples. It is the conditions under which native species evolved, and therefore, represents conditions that should most reliably maintain resilient self-sustaining native fish and wildlife populations. It is useful as a reference point (or conceptual model) for understanding how managed an area such that it moves in the direction of greater *ecological integrity*. See Ecological integrity and Range of natural variability.

Hot moments (*nutrient cycling*): Periods of elevated denitrification rates. Hot moments can occur during a rainfall event.

Hot spots (*nutrient cycling*): Areas that exhibit high denitrification rates. Hot spots often occur in floodplains and other *riparian areas* with oscillating groundwater levels and/or higher *hyporheic* flows; locations of hot spots can vary through time.

Hydrology: The longitudinal, lateral, and horizontal movement and storage of water.

Hyporheic zone: The area beneath and alongside a stream channel where surface water *infiltrates* and exchanges with subsurface flow.

Impervious surface: Ground surfaces that resist or prevent water *infiltration*, e.g., roofs of houses and roadways.

Incision: The *process* of downcutting into a stream channel leading to a decrease in the channel bed elevation. Incision is often caused by a decrease in sediment supply or increase flows capable of transporting (scouring) sediment.

Infiltration: The rate or *process* by which water on the ground surface enters the soil.

Keystone species: A species whose ecological effect are disproportionate to their abundance and biomass, e.g., salmon and beaver.

Keystone ecosystem: An ecosystem whose effect on the broader ecosystem is disproportionate to their size, e.g., *riparian ecosystem*.

Keystone processes: *Ecological processes* that have widespread impacts throughout an ecosystem, e.g. *riparian* forest succession, *riparian* nutrient uptake, flood flows.

Macroinvertebrates (benthic): Animals, including insects, mollusks, crustaceans, and worms, that live within streams, do not have a backbone, and are large enough to be seen without a microscope. They are important components of the ecosystem and are commonly used as an indicator of habitat and *water quality*.

Mass wasting: The down slope movement of material due to gravity (rather than water, wind, or ice, for example).

Monitoring and adaptive management: See Adaptive management

Morphology (stream channel, aka fluvial geomorphology): A stream channel's shape and how it changes over time as a result of the interplay of *hydrology*, vegetation, sediment movement, and its position within the landscape. Channel morphology is influenced by the abundance and variation in sediment sources, the ability to transport sediment downstream, and interactions of sediment with *riparian* and instream vegetation.

Novel (or engineered) **solutions**: Solutions that are not found in nature. Examples: *vegetative filter strips* designed to capture excess nutrients; dams designed to provide flood control; engineered logjams designed to provide streambank channel roughness and complexity.

Novel conditions or ecosystems: Conditions (ecosystems) that are without historical precedent. Examples: wetlands created in arid regions by leakage from irrigation canals, presence of manmade chemicals in the environment, and climate change due to anthropogenic greenhouse gas emissions.

Nutrient cycling: The movement, uptake, transformation, storage, and release of nutrients, especially carbon, nitrogen, and phosphorus. *Riparian* characteristics that affect nutrient cycling include flow path, vegetation *composition* and quality, topography, groundwater level, and soil type. Excess nitrogen and phosphorus—used extensively in fertilizers—can create significant problems such as eutrophication, harmful algal blooms, fish kills, and contamination of drinking water supplies.

Nutrient spiraling length: The distance nutrients move downstream during a complete cycle; a measure of nutrient utilization to nutrient supply. Long spiraling lengths indicate that the system is saturated with nutrients and organisms can no longer use the incoming nutrient loads. Washington forests typically have relatively tight N and P cycles, with low rates of inputs and outputs, but high rates of internal cycling.

Population viability (local): The likelihood that a population of a species will persist for some length of time.

Precautionary principle: Erring on the side of not harming resources when faced with *uncertainty*, especially for harm that is essentially irreversible. Utilizing a precautionary approach involves: 1) taking preventive action (avoiding impacts); 2) shifting the burden of proof to the project proponents; 3) exploring a wide range of potential alternatives; and/or 4) including multiple stakeholders and disciplines in decision making.

Process: See Ecosystem process

Range of natural variability (or Historical range of natural variability): natural variability refers to two intertwined concepts: 1) that past conditions and processes provide context and guidance for managing ecological systems today, and 2) that disturbance-driven spatial and temporal variability is a vital attribute of nearly all ecological systems.

Recruitment (wood): The *process* of wood moving from a *riparian area* to the stream channel. Sources of recruitment include bank erosion, windthrow, landslides, debris flows, snow avalanches, and tree mortality due to fire, ice storms, beavers, insects, or disease. Dominant factors include

channel width, slope steepness, slope stability, forest *composition* and *structure*, and local wind patterns.

Riparian area: The area in alongside a stream or river.

Riparian corridor: See Riparian area.

Riparian ecosystem: The area alongside a river or stream that significantly influences exchanges of energy and matter with the aquatic ecosystem. It includes the active channel, the active floodplain and terraces, and portions of the adjacent uplands that contribute organic matter and energy to the active channel or floodplain. It is a zone of influence; a transitional ecotone between terrestrial and aquatic ecosystems that is distinguished by gradients in biophysical conditions, *ecological processes*, and biota.

Riparian habitat: see Riparian area

Riparian Management Zone: A delineable area defined in a land use regulation. RMZs are often used to protect *riparian ecosystems* and can be subdivided (e.g., core/inner/ outer RMZ) to provide varying levels of protection.

Riparian zone: See Riparian area

Riparian: An adjective meaning "alongside a stream or river."

Risk: A situation involving exposure to danger, harm, or loss. Risk reflects the magnitude of the adverse impact and its probability of occurring. Risk is appropriately managed by applying *the precautionary principle* (especially for irreversible losses) and through *adaptive management.*

Riverscape: The landscape in which *riparian ecosystems* interact. It includes the river network and contributing *watershed* along with other components that are not organized by *watershed* boundaries such as wildfire, mobile organisms, and wind-borne seeds. Distinct from uplands, it is primarily organized in a downstream direction, but also contains lateral elements (e.g., floodplain interaction), vertical elements (e.g., interaction of surface and *hyporheic* flow), and upstream elements (e.g., migrating salmon).

Salmonid: A family of fish of which salmon and trout are members. Salmonids in Washington include Chinook salmon, chum salmon, coho salmon, pink salmon, sockeye salmon/kokanee, steelhead/rainbow trout, cutthroat trout, and bull trout/Dolly Varden.

Shifting baseline syndrome: A gradual lowering of standards or expectations for what constitutes a "degraded" ecosystem. The shifting baseline syndrome may be the result of each new generation perceiving what they experience as "normal" or "natural."

Site class: The classification of a site based on the productivity of its dominant tree. Site classes vary based on local differences in soil nutrients and moisture, light and temperature regimes, and topography. Site classes are typically described as most productive (i) through least productive (v).

Site-Potential Tree Height: The average maximum height of the tallest dominant trees (200 years or more) for a given site class.

Stochastic event: An event which is randomly determined (e.g., landslide, flood). Stochastic events may have patterns that can be analyzed statistically but cannot be precisely predicted.

Stream order: A hierarchical stream classification system in which headwater tributaries are classified as first order; when two first order tributaries meet they form a second order tributary, when two second order tributaries meet they form a third order tributary, and so on. Low order (1st-3rd) streams make up 88% of the state's stream miles; below the Tri-Cities the Columbia River is a 10th order river.

Structure: See Ecosystem structure.

Thermal loading potential: The potential amount of solar radiation (sunlight) available at a given location. Primary factors include shading (topographic and vegetative), latitude, elevation, and date.

Thermal regime (stream): The distribution of stream temperatures through space and time. Thermal regimes can be described by their magnitude (e.g., monthly mean, hourly maximum), timing, frequency, duration, spatial distribution, and rate of change.

Thermal sensitivity (stream reach): The susceptibility of a stream reach to changes in temperature. Thermal sensitivity typically increases with less stream flow, less groundwater input, and a wider channel to depth ratio.

Uncertainty (scientific): The absence of information about the state of something or a relevant variable. Uncertainty can be the result of natural variation (i.e., because outcomes vary in difficult-to-predict ways through time and space), model uncertainty (i.e., we do not understand how things interact with each other), systematic error (e.g., poorly designed experiments or calibrated instruments), or measurement error. Appropriate management responses to scientific uncertainty include gathering site-scale information, monitoring and *adaptive management*, applying the *precautionary principle*, and applying robust solutions (e.g., solutions that are likely to perform well over a range of conditions). See Risk.

Vegetative filter strips: *Novel solutions* designed to capture water transported nutrients, contaminants compounds and sediment.

Water quality (riparian): Physical, chemical, and biological characteristics of water that describe its suitability to meet human needs or habitat requirements for fish and wildlife. *Riparian areas* affect water quality by intercepting, accumulating and cycling fine sediments, excessive nutrients, and contaminants in overland and shallow subsurface flows.

Watershed processes: The fluxes of energy (e.g., sunlight, wildfire) and materials (particularly water and sediment) that interact with biota (e.g., vegetative cover, salmon, beavers, soil microbes) to form a watershed's physical features and characteristics, which give rise to its instream physical and ecological conditions. These processes occur within a context that reflects the watershed's climate, geology, topography, and existing human land use. Also see Ecosystem process.

Watershed: A landmass that drains to a common waterbody.

CHAPTER 1. INTRODUCTION

1.1 DOCUMENT DESCRIPTION

This Priority Habitats and Species (PHS) document is the second of a two-volume set. The first volume, *Protecting Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications* is a synthesis of the current state of science that provides the basis for Washington Department of Fish and Wildlife's (WDFW) management recommendations described in Volume 2. Volume 2 is an implementation manual for how to protect functions and values of riparian ecosystems and surrounding watersheds. Although the primary audience is local governments, Volume 2 should be useful to anyone with an interest in protection and management of rivers and streams in Washington State. Together, Volume 1 and Volume 2 update and expand information provided in WDFW's 1997 PHS Riparian Management Recommendations (Knutson and Naef, 1997; available at http://wdfw.wa.gov/publications/00029/).

This document focuses on providing guidance on how to protect the functions and values of riparian areas for the benefit of all species that depend on this ecosystem, including humans and salmon. Recovering salmon in Washington State requires improvements through an all-H approach (Habitat, Hatcheries, Harvest, and Hydro-systems). For salmon, we must protect and restore riparian habitat functions while maintaining ecological connectivity throughout the watershed. Riparian protection occurs through voluntary actions by farmers, forest owners, and other landowners and through regulations. Protection is the focus of the guidance provided in this document—how to protect what remains of historical riparian habitat and functions. While recognizing its critical role, comprehensive restoration guidance was beyond the scope of our work here: Chapter 4 provides limited guidance on restoration.

In addition to being important to fish and other aquatic species, riparian ecosystems are essential to terrestrial species. More than 85% of all species on the landscape use riparian ecosystems during some phase of their life. Of these, about 170 species including 134 mollusks, 11 amphibians, 3 reptiles, 10 birds, and 9 mammals are likely riparian obligates—requiring riparian habitat to complete their life cycle[1].

Functions are defined as the process, or the cause-effect-relationships underlying two or more interacting parts of the riparian ecosystem (see Volume 1). The functions that riparian systems provide—such as stream temperature moderation, water purification, floodwater storage, stream channel stabilization, provisioning of woody debris into aquatic systems, and facilitating fish and wildlife movement—are widely acknowledged in the scientific literature. Maintaining functions requires that we maintain both the important parts of the system (components) and the organization of those parts relative to each other (structures). Riparian values refer to the benefits that riparian systems provide to society—also known as ecosystem goods and services. These benefits include the ability to reduce flood damage, improve water quality, support harvestable

[1] Quinn, T. and others. 1998. Habitat Associations of the riparian-dependent amphibian, reptile, mammals, and mollusks in commercial forest lands of Washington State: a report to the TFW policy committee.

surpluses of salmon, and provide recreational opportunities; and have direct economic consequences to local communities through recreational and commercial fishing opportunities, and flood and water quality protection.

WDFW's legislative mandate (RCW 77.04) and our synthesis of scientific knowledge related to best achieving those mandates is the basis for guidance presented in Volume 2. WDFW's mandate is a statement of values approved by the state legislature and reads in part "...wildlife, fish, and shellfish are the property of the state and that WDFW...shall conserve the wildlife and food fish, game fish, and shellfish resources in a manner that does not impair the resource." The recommendations in Volume 2 represent WDFW's best professional judgement as to how local governments can use best available science in policies, plans and regulations designed to conserve riparian ecosystems for the protection of fish and wildlife species, and in particular salmon species. Community values and science play complimentary but distinct roles in the creation of public policy. In Appendix 4, we describe the role of science and values as reflected in policy choices during the creation of three large-scale aquatic species conservation plans in Washington State. We provide this appendix to demonstrate how riparian science informed policy choices and how the same science resulted in different policy outcomes.

The Growth Management Act (GMA) was adopted in 1990, and WDFW recognizes that cities and counties have existing approaches for resource protection that have been approved by elected officials and, in some cases, through a Growth Management Hearings Board process. This guidance provides refinements and recommends changes to improve protection as informed by new scientific knowledge gained since publication of the 1997 PHS Riparian Management Recommendations. Some key changes from previous recommendations include:

1. Consideration of the Channel Migration Zone as important to protect for maintaining riparian functions on some streams.
2. Riparian Management Zones (RMZ), rather than buffers, as the area within which to achieve No Net Loss. The RMZ provides a framework for assessing, planning and managing for the full range of riparian functions. RMZ protections can be adapted to meet local needs, reflect current conditions and can address multiple goals of GMA and SMA.
3. Watershed-scale considerations that contribute to effectiveness of riparian ecosystems protections and provide for lateral, longitudinal and vertical connectivity vital to movement of water, wood, sediments and species.
4. A framework for incorporating monitoring and adaptive management to improve local permit implementation and compliance, and to increase effectiveness of actions to protect aquatic species.

1.2 Purpose and Goals of Volume 2

This document provides guidance on how to implement the best available science provided in Volume 1 and to assist local governments in complying with GMA, Voluntary Stewardship Program (VSP) and SMA requirements. The guidance is statewide in its applicability and intended for all land uses, excluding public forests and private industrial forestlands covered under existing land use agreements.

Federal, state and tribal government riparian management programs of have specific requirements and policies. We do not discuss how these programs comport with the guidance provided as it is outside the purview of WDFW to set policy for federal agencies or tribal governments. For instance, we do not discuss protection of floodplains under Federal Emergency Management Agency (FEMA) nor do we discuss specific Endangered Species Act requirements relative to listed salmon and other species. We also do not address Forest Practice Act (FPA) activities on lands that fall within the jurisdiction of the FPA or the Department of Ecology's Clean Water regulations.

We believe that this document will be useful to watershed managers, salmon recovery managers, and restoration managers interested in restoring riparian and watershed conditions in support of improving habitat for aquatic species over time. Volume 2 provides information to:

- Meet local government's regulatory requirements under GMA
- Assist local groups in designing and implementing the VSP for agricultural lands
- Protect existing, and restore degraded riparian functions in support of recovering salmon.
- Incorporate implementation, compliance and effectiveness monitoring to understand how well regulations protect riparian functions and values.

Through the PHS Library, WDFW provides several related documents of use to local governments: *Land Use Planning for Salmon, Steelhead, and Trout*[2], *Protection of Marine Riparian Functions in Puget Sound, Washington*[3], species- and habitat-specific management recommendations, and maps of Priority Habitat and Species.

Restoration of degraded riparian ecosystems is necessary for the recovery of riparian functions in many locations. Although Volume 2 is not a restoration guide, it is applicable to restoration practitioners in that it provides management actions protective of riparian functions and values. While we do not address restoration project design or standards, we provide links to resources that do. The scale of this document is statewide and does not address issues specific to a particular community or unusual environmental conditions; we recommend such matters be addressed locally with input from tribal biologists, stakeholders, and WDFW Habitat Biologists.

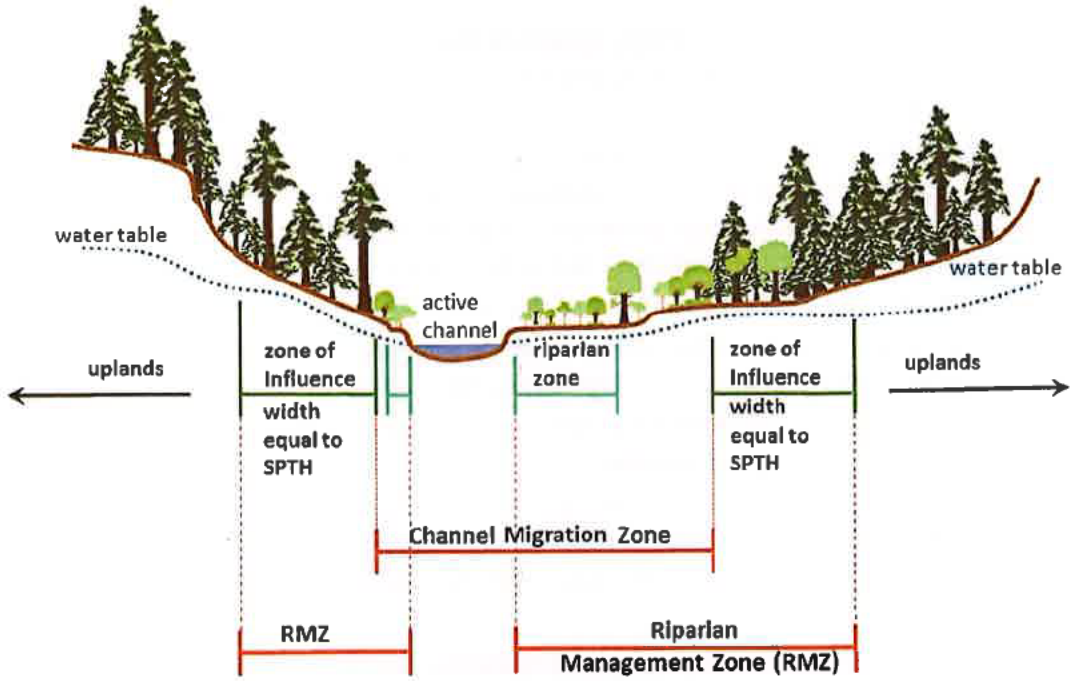
The recommendations in Volume 2 are advisory only. Local governments are not required to use this guidance. The information presented in this document is not, in and of itself, the "best available science." Rather, it represents recommendations as to how a local government could incorporate the best available science in policies, plans and regulations.

1.3 Definition and Overarching Riparian Management Recommendations

Volume 1 provides the definition and science for the basis of WDFW's riparian management recommendations. In an attempt to make field delineation of riparian ecosystems easier, we operationalized the definition (Figure 1-1). The most important change made was to recognize the contribution of the channel migration zone (CMZ) to riparian ecosystem function. Generally, the

[2] Knight, K. 2009. Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery. Washington Department of Fish and Wildlife, Olympia, Washington.
[3] Washington Sea Grant. 2009. Protection of Marine Riparian Functions in Puget Sound, Washington. Washington Department of Fish and Wildlife, Olympia, Washington.

491 CMZ is defined as the area that a stream channel has historically occupied and is reasonably likely
492 to move over some period.



493 **Figure 1-1. Generalize diagram of the riparian ecosystem as defined in Chapter 1 Volume 1. The zone of**
494 **influence—portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with**
495 **aquatic ecosystems—starts at the edge of the stream channel or CMZ. The width of the zone of influence is equal**
496 **to the Site-Potential Tree Height**

497 Our inclusive definition of riparian ecosystems is integral to development of management
498 recommendations. Riparian ecosystems include areas through which surface and subsurface
499 hydrology connect waterbodies with uplands and portions of terrestrial ecosystems that
500 significantly influence exchanges of energy and matter with aquatic ecosystems. Key conclusions
501 from Chapter 9, Volume 1, supported by literature cited, are as follows:

502 1. Protection and restoration of riparian ecosystems continues to be critically important
503 because: a) they are disproportionately important, relative to area, for aquatic species, e.g.,
504 salmon, and terrestrial wildlife; b) they provide ecosystem services such as water
505 purification and fisheries-related economic activity; and c) they respond to and interact
506 with watershed-scale processes to create and maintain aquatic habitats.
507 2. Stream riparian ecosystems include CMZ, riverine wetlands, and terraces, and the adjacent
508 uplands that contribute matter and energy to the active channel or CMZ.
509 3. One Site-Potential Tree Height (SPTH) measured from each edge of the active channel or
510 each edge of the channel migration zone is the estimated width of the riparian ecosystem.
511 Protecting functions within at least one SPTH is a scientifically supported approach if the
512 goal is to protect and maintain high function of the riparian ecosystem.

4. A near consensus of scientific opinion holds that the most effective and reliable means of maintaining viable self-sustaining fish, especially salmon, and wildlife populations is to maintain/restore ecosystems to conditions that resemble or emulate their historical range of natural variability.
5. Watershed connectivity is primarily related to maintaining flows of water, wood and sediment (and species) primarily in downstream direction, but also in the cross-stream direction between the stream channel and the riparian ecosystem. Protection of the active channel, CMZ and the zones of influence helps maintain connectivity in the lateral and horizontal direction at least in areas without levees or extensive floodplain development. In addition to riparian ecosystem protection, the protection and restoration of the watershed-scale processes, especially hydrology and water quality, are important for aquatic system function, and help maximize the value of riparian protections.
6. Riparian areas and surrounding watersheds are complex and dynamic systems comprised of many interacting components. These interactions across the watershed and through time create the mosaic of conditions necessary for self-sustaining populations of fish, especially salmon, and other aquatic organisms.
7. Impending changes to aquatic systems because of climate change increases risk to species already threatened by human activities. The warming effects of climate change on rivers and streams threaten to drastically reduce fish distribution and viability throughout the Pacific Northwest.
8. The use of the precautionary principle and adaptive management are particularly appropriate when dealing with complex and dynamic systems, and when addressing uncertainty regarding the effect of management activities on functioning ecosystems.

1.4 Ecosystem Based Management and WDFW Conservation Principles

Historical and ongoing changes to ecosystems present numerous challenges to managing riparian areas effectively, requiring a more holistic and integrated approach. Trends in land use and human population limit our ability to predict the future state of ecosystems over the long term. Climate change will add additional challenges, including altered flows and elevated water temperatures in rivers and streams. Ecosystem Based Management (EBM) is an integrated, science-based approach to natural resource management that aims to sustain the ability of ecosystems to provide goods and services upon which humans and other species depend. Acknowledging the human component of ecosystem management is an integral part of EMB. It explicitly recognizes the magnitude of humans as change agents and the composite role of social, economic, and ecological factors in managing complex and dynamic systems. Due to the sheer complexity and magnitude faced by riparian managers, EMB is the best approach to address changes from human land use, population growth and climate change.

This document reflects WDFW's perspective consistent with WDFW's mandate: to preserve, protect, perpetuate, and manage Washington's fish and wildlife (RCW 77.04.012). We believe that durable conservation is best achieved through employing the following ecosystem based management principles adopted into WDFW policy in 2013:

1. Practice conservation by managing, protecting and restoring ecosystems for the long-term benefit of people and for fish, wildlife and their habitat.
2. Improve effective conservation when we manage fish, wildlife and their habitats by supporting well-functioning ecosystems.
3. Work across disciplines to solve problems because of the connections among organisms, species and habitats.
4. Integrate ecological, social, economic, and institutional perspectives into decision-making.
5. Embrace new knowledge and apply best science to address changing conditions through adaptive management.
6. Collaborate with conservation and community partners to help us achieve our shared goals.

1.5 Organization of Volume 2

Volume 2 consists of five chapters. Chapter 2 contains a brief discussion of policy and legal contexts for protection of riparian ecosystems, meaning No Net Loss, role of mitigation and application of best available science.

In Chapter 3, we redefining Riparian Management Zones for aquatic species based on SPTH and CMZ, with additional information in Appendices 1 and 2. WDFW recognizes that counties and cities have the responsibility of including science in developing Critical Areas Ordinances (CAOs) and have a long history of implementing riparian protections. The regulatory recommendations described in Chapter 3 will assist counties and cities in reviewing and implementing their CAOs. Chapter 3 also contains an alternative approach for non-forested regions of Washington (i.e., Columbia Plateau Ecoregion). This new guidance can be used to review existing approaches, or incorporated into implementation of existing regulations.

Chapter 4 describes voluntary protection and approaches for counties participating in VSP and for salmon recovery restoration. Although voluntary actions vary by county, the area within which a county should consider protection and restoration for agricultural lands is also one SPTH.

Chapter 5 will assist with developing implementation and effectiveness monitoring programs. Cities and counties should develop monitoring programs to ensure fair and transparent protection programs that deliver consistent protection to critical areas. We also provide information to assist VSP enrolled counties with designing benchmarks and implementing monitoring to ensure protection of riparian functions relative to 2011 levels as described in the VSP legislation.

This volume contains five appendices:

- Appendix 1: Determining Site-Potential Tree Height
- Appendix 2: Site-Potential Tree Height Histograms by County
- Appendix 3: Voluntary Stewardship Program Adaptive Management Matrix
- Appendix 4: Ecosystem Based Management Case Studies
- Appendix 5: Determining Extent of Riparian Ecosystem in the Columbia Plateau Ecoregion

CHAPTER 2. THE GROWTH MANAGEMENT ACT, THE SHORELINE MANAGEMENT ACT, AND PROTECTION OF CRITICAL AREAS

2.1 INTRODUCTION

This chapter provides background on several recent Growth Management Hearings Board's decisions, court cases, and updates to the Washington Administrative Code related to implementation of the Washington State Growth Management Act (GMA) from 2005 through 2016. For a comprehensive summary of all case law and Growth Management Hearing Board (GMHB) decisions, please refer to Appendix 1.B of Department of Commerce's Critical Areas Ordinance Guidelines available at https://www.ezview.wa.gov/site/alias__1949/library_draft_documents/36886/draft_documents.aspx. The following summary addresses court cases and GMHB decisions in five areas of importance to implementation of GMA requirements: 1) defining Best Available Science, 2) ensuring No Net Loss, 3) mitigation, 4) adaptive management and 5) special consideration for anadromous fisheries.

In 1990, the Washington State Legislature passed the Growth Management Act (RCW 36.70A) to guide local jurisdictions in their decisions regarding land use. The GMA establishes a framework for managing land use consistent with 14 goals (RCW 36.70A.020). These goals include conserving fish and wildlife habitat and protecting the environment. GMA requires that local governments' policies and development regulations protect critical areas, include best available science, and give special consideration to anadromous fisheries (RCW 36.70A.172). The GMA directs local jurisdictions to protect functions and values of five types of critical areas, including Fish and Wildlife Habitat Conservation Areas (FWHCA).

Department of Commerce rules state that FWHCA include areas where endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; naturally occurring ponds under twenty acres and associated submerged aquatic beds that provide fish or wildlife habitat; and lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity. In addition, the rules identify "waters of the state" as a FWHCA area, which overlaps with all these other areas.

Considerations for classifying and designating these areas include protecting riparian ecosystems including salmon habitat, which also includes marine nearshore areas, and establishing buffer zones to separate incompatible uses from habitat areas. Commerce's rule identifies sources and methods (WAC 365-190-130(4)) for designating FWHCAs that include WDFW habitats listed as Priority Habitat and Species (PHS).

2.2 CONNECTION TO THE SHORELINE MANAGEMENT ACT

The Shoreline Management Act (SMA) applies to all marine waters along the Pacific Ocean and Puget Sound, streams and rivers with an annual mean flow of more than 20 cubic ft per second, lakes greater than 20 acres in size, shore lands adjacent to these water bodies (typically within 200 ft of the water body with some exceptions), and associated wetlands.

The Legislature has adopted the goals and policies of SMA as a fourteenth goal of GMA. Department of Ecology (Ecology) writes rules to implement SMA and administers the Act in partnership with local governments. In contrast with CAOs, which are locally developed, Shoreline Master Programs (SMPs) are the product of state regulation, constitute land use regulations for various shorelines of the state, and approved by Ecology.[1]

The Legislature created deadlines for cities, counties and towns to complete a comprehensive SMP update consistent with Ecology's 2003 Guidelines, which included a requirement to ensure "no net loss of ecological functions" (described below). The phased deadlines in statute began in 2005 and all completed comprehensive updates are expected by 2019.

Critical areas regulations adopted under GMA apply in shoreline jurisdiction until Ecology approves a comprehensive SMP update consistent with Ecology's 2003 SMP Guidelines. After a comprehensive SMP update is approved by Ecology, critical areas within shoreline jurisdiction are regulated by the SMP [RCW 36.70A.480(3)(b)].

Ecology rules provide local governments options for addressing critical areas, including integrating relevant CAO provisions directly into SMPs, or adopting a specific version of the CAO by reference. Ecology is an active partner in protecting critical areas in shoreline jurisdiction. Unlike for other critical areas, in shoreline jurisdiction the state has an obligation to conclude affirmatively that local regulations are consistent with all statutory and regulatory requirements. Ecology solely bases approval of each SMP on consistency with the SMA and the SMP guidelines. Ecology also has ongoing oversight of SMPs, including issuing the final decision to approve, deny or condition locally issued Conditional Use Permits and Variances.

The GMA created Growth Management Hearings Boards (GMHB) to handle appeals of local government legislative actions and determine compliance with GMA's requirements (RCW 36.70A.250-280). SMP approval appeals in jurisdictions that are "fully planning" under the GMA are heard by the GMHB, while appeals of "partially planning" jurisdictions are directed to the Shorelines Hearings Board.

2.3 Defining Best Available Science

Best Available Science (BAS) is required to be included in CAO updates. In 1990, WDFW created the PHS program to identify fish and wildlife areas of particular importance for protection. Over time, PHS has come to include a list of habitats and species, a suite of management recommendations, mapping tools, and technical assistance to local governments. Under GMA rules, PHS is a source of Best Available Science to consult for endangered, threatened and sensitive species, and as a source of information in determining what habitats and species of local importance to consider.[2] WDFW has applied PHS criteria to the riparian ecosystem and has found ample reason to include it as a Priority Habitat.[3] Thus, the science summary on riparian functions may be included in a

[1] Citizens for Rational Shoreline Planning, et al. v. Whatcom County, 155 Wn. App. 937, 943 (2010).
[2] Commerce WAC 365-190-130(4)
[3] WAC 365-190-130(2)(f) and (4)(f).

jurisdiction's update of their CAO as BAS, and the management recommendations contained within Volume 2 aid in implementation of BAS.

The initial round of GMA periodic reviews in 2004 was the first time local governments were required to include BAS. While critical areas designation and protection had been the subject of appeals to the GMHBs and courts, the requirement to include BAS in the first round of updates resulted in numerous challenges to local CAOs. The state joined multiple appeals, many of which involved riparian buffers to protect salmon habitat.

At the time of this writing, local governments are partway through the second round of GMA updates—due between 2015 and 2019. To date, three challenges have been brought before the Growth Management Hearings Board regarding the inclusion of BAS and new science.

In 2014, the Court of Appeals reviewed Ferry County's use of BAS to designate habitats and species of local importance in its CAO.[4] The Court concluded that Ferry County "failed to develop or obtain any valid scientific information supporting its refusal to designate any habitats or species as locally important. ... [T]he county failed to include BAS in its designation of species and habitats of local importance. The county may depart from BAS, but must do so using a reasoned process."[5] Although the Court recognizes a county may "disagree with or ignore scientific recommendations and resources provided by state agencies or Indian tribes ... the county must unilaterally develop and obtain valid scientific information. The GMA does not require a county to follow BAS; rather it is required to 'include' BAS in the record. A county may depart from BAS if it provides a *reasoned justification* for such departure."[6]

In 2017, the Central Puget Sound Region Growth Management Hearings Board issued a decision based on a challenge to an ordinance adopted by Snohomish County amending portions of its critical areas ordinance.[7] Although the Board found that petitioners failed to meet their burden of proof or were time-barred on 14 of their 15 issues, it found the County failed to follow Department of Commerce's minimum guidelines in WAC 365-190-130.[8] The Board remanded for compliance, and subsequently closed the case on October 12, 2017. The decision also notes that challenges to local codes are untimely unless filed within 60 days, as required by RCW 36.70A.290(2).[9] However, when amending a code, new or changed BAS must be considered.[10]

The SMA has closely related requirements for use of information when developing SMPs that protect ecological functions. Local governments must use a systematic interdisciplinary approach; consult with relevant agencies; and use all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data.[11] The SMP Guidelines require use of "the most current, accurate and complete scientific and technical information available."[12] The

[4] *Ferry County v. Growth Management Hearings Board,* 184 Wn. App. 685 (2014)
[5] Id. at 739, ¶89-90
[6] Id. at 717, ¶43; see also Id. at 733-39, ¶68-90)
[7] *Futurewise v. Snohomish County,* CPSR GMHB No. 15-3-0012c (February 17, 2017)
[8] Id. at 16-19 (Issue A-7).
[9] Id. at 4.
[10] Id. at 6.
[11] RCW 90.58.100.
[12] WAC 173-26-201(2)(a)

Legislature provided significant state resources to inform the use of scientific information for SMP updates (including approximately $34 million in grants to local governments). Inventory and Characterization of shorelines was the basis for every SMP update, which in many cases enabled tailored approaches to the application of scientific information specific to local conditions. The GMHB has recognized the differences in application of use of information to inform SMPs because it is a specific state overlay on local land use process where certain statewide interests apply. As clarified by the GMHB, "The SMA process does incorporate the use of scientific information, but it does so as part of the process of balancing a range of considerations such as public access, priority uses, and the development goals and aspirations of the community."[13]

2.4 No Net Loss

Development regulations must preserve the existing functions and values of critical areas within certain limits described by the *No Net Loss* provisions of Chapter 365-196 WAC, Part 8. Development regulations apply to all counties and cities, not just those that are planning under GMA. The relevant portions of WAC 365-196-830 are:

> *(2) Critical areas that must be protected include...(c) Fish and wildlife habitat conservation areas...*
> *(3) "Protection" in this context means preservation of the functions and values of the natural environment...*
> *(4) Although counties and cities may protect critical areas in different ways or may allow some localized impacts to critical areas, or even [may allow] the potential loss of some critical areas, development regulations must preserve the existing functions and values of critical areas. If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm. Development regulations may not allow a net loss of the functions and values of the ecosystem that includes the impacted or lost critical areas.*

The court has found that protection of functions and values of an ecosystem includes all as opposed to just some functions and values of the designated areas.[14] The court has also concluded that the "no harm" standard protects critical areas by maintaining *existing* conditions and does not require enhancement or restoration of lost habitat functions that no longer exist.[15] In addition, the GMHB found that the GMA requires protection of the critical area ecosystem, not just the species contained within the ecosystem.[16]

For these reasons, Volume 1 and 2 focus on defining the functions necessary to protect within the ecosystem for benefit of aquatic and riparian obligate terrestrial species.

The SMA requires local governments to plan for preferred uses of shoreline (e.g., water-dependent uses, single-family homes, and public access) while also protecting the environment. Ecology adopted rules in 2003 based on a negotiated settlement requiring SMP regulations to assure "no net

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[13] *Lake Burien Neighborhood, et al., v City of Burien and Department of Ecology*, GMHB 13,3-0012 (6/16/2014)
[14] *Yakama County v. Eastern WAGMHB*, 168 Wn. App. 680 (2012)
[15] *Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Board*, 161 Wn.2d 415 (2007)
[16] *Whidbey Environmental Action Network v. Island County*, 14-2-0009

loss of ecological functions necessary to sustain shoreline natural resources." Each SMP accomplishes this through a complex combination of environment designations (shoreline-specific zoning overlays), detailed regulations for specific uses and shoreline modifications, careful mitigation sequencing, and critical area protections (either adopted by reference or developed for unique circumstances). Ecology's rule includes guidance specific to vegetation management that ensure local governments focus on applicable functions within their jurisdiction. Just like under the GMA "no harm" standard, the intent of "No Net Loss" requirements is to halt introduction of impacts from new development.

Ecology's rules recognize shoreline development can impact ecological functions. However, the recognition that future development will occur is basic to the No Net Loss standard. The challenge is in maintaining shoreline ecological functions while allowing appropriate new development, ensuring adequate land for preferred shoreline uses and promoting public access to shorelines.

Ecology rules clarify that regulations may not require mitigation in excess of that required to achieve No Net Loss. The regulations acknowledge the degradation ecological functions in many areas. To achieve restoration of functions above the baseline of current conditions, local governments prepare restoration plans that identify voluntary opportunities. SMPs may also include incentive-based approaches to accomplish restoration. Ecology rules acknowledge local governments may consider the indirect restoration effects from shoreline development regulations and mitigation standards. For example, all SMPs include requirements to avoid new impacts by retaining existing riparian vegetation in defined buffer areas. Over time, trees will grow in these buffer areas, improving ecological functions. In addition, mitigation requirements for replacement structures such as docks will lead to improvements in ecological function, as newer more fish-friendly materials and practices are used. In some cases, Ecology's review of CAO regulations results in changes to how the CAOs are applied in shoreline areas to ensure they meet SMA No Net Loss requirements for critical area protection.

2.5 Mitigation

Mitigation, as a concept, is common to natural resource management and generally means those measures taken to offset an action's adverse impacts on a natural resource. Under the State Environmental Policy Act (WAC 197-11-768) and Ecology SMP rules (WAC 173-26-201(2)), mitigation consists of sequential steps:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; and
6. Monitoring the impact and compensation projects and taking appropriate corrective measures.

Steps 2, 3, and 4 are often consolidated under one step—"minimize." Ecology SMP guidelines clarify that mitigation measures be applied in sequence in order of priority, with avoidance as the top

priority. The GMHB has reinforced mitigation sequencing to ensure No Net Loss and has stated that one can only consider compensatory mitigation after first avoiding and minimizing.[17] In addition, the San Juan County case found that if development regulations allow harm to critical areas, they must require compensatory mitigation of the harm.

For these reasons, we recommend counties develop guidance for mitigating harm to riparian areas that reflects the science of Volume 1.

2.6 Adaptive Management

Achieving No Net Loss of critical areas functions and values is a central goal of all locally adopted CAOs as discussed earlier in this document. Under SMA, Ecology certifies that approved SMPs will achieve No Net Loss of ecological functions necessary to sustain shoreline natural resources. Monitoring implementation and effectiveness of riparian protections helps ensure the achievement of No Net Loss as implementation of regulations occurs under GMA or SMA.

The GMHB and courts have provided some guidance on when adaptive management would be required. For instance, Skagit County adopted a less-than-precautionary approach, premised on the county's use of an adaptive management program. The State Supreme Court affirmed the GMHB's acknowledgment that a local government can rely on an evaluation of effectiveness through monitoring and adaptive management but those programs would need to include benchmarks and triggers for corrective action and the ability to detect the cause of any deterioration in existing functions and values.[18] Regardless of whether local governments have adopted regulations that establish specific adaptive management triggers, it is essential to have a feedback loop to ensure regulations are efficient and effective. To assist counties in developing monitoring and adaptive management programs, WDFW provides Chapter 5 in this volume.

2.7 Special Consideration for Anadromous Fish

The GMA requires special consideration be given to conservation or protection measures necessary to preserve or enhance critical anadromous fish resources. Healthy and harvestable salmon populations are a central goal of WDFW and the guidance of Volume 2 furthers this goal by protecting critical habitat for salmon. Special consideration for anadromous resources includes measures of protection or enhancement for all life stages of anadromous fish including habitat related to spawning and incubation, juvenile rearing and adult residence, juvenile migration downstream to the sea, and adult migration upstream to spawning areas (WAC 365-195-925(3)).

In addition to the special consideration that must be given to anadromous fisheries, there are significant tribal interests in the protection of salmon habitat. Most of Washington's tribes reserved off-reservation fishing rights in treaties signed with the federal government. In 2007, a federal district court ruled that these treaty rights impose a duty upon the State of Washington to refrain from building or operating culverts that block fish passage and reduce the number of fish available for treaty harvest. The court found that the State had violated its obligations under the treaties and

[17] *Friends of the San Juans, et al. v. San Juan County*, 13-2-0012©
[18] *Swinomish Indian Tribal Community et al. v. Skagit County*; 2-2-0012c; Compliance Order, 12-8-03

ordered the State to remove fish passage barriers.[19] In 2016, a federal appellate court affirmed this decision. In 2011, Western Washington treaty tribes produced a document called *Treaty Rights at Risk*, in which they called on the federal government to protect treaty fishing rights through federal laws such as the Endangered Species Act and the Clean Water Act.

Due in part to aforementioned legal developments, local jurisdictions are encouraged to consider treaty fishing rights when developing CAOs and making other land use planning decisions.

2.8 Shoreline Master Program Hearings Board and Court Decisions

A number of challenges have occurred to Ecology's SMP approvals on issues related to riparian ecosystem protection. The challenges have originated from many different land use perspectives.

Citizen groups concerned about diminished property rights have challenged several SMPs. For example, many features of the Bainbridge Island SMP were challenged for exceeding government authority. The SMP was challenged for its two-zone Riparian Protection Zone with buffer widths that varied by environment designation, vegetation standards, shoreline modification standards, non-conforming use provisions, and regulations for piers and docks. The Board upheld all the city's environmental protections and clarified that "where a jurisdiction is confronted by scientific recommendations consisting of ranges, buffer widths are ultimately a policy decision. But the SMP decision requires weighing of interests while assuring no net loss."

Similarly, the Jefferson County SMP was challenged by an organization concerned the County's SMP went "too far" in regulating land use, for a variety of reasons. The GMHB upheld the SMP and the Court of Appeals affirmed the Board decision. The Court upheld the county's incorporation of their CAO into their SMP and found proper evidence supported adoption of 150 ft buffers in shoreline jurisdiction. The Court recognized that the Guidelines authorize a SMP to include buffers, and the record was replete with evidence indicating how they were established. The Court cited recommendations from WDFW for buffer widths of 288 ft, acknowledging that local governments and Ecology must select buffers based on science but are not expected to follow any one single recommendation.

By contrast, organizations that advocated for protections that are more stringent have challenged other SMPs. Such a challenge occurred with City of Burien's shoreline provisions for providing inadequate buffer widths, vegetation conservation standards, and mitigation sequencing requirements. The City had used existing development in part to establish buffers. The Board upheld the SMP, finding "the SMA process does incorporate the use of scientific information, but it does so as part of the process of balancing a range of considerations such as public access, priority uses, and the development goals and aspirations of the community."

The Board also upheld the Spokane County SMP adoption of Critical Areas Regulations including provisions authorizing public trail construction. The Board found that "promoting public access to shorelines is a key policy goal of the SMA, and the statute contemplates striking a balance between facilitating access and protecting the ecology."

[19] *U.S. v. Washington*, Sub proceeding 01-01

There have been a few cases where Boards identified an issue that needed to be addressed. For example, the Board upheld the Yakima County's SMP riparian buffers, but found the county had not adequately addressed potential cumulative impacts of channel migration. The County prepared a channel migration study, which demonstrated the SMP had adequate protections in place and was compliant.

CHAPTER 3. REGULATORY TOOLS

3.1 INTRODUCTION

The purpose of this chapter is to provide guidance that will assist local governments in reviewing and implementing regulatory tools to protect riparian habitats with special consideration for maintaining important watershed processes. Developing specific guidance and regulations based on policies is a key step to developing effective protection programs consistent with natural resource goals of Growth Management Act (GMA) and Shoreline Management Act (SMA). Parcel-scale regulations are foundational to land use regulatory approaches for protecting rivers and streams, and most local governments rely solely upon regulation at the parcel or site scale for protecting rivers and streams. However, sole reliance upon a regulatory approach at the site scale, especially in combination with frequent exemptions and a lack of adaptive management is likely to result in loss of aquatic system function over the long term (see Volume 1). We believe that site-scale regulations are most effective when those regulations work in a coordinated way with watershed-scale planning and with a monitoring and adaptive management approach designed to meet explicit riparian protection goals and objectives through time.

WDFW recognizes that all cities and counties have existing approaches for protecting riparian ecosystem functions. Local ordinances vary in details but all include 1) vegetative buffers to avoid and minimize new impacts, 2) requirements for compensatory mitigation for unavoidable impacts, and 3) provisions defining allowed uses, exceptions, and/or variances. Riparian areas are typically covered by several different types of critical areas regulations. In addition to Fish and Wildlife Habitat Conservation Areas, riparian areas may also be protected by regulations for Frequently Flooded Areas, Geologically Hazardous Areas, and Wetlands.

We encourage local jurisdictions to analyze their current approaches (e.g., regulations, guidance, exemptions, databases, inspection process, and monitoring) for gaps in protection. In addition, some regulations outside the SMA and CAO portions of the local codes can either support or negatively impact riparian areas, for example clearing and grading, firewise, and tree protection ordinances. We strongly encourage counties to consider ordinances across their regulatory purview that may inadvertently create loopholes (e.g., clearing and grading allowances prior to development permit issuance) in riparian protection efforts.

Volume 1 describes how riparian ecosystems are critically important for aquatic species particularly in managed landscapes. It also refers to other elements (watershed connectivity, floodplains, stormwater, etc.) that contribute directly to watershed function, which, in turn, supports riparian function. Protection of watersheds commonly falls under the purview of agencies other than WDFW. Nonetheless, we encourage local jurisdictions to consider how the overall pattern of land use, in combination with all SMA and GMA protection measures, can collectively contribute to maintaining fish and wildlife and other important ecosystem services. To that end, we suggest considering the following questions when counties begin reviewing their CAOs:

1. Are there existing strategies (salmon recovery plans, reach-scale assessments, incentive-based riparian protection plans) to maintain, protect and restore riparian areas? If so, how

are they integrated with regulatory protections? Could actions identified in existing strategies be useful in satisfying mitigation obligations, or focusing restoration activities? For instance, are there stretches of river that have been identified as priority for a suite of restoration actions or protection? How are these protected in existing regulations or through voluntary actions?

2. Are current buffer widths based on Site-Potential Tree Height (SPTH)? We recommend comparing the current buffer widths with riparian management zone (RMZ) approaches described herein. If a CAO or SMP has adopted a different approach to setting buffer widths, can our recommended RMZ be used during implementation to identify areas for mitigation when there are unavoidable impacts within the buffer? Alternatively, can the RMZ be used to identify restoration opportunities under incentive-based riparian protection plans, salmon recovery plans, or reach-scale assessments?

3. Are provisions clear for ensuring No Net Loss within the buffer or RMZ, or are there opportunities to clarify requirements? Do you have a monitoring and adaptive management program for improving permit implementation? If so, have you identified improvements in your permit program you can implement to ensure No Net Loss within the buffer or RMZ? If you already have implementation and compliance information, are you collecting information on effectiveness of protecting riparian areas? If there is information on effectiveness of protection, what changes would improve regulations or where are you being successful?

4. Are current regulations written and mitigation approaches designed to protect and restore areas closest to the stream?

5. What other regulations may negatively impact riparian areas even though they may not be within the CAO (e.g., clearing and grading regulations)?

6. Do you have opportunities to connect riparian areas with other protected areas such as geologically hazardous areas, green belts, and parklands?

7. Given the importance of maintaining watershed connectivity, how do current regulations and land use plans ensure protection of aquifer recharge areas and floodplains? Is low impact development already required or encouraged within the watershed?

8. Are CAOs for ensuring No Net Loss within the buffer or RMZ clear, or are there opportunities to clarify requirements? Do you have a monitoring and adaptive management program for improving permit implementation? If so, have you identified improvements in your permit program that will lead to better compliance with regulations? If you are satisfied with implementation and compliance of CAOs, are you collecting information on effectiveness of protecting riparian areas? If there were information on effectiveness of protection, what changes would improve regulations such that No Net Loss in functions can be achieved?

Specifically, jurisdictions should use this guidance to improve on-the-ground outcomes, increase consistency, ensure transparency and deliver a fair and effective program. By transparency, we mean that the public can readily understand the reasons and the outcomes of land use decisions.

Refer to Chapter 5 to explore additional guidance for how monitoring of existing protections could be achieved in your community.

3.2 No Net Loss

No Net Loss (underpinnings are described more fully in Chapter 2) should be achieved over time by establishing policies and regulations that protect the riparian ecosystem. Much of the potential impact from human activity is based on the specific type of land use and exactly where that land use occurs. The recognition that future development will occur is fundamental to SMA, the goals and requirements of GMA, and the No Net Loss standard. The challenge is in maintaining riparian and targeted watershed functions while allowing appropriate types of development. A county or city must provide a detailed and reasoned justification for any designated critical area not protected.

Where local jurisdictions have comprehensively updated their Shoreline Master Program (SMP), the SMP provides protection of riparian conditions consistent with the No Net Loss standard embodied in WAC 173-26-186(8). Each SMP contains policies and regulations that assure "no net loss of ecological functions necessary to sustain existing shoreline natural resources." As Ecology guidelines explain, the concept of "net" recognizes that any development has potential or actual, short-term or long-term impacts. Further, through application of appropriate development standards based on a careful mitigation sequence, those impacts will not diminish the shoreline resources and values, as they currently exist.

To achieve the No Net Loss standard while accommodating preferred uses and development, SMPs establish and apply:

- Environment designations with appropriate use and development standards;
- Provisions to address the impacts of specific common shoreline uses, development activities and modification actions;
- Provisions for the protection of critical areas within the shoreline; and
- Provisions for mitigation measures and methods to address unanticipated impacts.

Each comprehensively updated SMP is supported by a shoreline characterization report, and a cumulative impact analysis that evaluates the overall effect of these components to reach a conclusion that the standard is met. Ecology's guidelines also require local governments plan for overall improvements ("net gain" in functions) through voluntary restoration programs. Many SMPs also incorporate incentive approaches for restoration into regulations.

Under the GMA, local governments are required to adopt critical areas regulations to protect critical areas functions and values.[1] The Supreme Court has interpreted this requirement to be protection of existing functions and values, and the "no harm" standard.[2] Local governments are required every eight years to review and, if necessary, update their critical areas regulations to incorporate changes in statutory requirements, or to include new sources of best available science. Department of Commerce recommends that jurisdictions review any new sources of best available science, as

[1] RCW 36.70A.172

[2] *Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Board*, 161 Wn.2d 415 (2007).

well as any management recommendations associated with the new science, for applicability to their regulations. Commerce also encourages local governments adopt incentive programs to protect critical areas and provide opportunities for restoration of critical areas.

No Net Loss provisions incorporate the following concepts:

- Regulatory approaches ensure that existing riparian ecosystem functions should not decrease due to permitted development.
- Potential adverse impacts to the riparian functions that result from planned development should be viewed through the lens of mitigation sequencing. This sequence begins with avoiding impact wherever possible, minimizing impacts that cannot be avoided, and fully mitigating all impacts.
- Riparian functions can be improved through incentive programs and voluntary restoration. Incentive programs and voluntary restoration will be necessary to improve aquatic system functions in many areas.
- Achieving the No Net Loss standard alone is unlikely to recover listed salmon. Restoration will be a critical piece of recovering salmon in many watersheds.

3.3 Balancing Predictability with Flexibility

The following paragraphs have been modified from Ecology's Wetland Guidance, 2006, Volume 2.

Regulations are often characterized by their predictability and flexibility. A predictable (prescriptive) approach provides clear, consistent standards that all applicants can rely on. A prescriptive approach may not allow flexibility to address site-specific or unique situations from the perspective of the regulatory agency or from that of the landowner. On the other hand, a more flexible approach may fail to provide the degree of specificity that allows the public agency or the applicant to have some certainty of the outcome early in the process.

In reviewing regulations, local governments may consider how their regulations balance these two distinct and sometimes competing approaches. A balanced approach may set "sideboards" with criteria for selecting an alternative from a range of allowable options or a general standard with criteria for deviating from the standard. A more flexible approach implies more discretion on the part of county or city staff and applicants. Flexible approaches can be helpful in ensuring regulations address actual habitat needs on a given site, but may also introduce more uncertainty about the efficacy of outcomes if less well-tested alternatives are authorized. This flexibility increases the importance and value of permit tracking and monitoring. See discussion in Chapter 5 and Chapter 2 for further details.

3.4 Site-Potential Tree Height Background

Before we move into recommendations, we provide background information on the origin, applicability, and usefulness of a conceptual framework based on Site-Potential Tree Height (SPTH; for more information, please refer to Volume 1, Chapter 9). In 1993, a group of experts (the Forest Ecosystem Management Assessment Team, FEMAT) was convened to determine how to protect riparian areas in forested landscapes. They developed a framework (also referred to as a model) that has come to be known as the "FEMAT Curves" (FEMAT, 1993) to describe important riparian

functions of old forests (at least 200 years old) and how they change with distance from the stream channel (Figure 3-3Figure 3-3 and Figure 3-4). Though this foundational work is more than 30 years old, it continues to provide one of the most applicable and useful conceptual frameworks for informing riparian management. The model (Figure 3-1) conveys two important points: 1) four of the five riparian ecosystem functions or processes occur within one $SPTH_{200}$ and 2) the marginal return for each function or process decreases as distance from the stream channel increases. Although not shown on the FEMAT Curves below, a $SPTH_{200}$ of at least 150 ft will likely provide full pollutant removal function based on our literature review (Volume 1, Chapter 5). Importantly, FEMAT curves generally acknowledge site-specific differences in riparian function among stream reaches, i.e., riparian ecosystems is wider at sites with taller trees.

FEMAT (1993, p. V-34) defined SPTH as "the average maximum height of the tallest dominant trees (200 years or more) for a given site class." The key phrase in this definition is "200 years or more" which refers to the approximate minimum age of old-growth forests. This reflects FEMAT's underlying assumption that old-growth forest conditions are needed for full riparian ecosystem functions. Because Douglas fir can continue height growth at a substantial rate for more than 200 years, site-potential height based on age 200 years is the minimum width for full riparian ecosystem functions according to FEMAT.

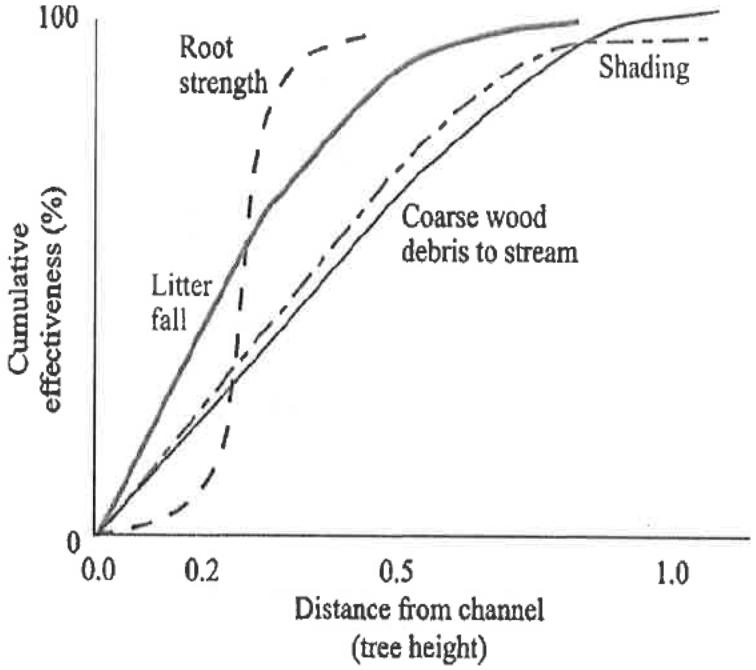


Figure 3-1. The "FEMAT Curves" (FEMAT, 1993): generalized conceptual models describing some riparian forest contributions to riparian ecosystem functions and processes as distance from a stream channel or Channel Migration Zone increases. Not shown here is the pollutant removal function. "Tree height" refers to average maximum height of the tallest dominant trees (200 years old or greater) and is referred to as Site-Potential Tree Height ($SPTH_{200}$).

FEMAT Curves define the relationship between riparian functions and distance, where distance is measured as height of the dominant tree species at least 200 years of age. Consequently, SPTH has often been used to define the extent of the riparian ecosystem in forested (or historically forested)

areas. Given its utility, the site-potential height of trees has been described for a wide variety of forest types and can be readily found in silviculture literature. Mean heights of dominant trees in riparian old-growth forest of Washington range from 100 to 240 ft (Fox, 2003). The wide range of heights reflects differences in site productivity, i.e., local differences in soil nutrients and moisture, light and temperature regimes, and topography. Site productivity is described quantitatively through a site index, which is the average height, that dominant trees of a particular species are expected to obtain at a specified tree age. Tables (e.g., King 1966) have been developed to predict the future average height of dominant trees on a site.

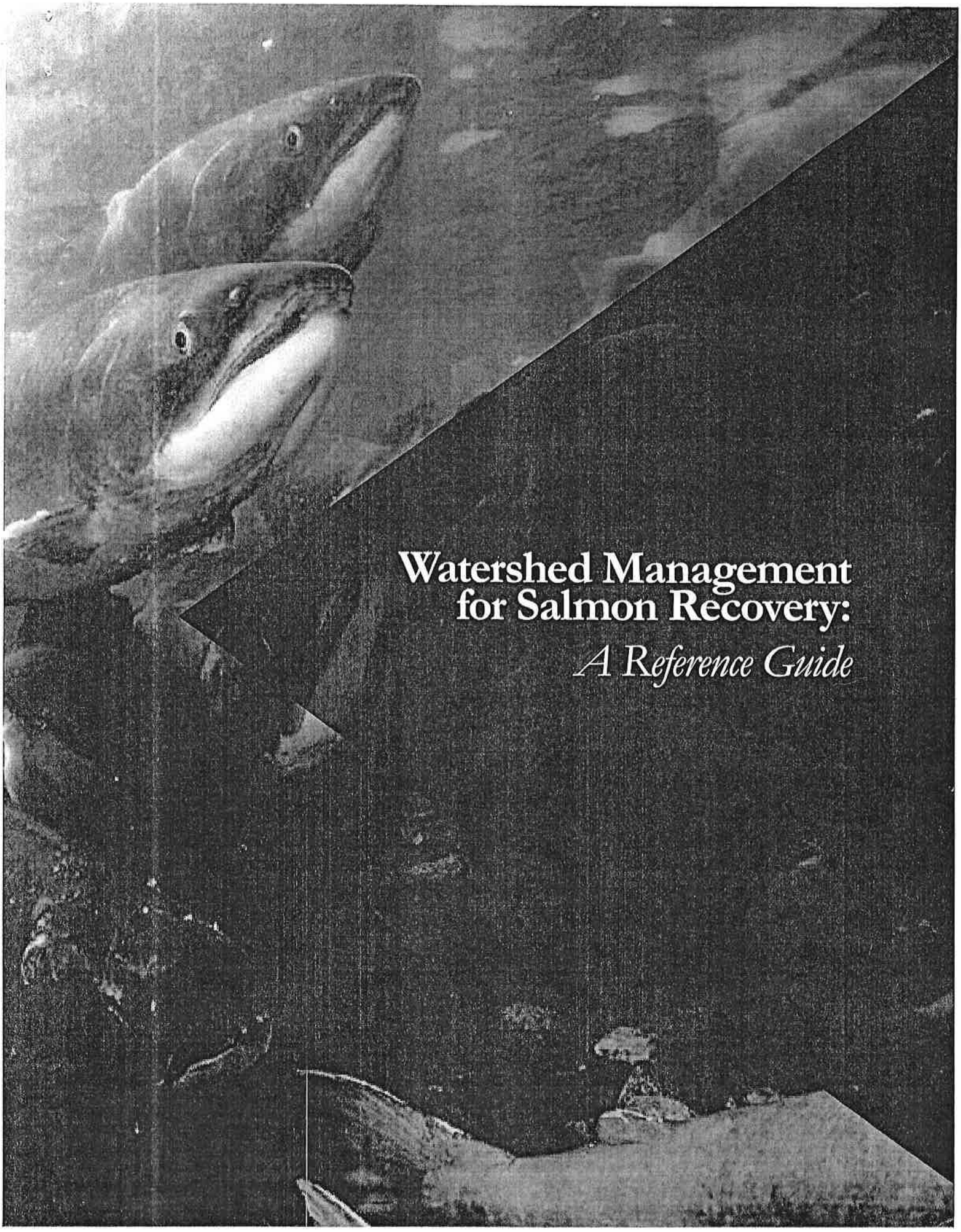
Riparian areas may lack trees for a variety of reasons, 1) they occur in areas of the state that do not support forest (in a traditional sense) such as the Columbian Plateau Ecoregion (see Volume 1, Chapter 7), 2) they occur in small areas where local soil or other site specific growing conditions prevent tree growth, or 3) they occur in areas where forests have been converted to other land uses such as development or agriculture. FEMAT curves based on SPTH may not apply, or must be applied differently to areas in the Columbia Plateau and in small, localized areas of other ecoregions that do not support tree growth. We provide guidance below on how to address riparian ecosystems protection in the Columbia Plateau Ecoregion. Addressing riparian protection in localized treeless areas will likely require site-specific information. However, FEMAT curves are appropriately applied to areas that have been converted from forest to other land uses.

3.5 Delineating Riparian Management Zones

The first step to providing management recommendations is to define the area to be protected. Riparian protections should be focused within the area defined as the Riparian Management Zone or RMZ. The RMZ is the area in which full riparian function can potentially occur, and is thus not synonymous with buffers as used in previous guidance or existing regulations. The RMZ differs from buffers in one important way. Buffers are established through policy, whereas the RMZ is a scientifically based description of the area adjacent to rivers and streams that has the potential to provide full function based on the $SPTH_{200}$ conceptual framework.

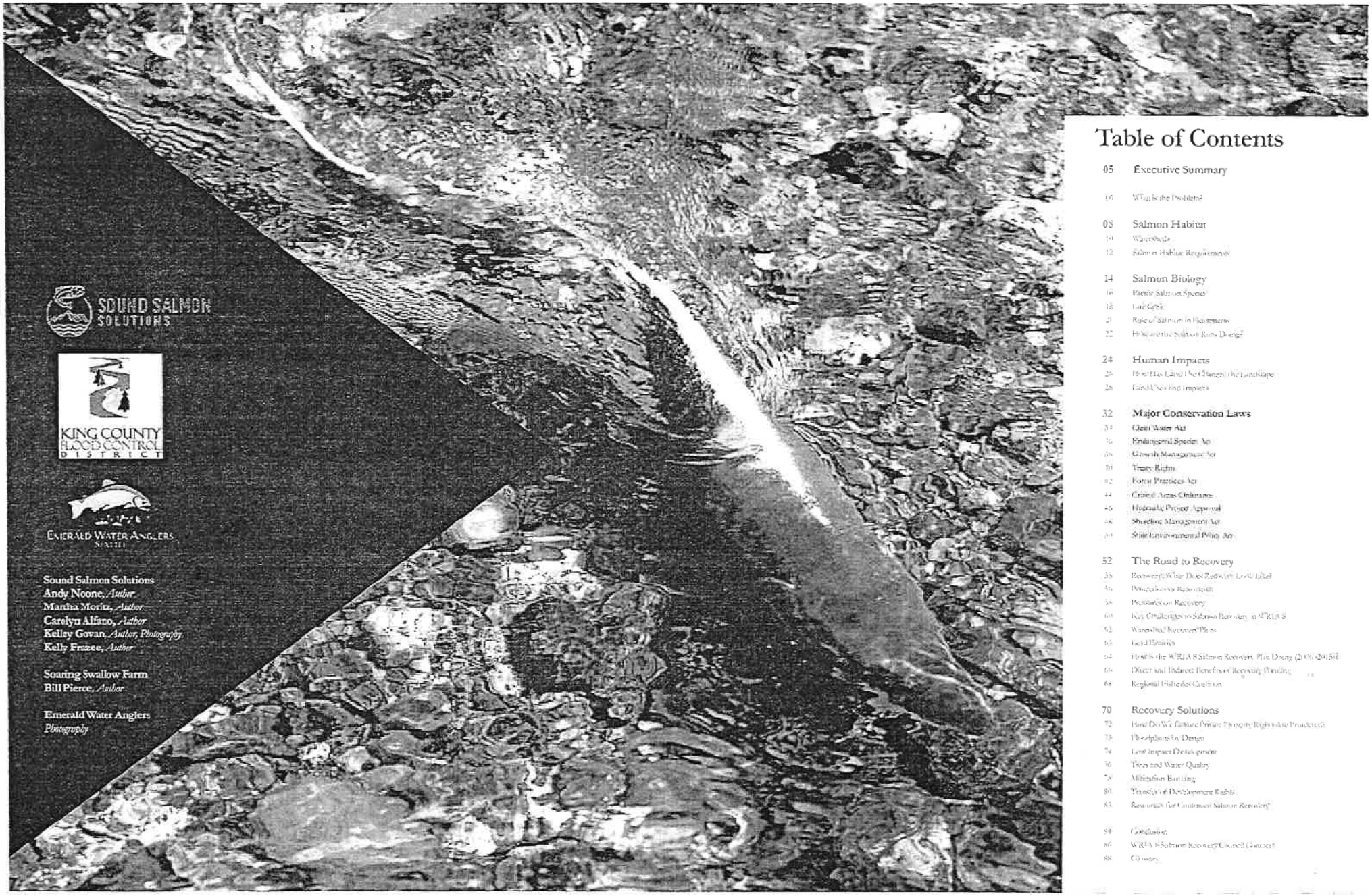
3.5.1 *RMZs in Forested Ecoregions of the State*

We use the term RMZ to define the stream riparian ecosystem. To operationalize the definition of the RMZ in areas of the state that currently or historically supported forests, we define the RMZ as the distance of one $SPTH_{200}$ where the $SPTH_{200}$ is the average maximum height attained by dominant trees at 200 years of age, measured from the edge of the active channel or Channel Migration Zone (CMZ; whichever is wider). Measuring the RMZ width at the outer edge of the CMZ ensures that when the stream migrates, it will still be adjacent to the zone of influence that can provide riparian function. We recognize that determining the CMZ may be technically challenging and require additional resources. WDFW can provide technical assistance and work cooperatively with local jurisdictions to delineate CMZs.



Watershed Management for Salmon Recovery:

A Reference Guide



SOUND SALMON SOLUTIONS

KING COUNTY FLOOD CONTROL DISTRICT

EMERALD WATER ANGLERS SEATTLE

Sound Salmon Solutions
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Soaring Swallow Farm
Bill Pierce, *Author*

Emerald Water Anglers
Photography

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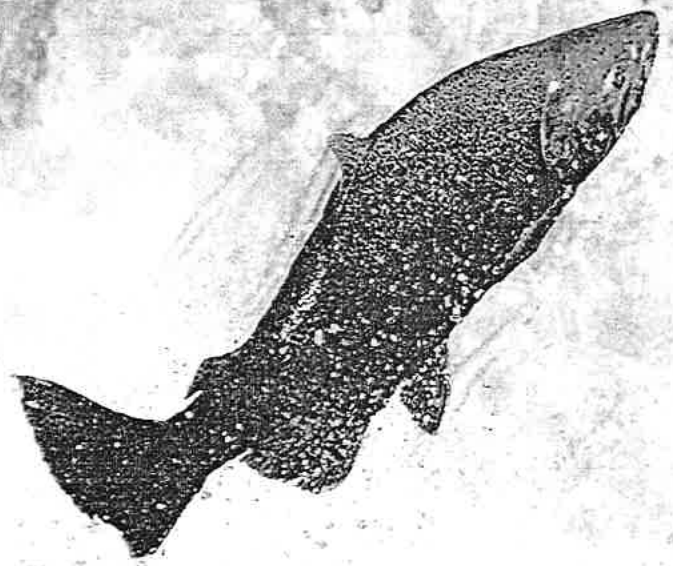


Executive Summary

- Water quality and quantity are important to **humans** and wildlife.
- Salmon are valuable to us but are in danger of being lost forever in 3/4 of the state.
- Habitat is the largest limiting factor.
- Salmon need cold, clean, clear, complex, and connected water in which to develop.
- Land use policy decisions **could play a larger role** in protecting existing habitat, restoration of lost habitat, and preservation of water conditions crucial to salmon.
- Public compensation for private landowner losses and regulation are often necessary to achieve conservation goals.
- Recovery plans and **solutions exist** but are failing to meet their goals due to resource limitations and lack of policy support.

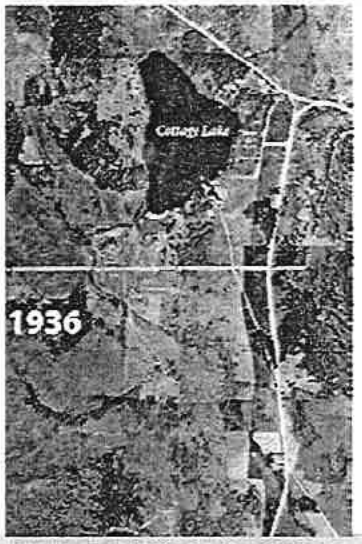
How has land use

Housing is one land use affecting water quality and quantity in neighboring streams.

Development reduces tree cover and increases polluted stormwater.

Population of the Puget Sound Region is expected to reach 5 million by 2040.

Using Low Impact Development (LID) techniques, adverse effects can be reduced.



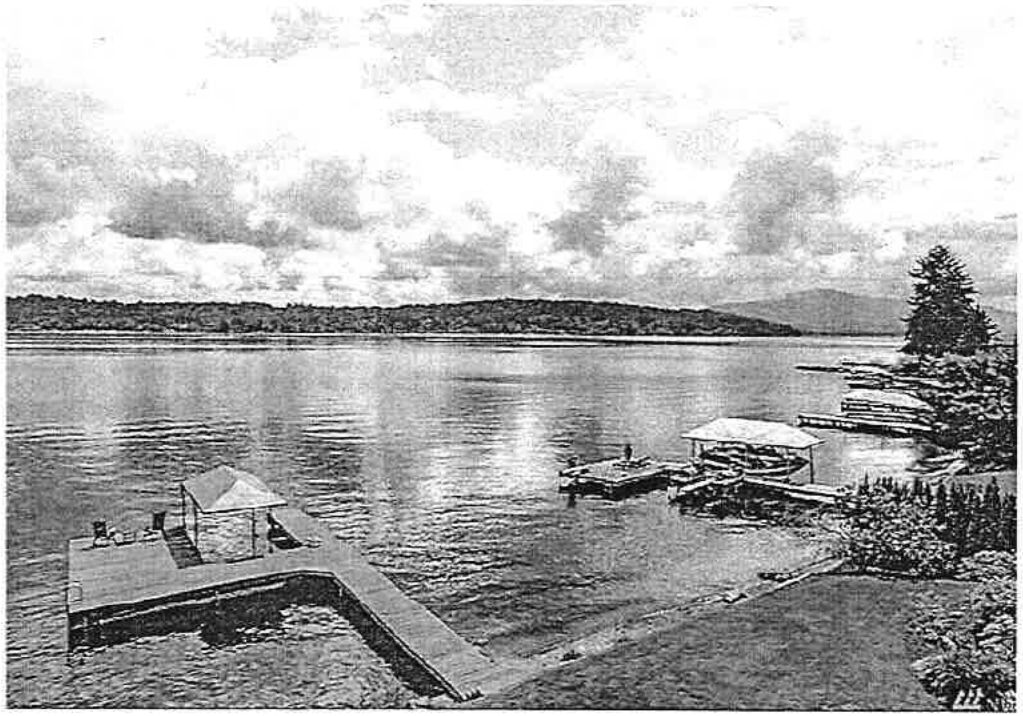
Lake near Woodinville, 1936



Areas of rapid urban growth tend to occur near water resources. A high value is placed on land with proximity to water resources and the terrain is easier to develop.

These lowland areas provide a majority of the freshwater and marine/estuarine habitat available to salmonids.

Development in these areas can result in a dramatic loss of habitat.

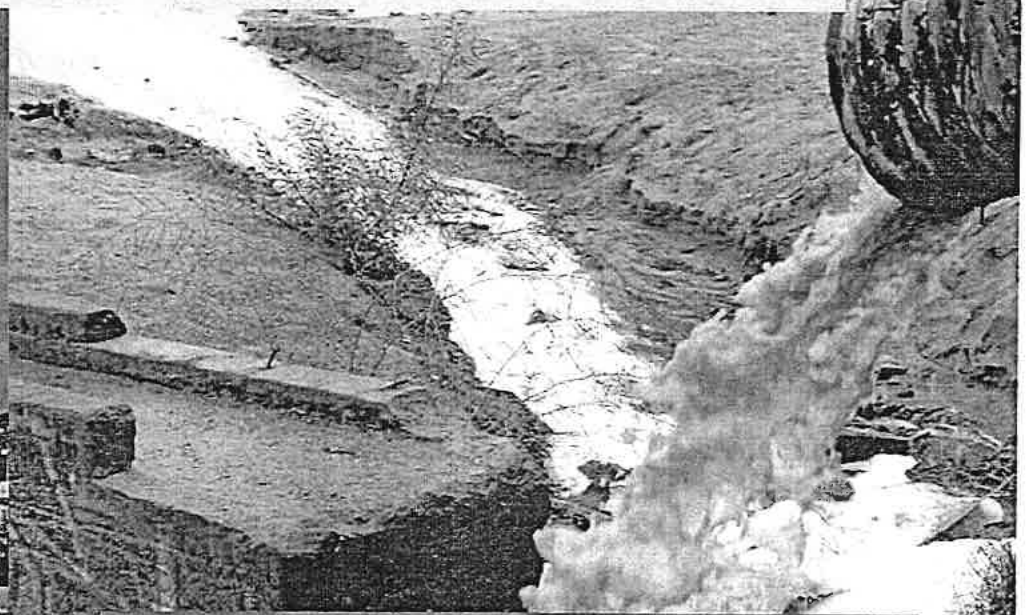


What are the impacts of



Impact	Solution
road building and culverts	passable culverts
absent and/or decreased buffers	permit adequate buffers, urban forestry
stormwater runoff	Low impact development (LID), other Best management practices (BMP)
shoreline armoring	bulkhead removal
decreased tree canopy	tree ordinances, urban forestry
warmer surface water & land temps	urban forestry
illegal dumping	culverts
dominance of impervious surfaces	LID, urban forestry, buffers
marinas	salmon safe certification

What are the impacts of



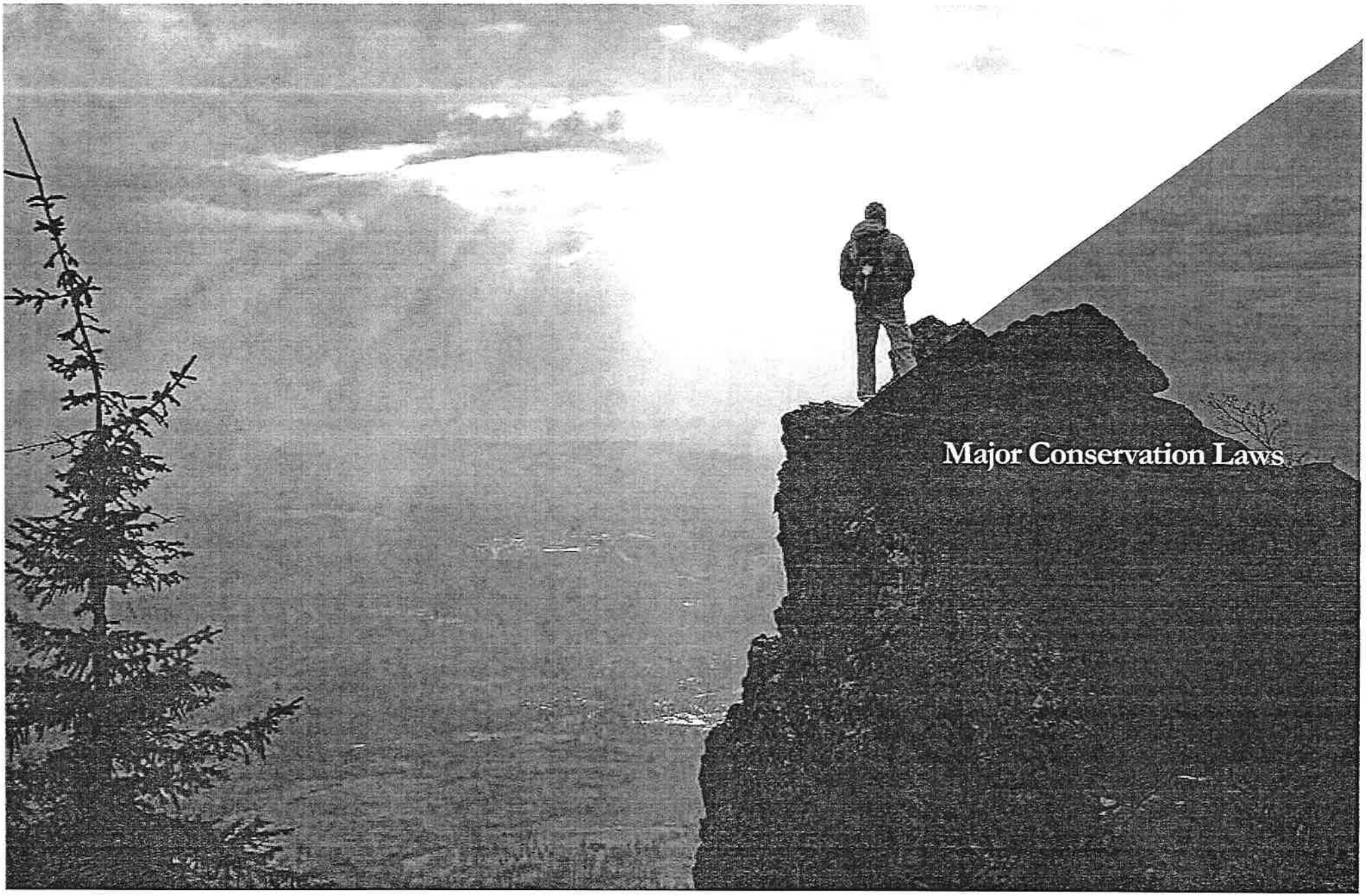
Impact	Solution
impervious surfaces greatly increase stormwater runoff	LID, pervious pavement, adequate vegetative buffers ("green infrastructure")
combined sewer outflows (CSO's)	LID, water conservation, re-direction outflows & pipes to stormwater management areas
heavy metals, oil, & other pollutants in watersheds	natural yardcare, car maintenance, pick up pet waste, reduce use of fertilizers and pesicides at home
malfunctioning septic	repair assistance, incentive programs
bank erosion	vegetative buffers, LID
loss of stream habitat	buffers, urban forestry (conservation vs. reforestation)

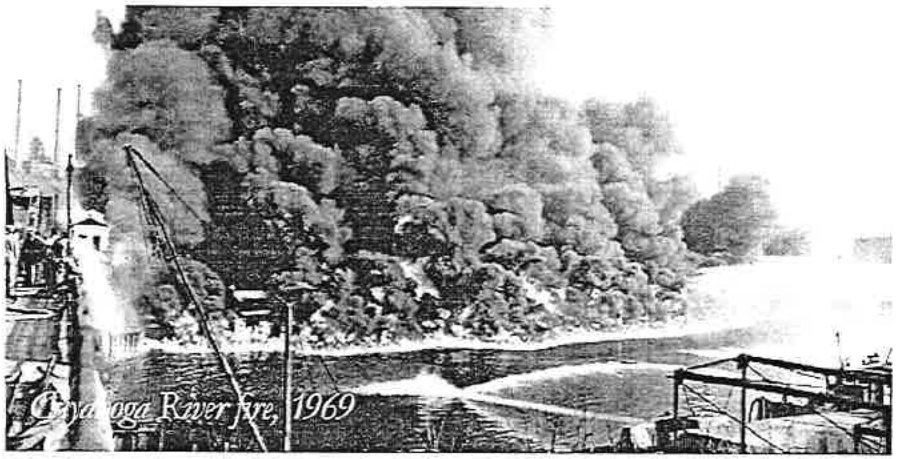
What are the impacts of

Impact	Solution
malfunctioning septic tanks	repair assistance
increased stormwater runoff	LID, public education, incentive programs
decreased habitat for forage fish & other wildlife	full or partial bulkhead removal, natural shoreline installation ("soft shore protection")
decreased buffers	planting and restoration
feeder bluff sediment transport blockage	bulkhead removal, beach nourishment
shoreline railroads	beach nourishment
marinas	salmon safe certification

What are the impacts of

Impact	Solution
overharvest	population-based catch limits
bycatch	ethical fishing methods (pole caught)
illegal fishing	stricter enforcement, public education
Tribal fishing rights	public education
loss of jobs with declining fish stocks	conservation jobs
fish farms	focus on sustainable wild populations


Major Conservation Laws



Clean Water Act

- Enacted in 1972 by bipartisan majority in Congress after a massive oil spill at sea and a river caught fire in Ohio.
- Goal: to "restore and maintain chemical, physical and biological integrity of the Nation's waters."



How it works

- Washington State administers National Pollution Discharge Elimination System (NPDES) Permits to limit discharge of 126 priority pollutants.
- Phase I and Phase II local governments must obtain/ renew NPDES Permits every 5 years.
- Point sources now responsible for only 10% of violations, non-point (such as stormwater) **47%.**[1]
- **NPDES Stormwater Permits** mandate pollution prevention plans including public education and outreach, maintenance and inspection.
- WA Dept. of Ecology monitors water quality and requires local government to do more to address other hydrologic changes caused by land development.
- If a water quality standard is not met, Ecology must set allowable limits for discharge of that pollutant into the waterbody.

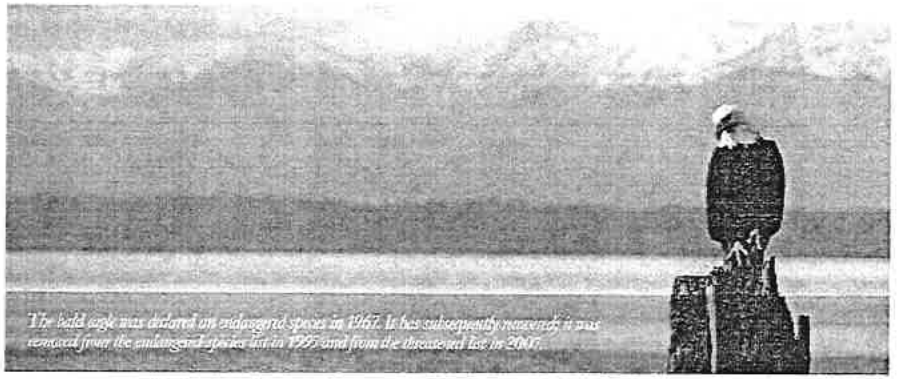
1. U.S. EPA 2006 Introduction to the Clean Water Act



Endangered Species Act

- In 1973, a nearly unanimous Congress passed the ESA because "[existing laws] did not provide the kind of management tools needed to act early enough to save a vanishing species." -Richard M. Nixon

- Goal is to elminate **risk of extinction** for listed species (111 fish species listed as endangered in the US).



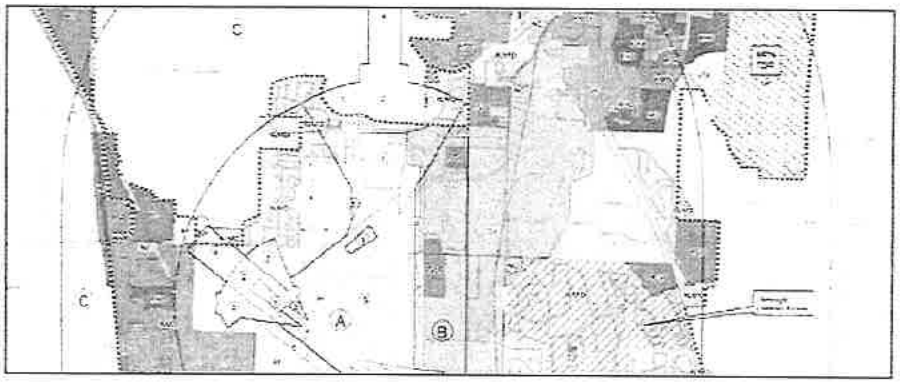
How it works

Conservation through:

- Listings
- Critical habitat conservation
- Recovery plans
- Species recovery grants
  (e.g., Salmon Recovery Funding Board, Puget Sound Acquisition and Restoration Fund, Pacific Coastal Salmon Recovery Fund)

Recovery plans for all **5 endangered and 23 threatened** distinct population segments of salmonids

Habitat conservation required under ESA implementation

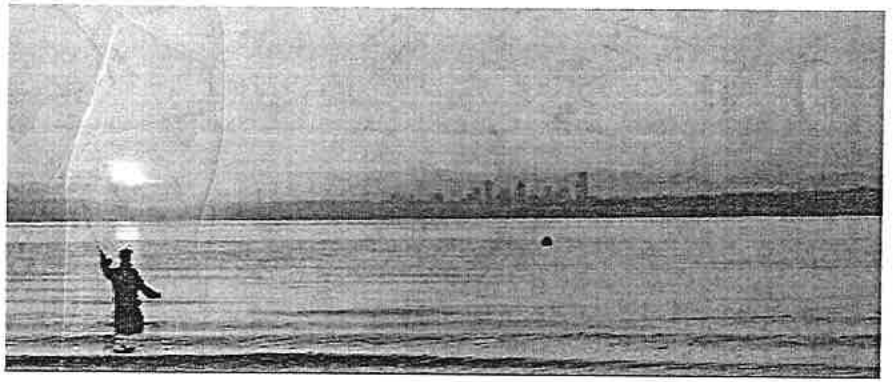


Growth Management Act

1990 Law responding to loss of natural resources due to difficulty controlling urban sprawl.

Requires local governments to create and follow consistent **comprehensive plans** to address 14 areas:

1. Urban Growth
2. Reduced Sprawl
3. Housing
4. Public Facilities
5. Citizen Involvement
6. Regional Transportation
7. Economic Development
8. Property Rights
9. Permits
10. Natural Resource Industries
11. Historic Preservation
12. Environment
13. Open Space and Recreation
14. Shoreline Management



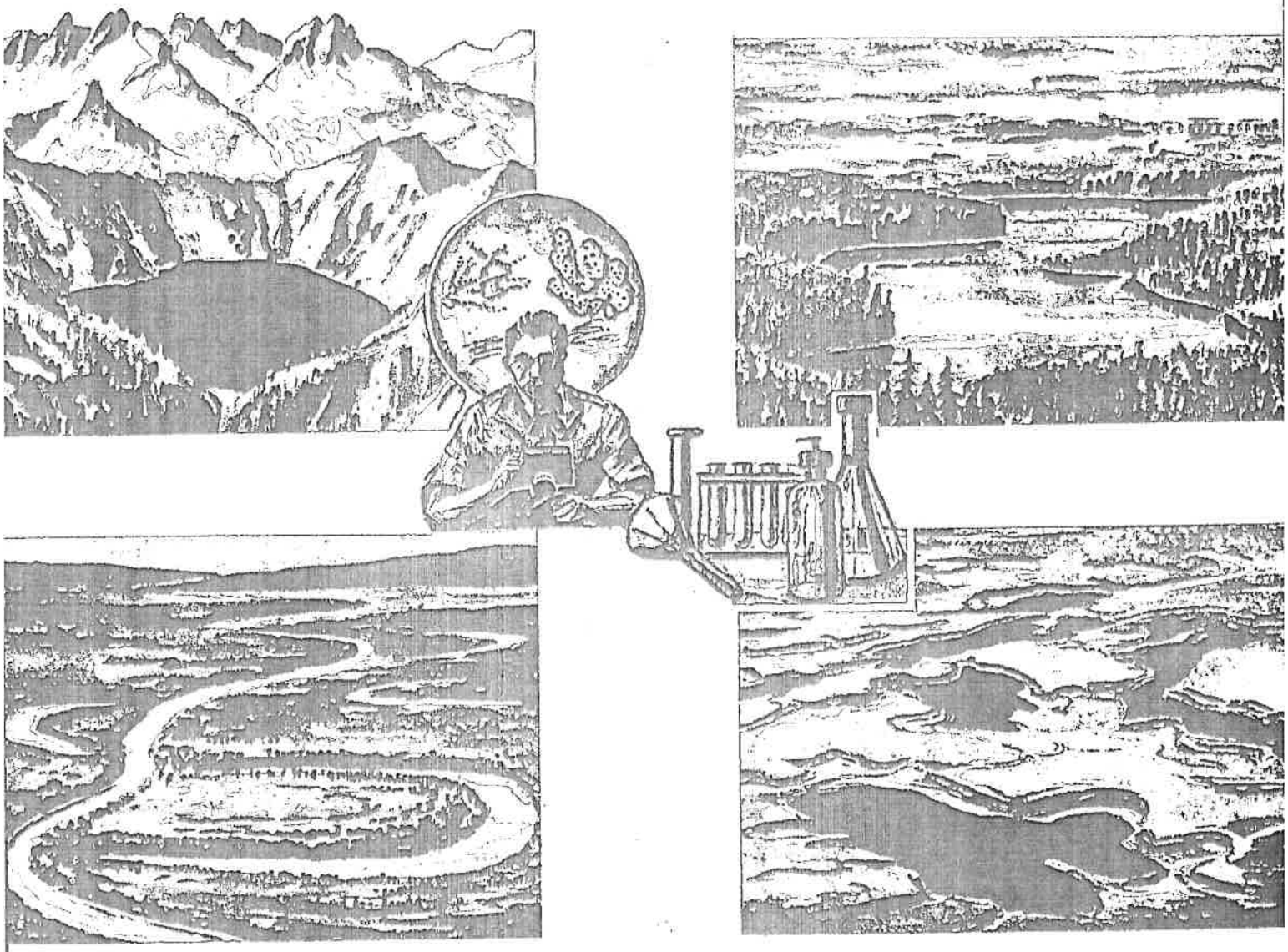
How it works

- Encourages dense development within defined **urban growth boundaries**
- Requires designation and regulations for critical areas and resource lands based on "best available science."
- Authorizes excise **taxes** and impact **fees**
- Noncompliance can result in **loss of revenue** from state sources

Importance of GMA to salmon

As human population grows, critical areas and supporting natural resource lands are conserved to promote water quality and provide the resources salmon and other aquatic life require.

PRIMER ON LAKES IN WASHINGTON



STATE OF WASHINGTON
DIXY LEE RAY, Governor

DEPARTMENT OF ECOLOGY
WILBUR G. HALLAUER, Director

Water-Supply Bulletin 49

Prepared cooperatively by the
United States Department of the Interior
Geological Survey • 1978

STATE OF WASHINGTON
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Water-Supply Bulletin 49

PRIMER ON LAKES IN WASHINGTON

By

N. P. Dion

Prepared in cooperation with
UNITED STATES GEOLOGICAL SURVEY

1978

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PRIMER ON LAKES IN WASHINGTON

By N. P. Dion

WHY THIS REPORT WAS WRITTEN

This report was prepared to provide a nontechnical, "layreader" introduction to the many physical, chemical, and biological characteristics of lakes. The report includes a glossary of lake and geologic terms related to lakes of Washington State--and to lakes generally--and discusses the many characteristics involved in evaluation of lake-water quality. The report is intended not only as an entity in itself but as a contribution to a better understanding by the general reader of several other more technical and more detailed reports on lakes in Washington.

INTRODUCTION

"A lake is the landscape's most beautiful and expressive feature. It is earth's eye; looking into which the beholder measures the depth of his own nature" - Thoreau[1].

Whether we accept Webster's definition of a lake as "a considerable inland body of standing water," or prefer Thoreau's more poetic description as "earth's eye," most of us would agree that the landscape, and indeed the people, of Washington would be considerably poorer without the many ponds, lakes, and reservoirs within the State. For this paper we accept the definition by Walcott (1965) that a lake is a body of standing water an acre or more in size.

Lakes have been used as sources of water and food, as transportation routes, and as bases of recreation and esthetics. We have found it to our advantage to improve the condition of existing lakes and to build artificial lakes where nature has not provided them. We have also found it to our disadvantage to allow lakes to become polluted or choked with weeds.

Many of us do not realize, however, that freshwater lakes, even when completely uninfluenced by people, will undergo a very slow, natural process of aging that eventually results in the "death" of the lake. Over a period of thousands of years, a lake will become filled with sediment and covered with vegetation. Limnologists--scientists who study freshwater lakes-- call this evolutionary process lake succession. Man can hasten or retard the rate of succession with his ability to change the physical, chemical, and biological conditions within the lake. Limnology is thus a very broad and complex science, and one which is necessary for the proper understanding and management of the lake resource.

This primer describes some of the physical, chemical, and biological conditions that limnologists are studying in Washington lakes. Among the subjects discussed are lake formation and shape, the physical and chemical processes in lakes, lake biology and biological processes, human influence on lake conditions, and some of the steps that can be taken to rehabilitate lake conditions. Those readers wanting more information than that presented in this primer with respect to specific Washington lakes are referred to the reports of Bortleson and others (1975) and Dion and others (1975).

Limnological terms which the reader may not be familiar with are underlined and briefly defined where first used in the text, and are more fully defined in a special section near the end of the primer. A knowledge of limnological terms will be useful to those readers who continue reading about lakes in the selected references listed at the end of the primer.

Because this report is a general overview of many facets of the field of limnology, it incorporates considerable material from previously published reports, in particular Born and Yanggen (1972), Britton and others (1975), Lee (1970), and Reid and Wood (1976).

---

[1] The quotations beneath the section titles are taken from Walden, by Henry David Thoreau (1854).

LAKE ORIGIN AND FORM

Lake Formation

"It is very certain, at any rate, that once there was no pond here, and now there is one."

There are nearly 8,000 lakes in Washington, but the number of lakes differs widely among the counties (fig. 1). All lakes consist fundamentally of an accumulation of water in a basin. Lake basins originate in a variety of ways and their geographic distribution is dictated in large part by their manner of origin.

Most of Washington's lakes are the result of glacial and fluviatile (river or stream) action. In the Puget Sound lowland of western Washington and the lowland areas of northeastern Washington, many lakes occupy depressions in the surface of glacial drift--the gravel, sand, silt, and clay laid down by the continental glacier during the ice age. These depressions are generally either long troughs cut into drift plains by the passing ice sheet (fig. 2) or are more circular kettles left by the melting of huge blocks of glacial ice (fig. 3). Still others are simply shallow depressions left on an irregular surface of glacial deposits.

Lakes in the foothills of the Cascade and Olympic Mountains and in lower mountains occupy either kettle depressions in glacial drift or depressions cut into bedrock by the continental glacier. Lakes in the higher mountains of Washington occur in basins cut by local alpine glaciers (fig. 4). Where such lakes occupy cirques--deep basins formed by glacial erosion in the side of a mountain--they are called cirque lakes, and small cirque lakes are called tarns. Lake Chelan in Chelan County, the State's largest and longest natural lake, occupies a mountainous troughlike basin more than 1,600 feet deep which was probably eroded to that depth by alpine and continental glacial ice.

Many lakes were formed by river processes. One well known type is the oxbow (or "horseshoe") lake, formed by the cutoff and isolation of a river meander (fig. 5). Several lakes along the Yakima River, near Sunnyside in Yakima County, were formed in this way. In the semiarid Columbia Basin, underlain by lava, most lakes occupy the more deeply cut parts of some coulees of the channeled scablands (fig. 6). Most of these coulees were cut by gigantic, catastrophic floods resulting from the breaking of dams of glacial ice and the rapid emptying of large glacial lakes.

Figure 7 shows generally the areas of Washington where one can expect to find lakes that owe their origin to the foregoing described geologic processes.

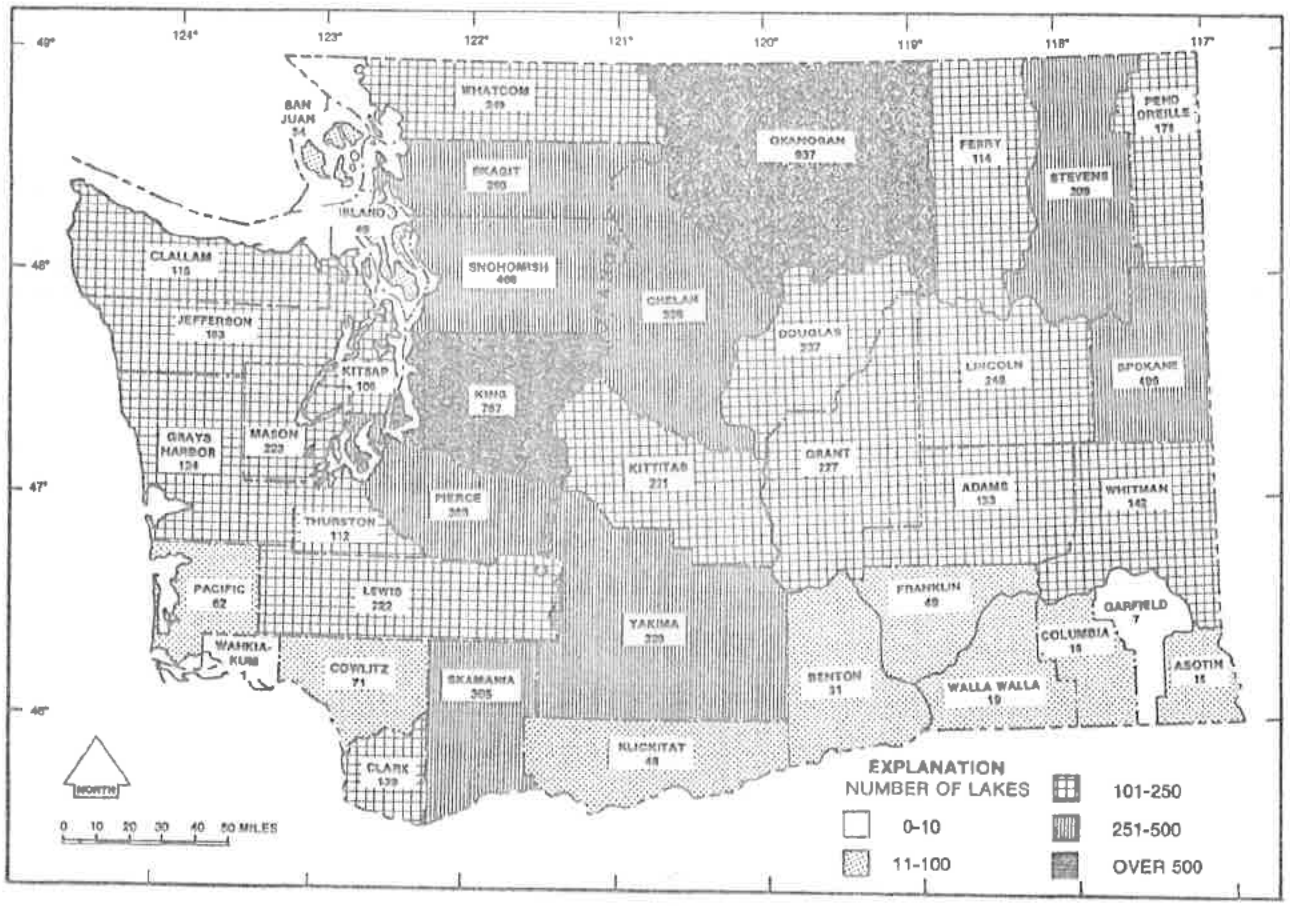
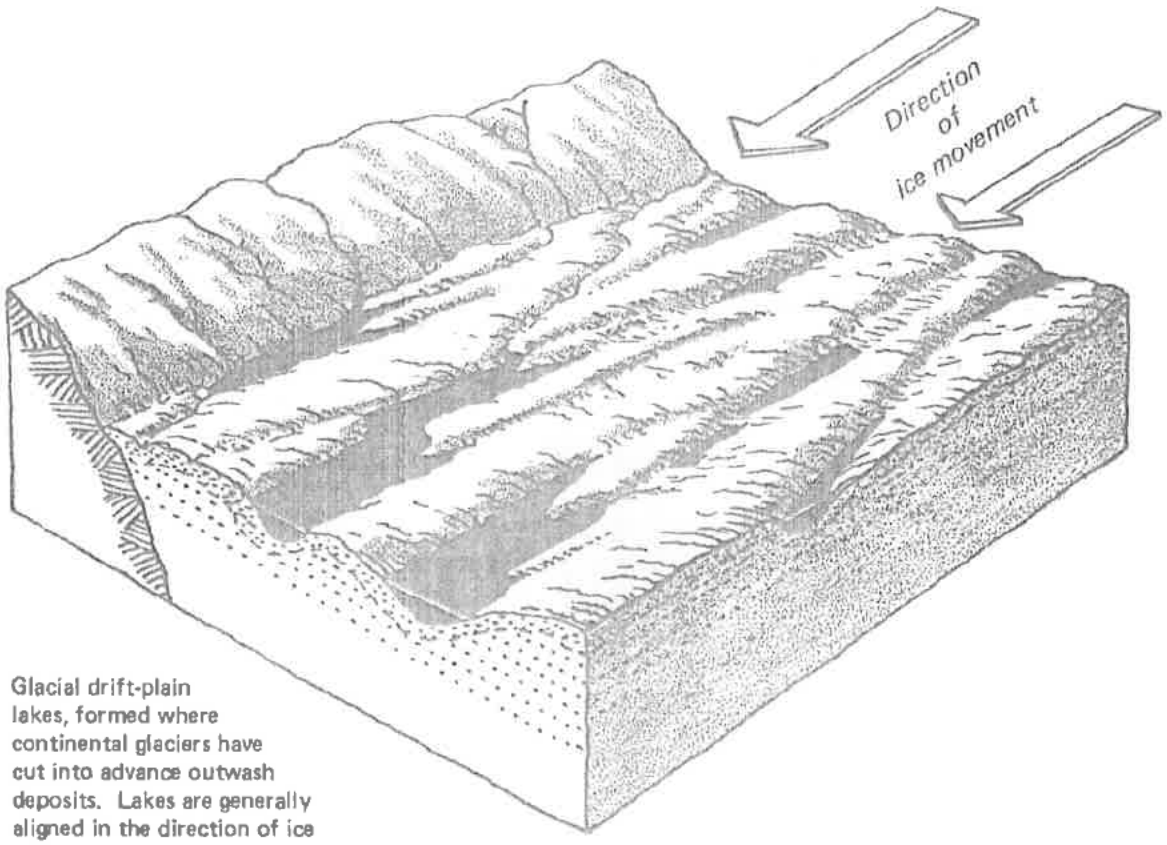


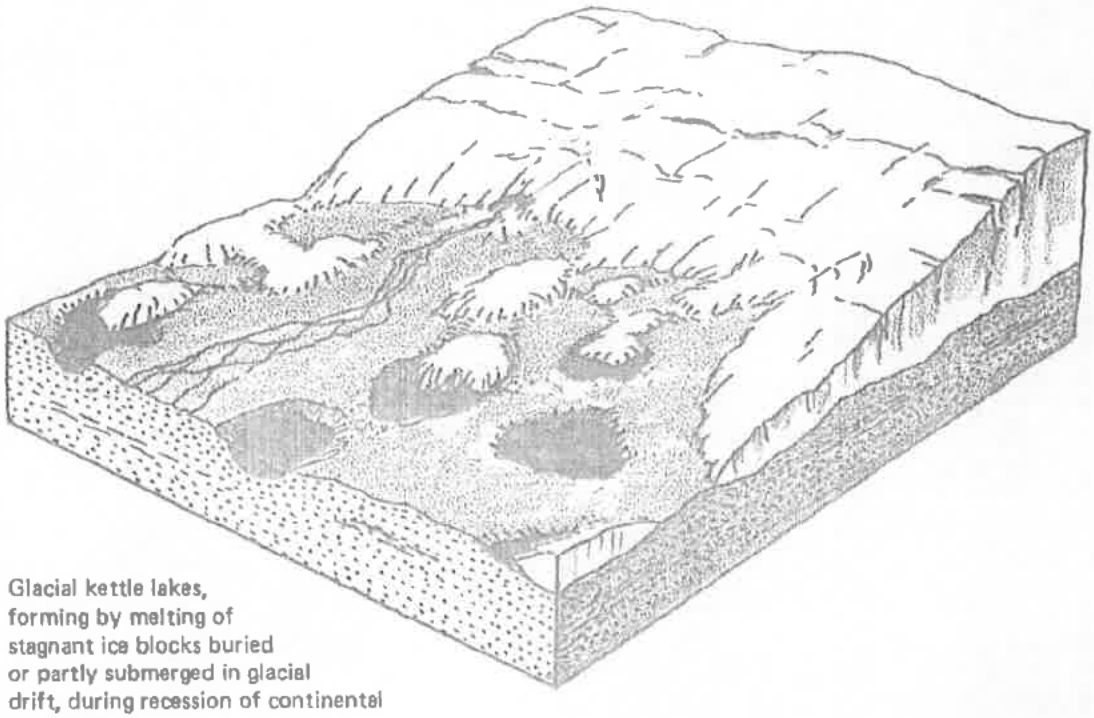
FIGURE 1.--Distribution of lakes in Washington, by county.
(Based on data from Wolcott, 1964 and 1965.)



Glacial drift-plain lakes, formed where continental glaciers have cut into advance outwash deposits. Lakes are generally aligned in the direction of ice movement.



FIGURE 2.--Sketch and photograph showing geologic origin and example of typical drift-plain lakes.



Glacial kettle lakes, forming by melting of stagnant ice blocks buried or partly submerged in glacial drift, during recession of continental ice sheet.

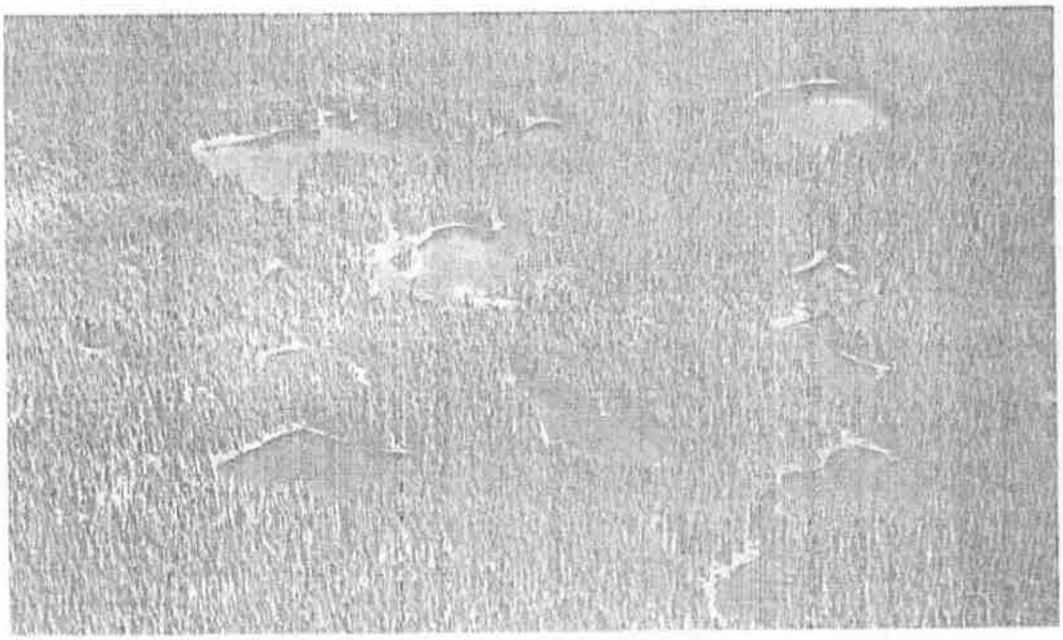
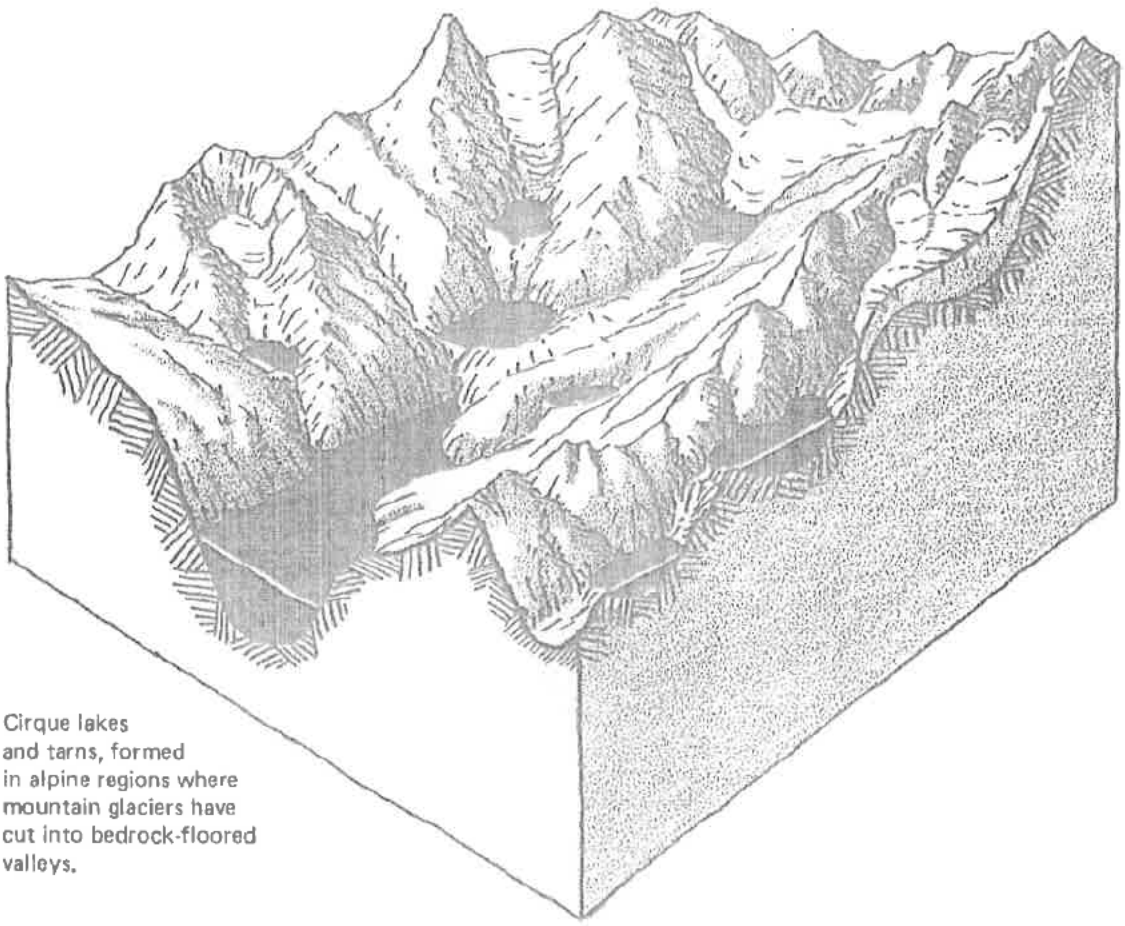


FIGURE 3.--Sketch and photograph showing geologic origin and examples of typical kettle lakes.



Cirque lakes and tarns, formed in alpine regions where mountain glaciers have cut into bedrock-floored valleys.

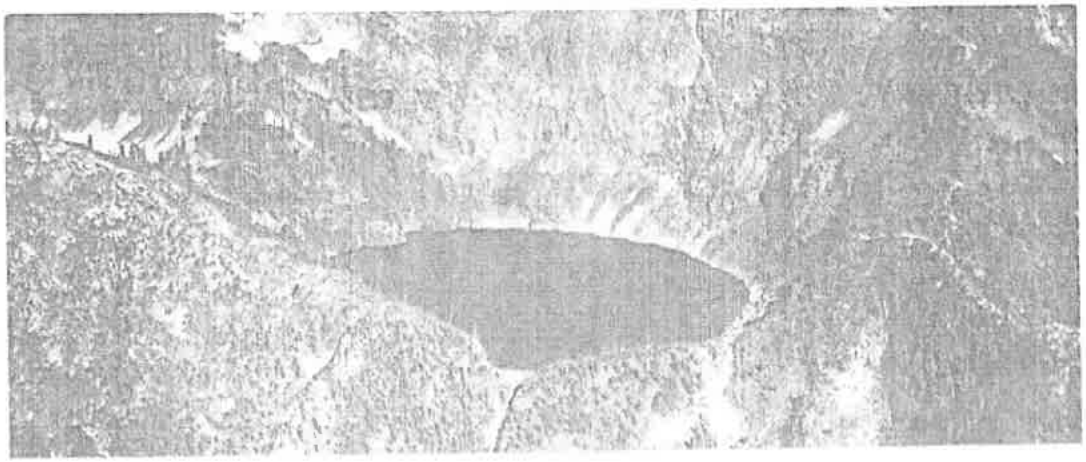
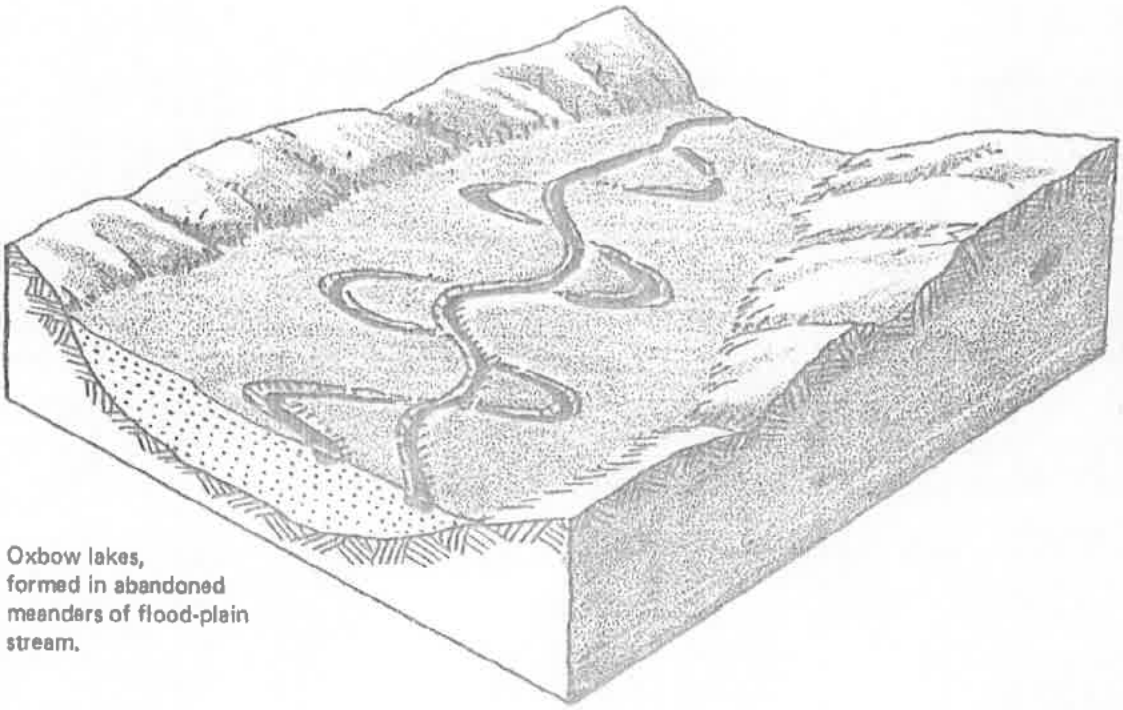


FIGURE 4.--Sketch and photograph showing geologic origin and examples of typical cirque lakes and tarns.



Oxbow lakes, formed in abandoned meanders of flood-plain stream.

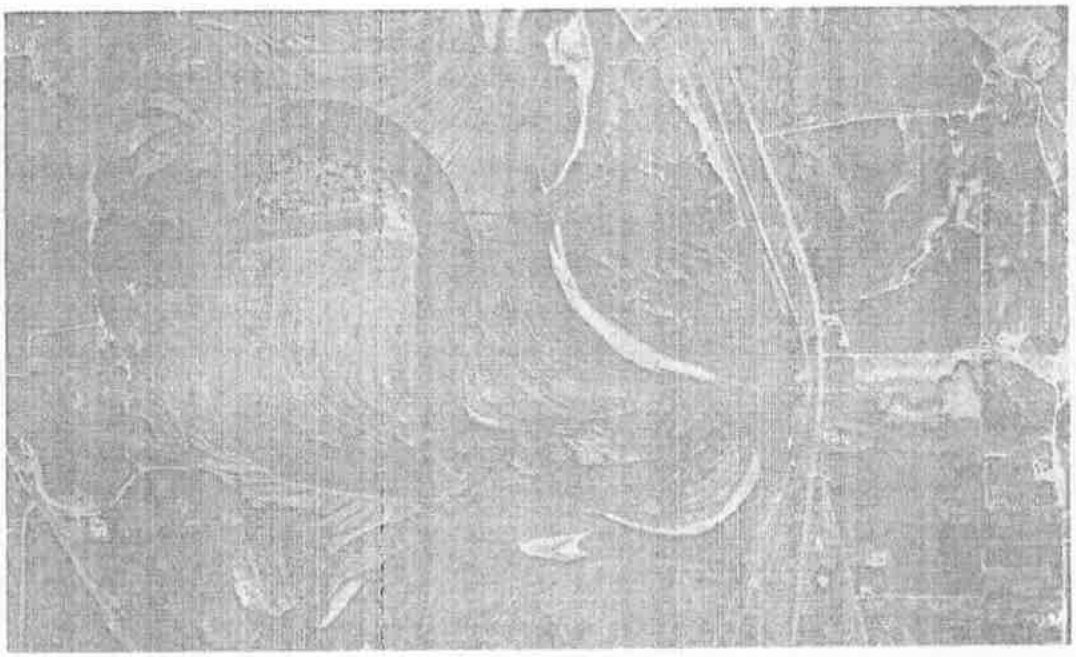
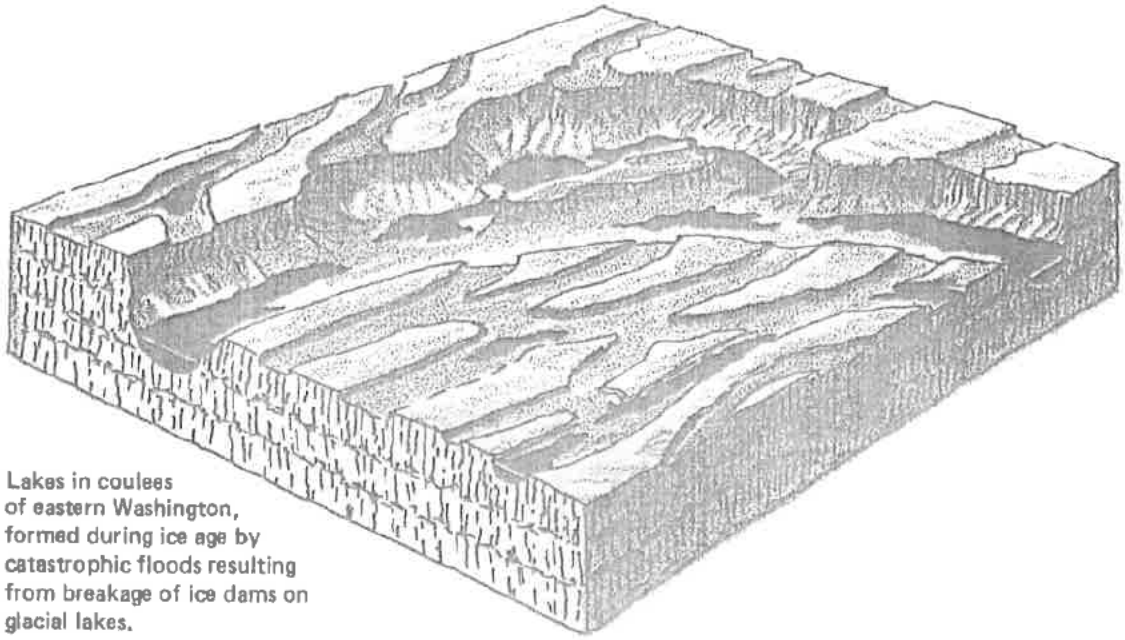


FIGURE 5.--Sketch and photograph showing geologic origin and example of typical oxbow lakes.



Lakes in coulees of eastern Washington, formed during ice age by catastrophic floods resulting from breakage of ice dams on glacial lakes.

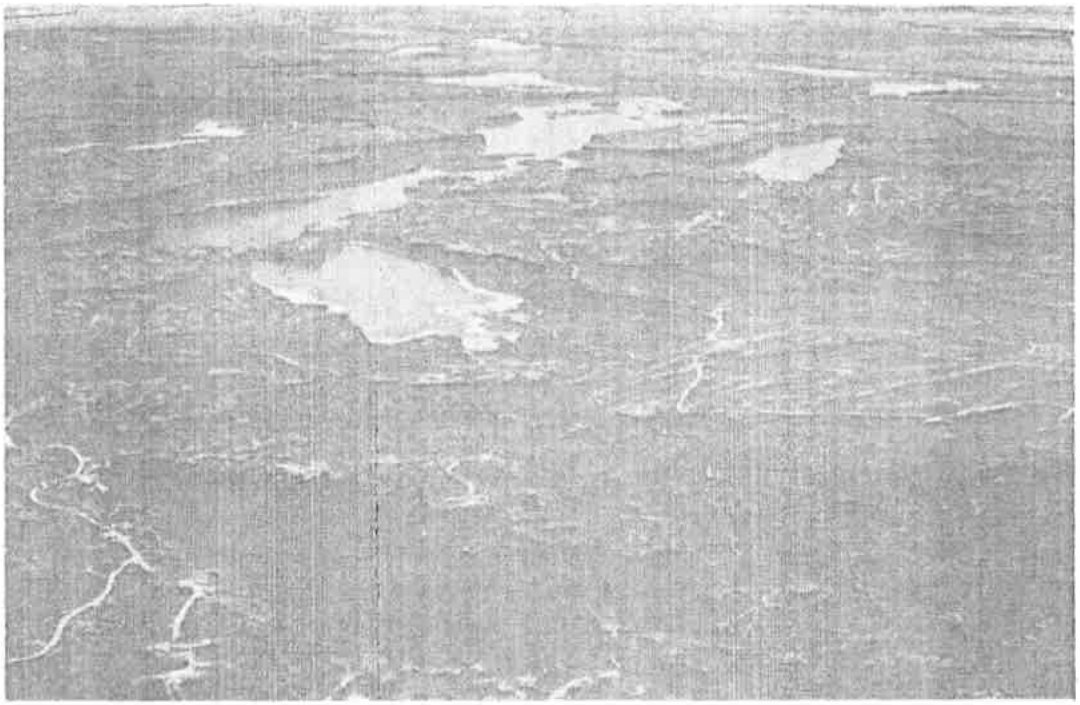


FIGURE 6.--Sketch and photograph showing geologic origin and examples of typical coulee lakes.



A, B. Glacial drift-plain lakes, including kettle lakes

C. Cirque lakes, tarns and other mountain lakes cut into bedrock by local alpine glaciers

D. Oxbow lakes, formed on flood plains of major river valleys

E. Coulee lakes, cut by glacial melt-water streams and catastrophic floods resulting from breakage of ice dams on glacial lakes

FIGURE 7.--Generalized areas of Washington characterized by lakes of various geologic origins, as shown diagrammatically in figures 2 through 6.

A smaller number of lakes in Washington owe their formation to less common geologic actions and the building activities of animals. Some lake basins were formed by the deformation of the earth's crust through warping or faulting. A few lakes, such as Battleground Lake in Clark County, occupy the craters of extinct volcanoes; such lakes are referred to as crater lakes. Still other lakes were formed when landslides or lava flows blocked streams flowing in natural valleys or canyons. A few Washington lakes, chiefly in Okanogan County, owe their formation to the solution, and eventual collapse, of limestone formations.

Beavers play an important role in lake formation. Using logs, sticks, and mud, beavers are capable of building dams that are not only structurally sound, but also large enough to impound several acres of standing water. But people are the ultimate builders of dams. Artificial lakes range in size from small stock ponds to the mighty hydroelectric and irrigation reservoirs on the Columbia River.

Lakes have also formed as an indirect result of human activities. In the lower Columbia Basin area, irrigation seepage and runoff have created numerous ponds and lakes in depressions and rocky coulees that previously were dry. Also in this category are the quarries, pits, and other excavations which people have abandoned and which have subsequently filled with water to form lakes.

The manner of lake origin affects many of the physical, chemical, and biological events that occur within the lake, and imparts distinctive characteristics to the lake.

Lake Shape

"It is a clear and deep green well, half a mile long and a mile and three quarters in circumference, and contains about sixty-one and a half acres...."

The shape of a lake depends partly on the forces that produced the basin and partly on the events that occur in and near the lake after it has been formed. Lake shape is best portrayed by a detailed bathymetric (depth) map such as the one shown in figure 8. These maps are usually made by combining land surveying or photography, for the shore outline, with depth soundings made from a boat.

The measurement of the shape of geographic features of the earth is termed morphometry. From the bathymetric map can be obtained a number of morphomeric parameters which express certain aspects of the lake shape in numerical terms and which allow quantitative comparisons between lakes. Only the most commonly used morphometric parameters are discussed in this primer. A more complete and rigorous discussion is presented by Hutchinson (1957).

The area of a lake is the size of its surface as determined on a map or aerial photograph of known scale. On a bathymetric map the area is enclosed within the shoreline or zero-depth contour. For lakes with sloping bottoms the area decreases as the stage, or water level, falls and increases as the stage rises.

Determining the volume of a lake, as shown in figure 9, involves deriving and summing the volumes of each layer of water bounded by depth contours on the bathymetric map. The volume of each layer is derived by multiplying the depth of the layer by the average of the areas of the upper and lower surfaces of the layer. The volume of a lake is usually reported in acre-feet--the amount of water required to cover 1 acre to a depth of 1 foot.

The maximum depth of a lake is, as the term implies, the greatest depth sounded; sedimentation, erosion, and lake-stage fluctuations, however, can rapidly alter the depth of a lake. The mean depth (in feet) of a lake is obtained by dividing lake volume (in acre-ft) by lake area (in acres). Given two lakes of equal surface areas and maximum depths (lakes A and B in figure 10) the lake with the greater volume (lake A) will have the greater mean depth. Most Washington lakes (72 percent) have mean depths of less than 26 feet; only 7 percent have mean depths of greater than 66 feet. Mean and maximum depth obviously change with changes in lake stage.

The relative depth of a lake is the ratio of the maximum depth to the mean lake diameter, in percent. Lakes A and B in figure 11 have the same maximum depth, but the diameter (and area) of lake B is larger than that of lake A. Consequently, the relative depth of lake A (1.9 percent) is greater than that of lake B (1.0 percent). Most lakes in Washington are large and shallow and have relative depths of less than 2 percent. A few lakes are small and deep and have relative depths greater than 4 percent.

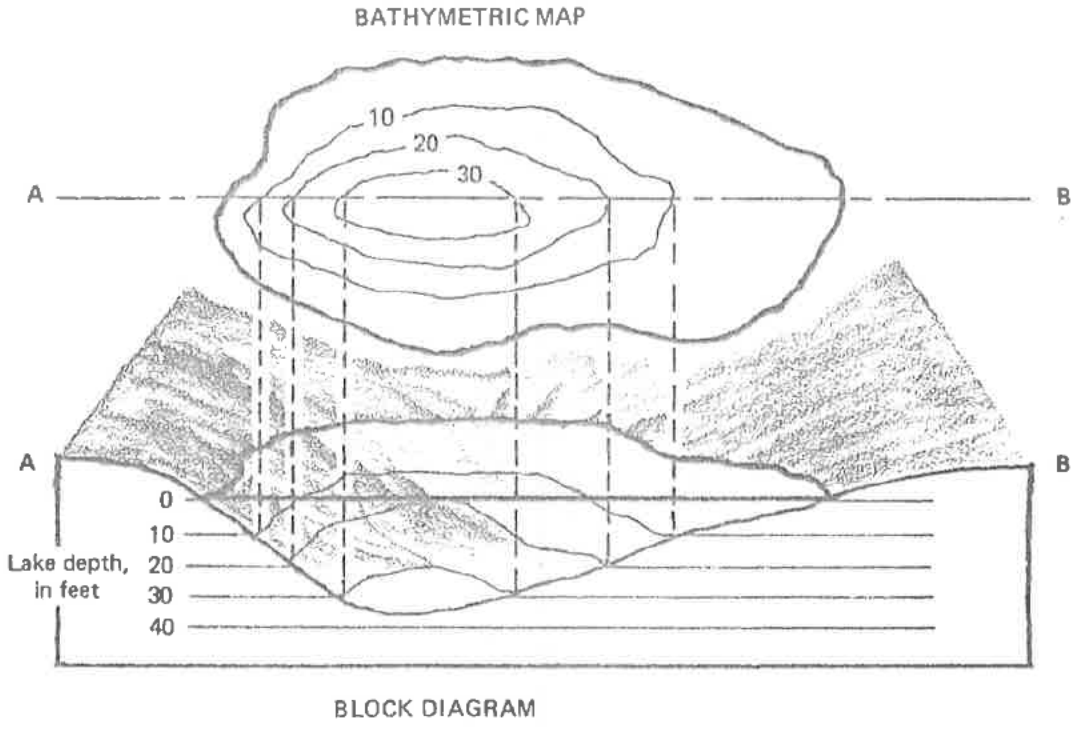
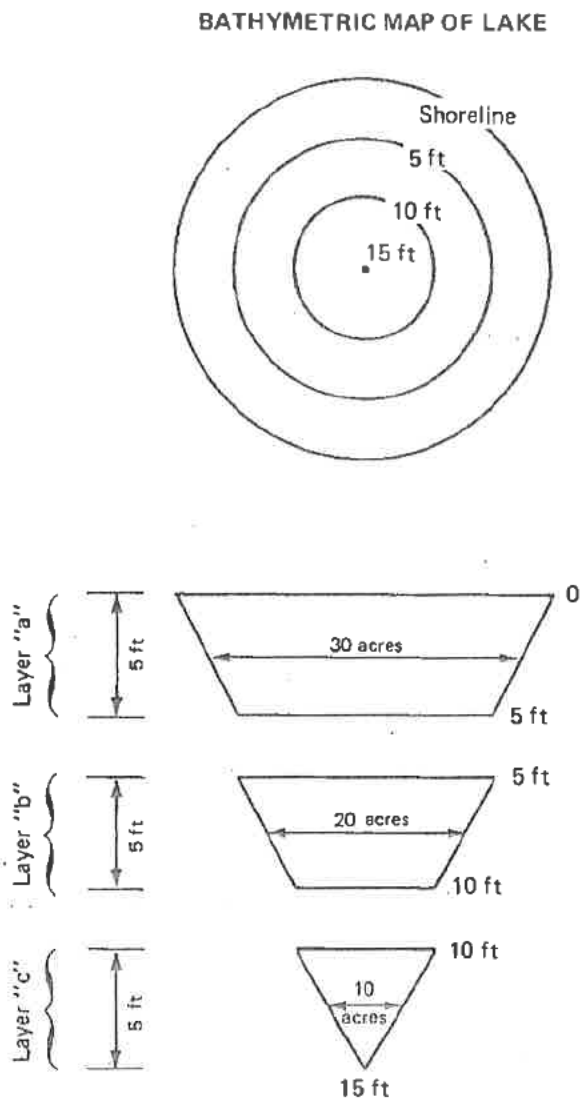


FIGURE 8.--A bathymetric map and the lake it represents.



Volume of lake = (volume of layer "a") + (volume of layer "b") + (Volume of layer "c")

Volume of lake = (5 feet x 30 acres) + (5 feet x 20 acres) + (5 feet x 10 acres)

Volume of lake = (150 acre - feet) + (100 acre - feet) + (50 acre - feet)

Volume of lake = 300 acre - feet

FIGURE 9.--Determination of volume.

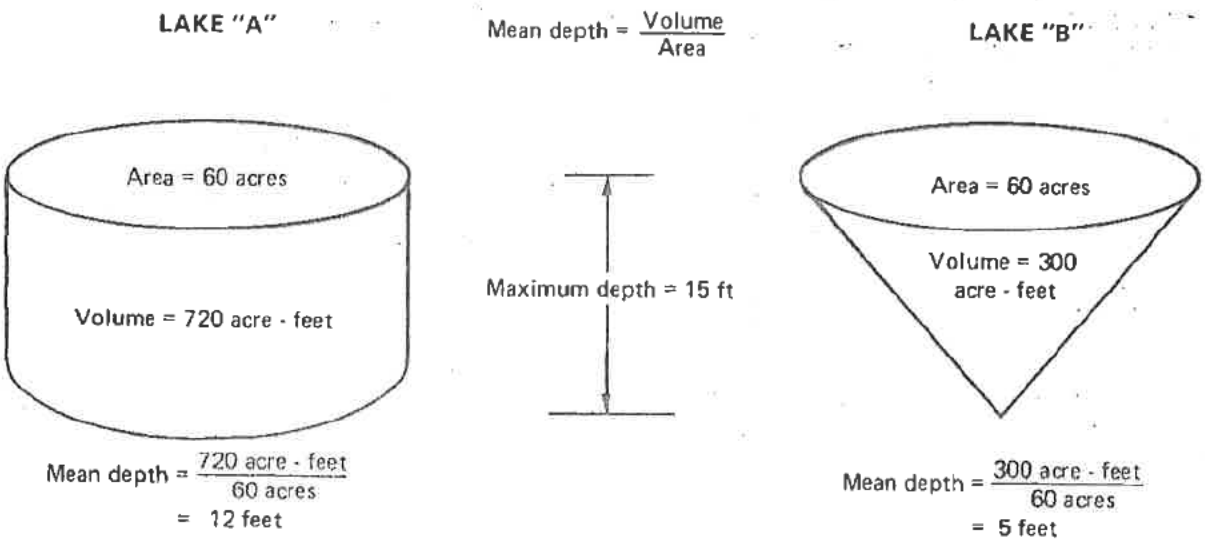


FIGURE 10.--Determination of mean depth.

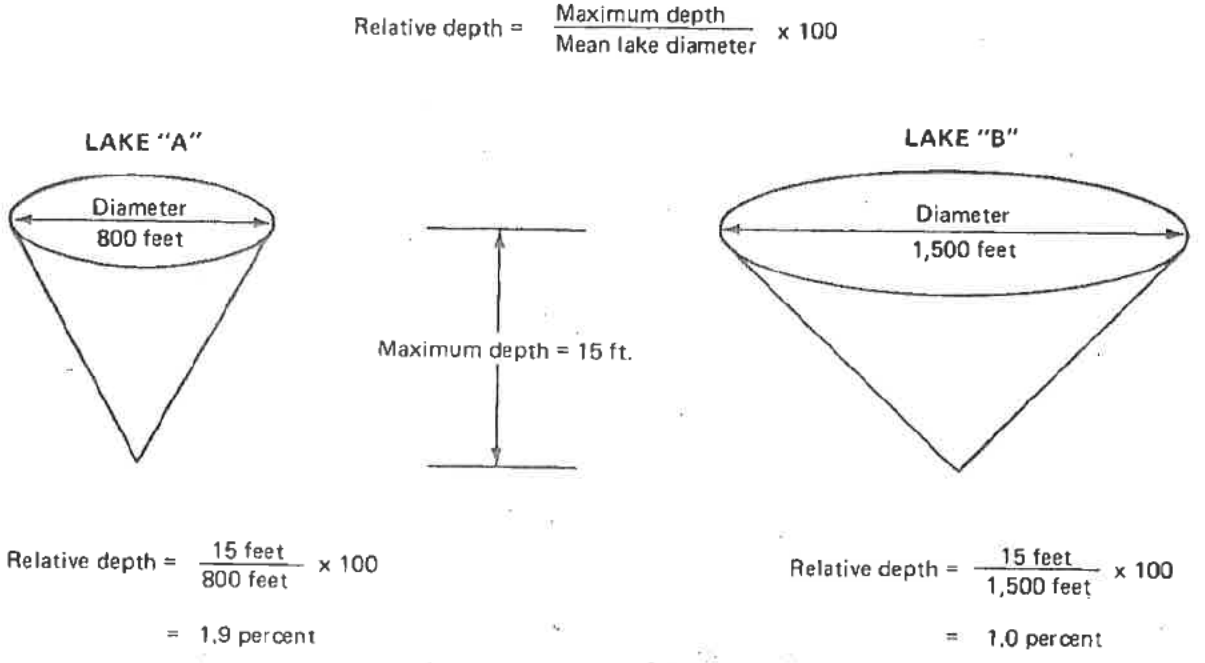
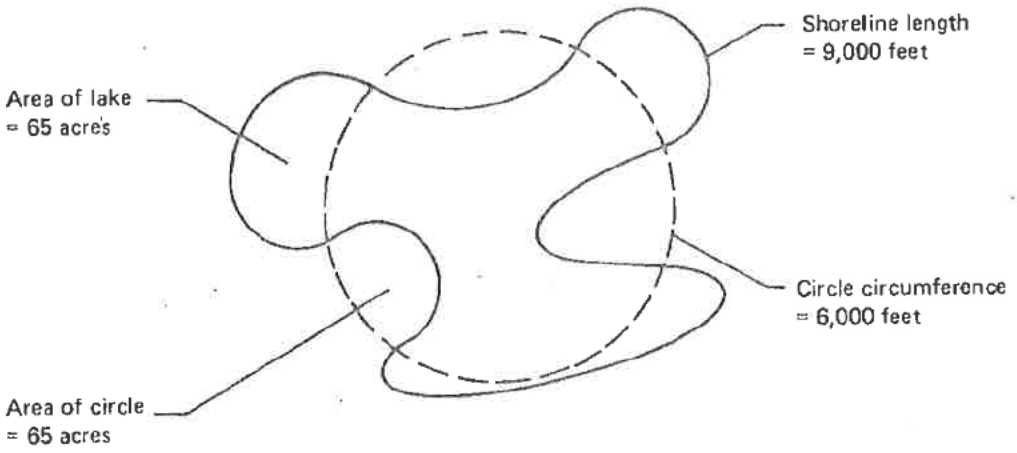


FIGURE 11.--Determination of relative depth.

The shoreline length of a lake is measured along the water's edge on a photo or map of known scale. The shoreline configuration of a lake is the dimensionless ratio of the shoreline length to the circumference of a circle having the same area as the lake. For example, the lake in figure 12 has an area of 65 acres and a shoreline length of 9,000 feet. A true circle having an area of 65 acres would have a circumference of only 6,000 feet. The shoreline configuration of the lake, therefore, would be 9,000/6,000, or 1.5. The shoreline configuration value is usually greater than unity. Nearly circular lakes have values near unity, irregularly shaped lakes have higher values, and long, narrow lakes have the highest values. About one-half (49 percent) of Washington's lakes have shoreline configuration values between 1.5 and 3.0. Only 4 percent have values above 3.0.

All of the variables described above have been found to be useful in comparisons or explanations of differences in the physical, chemical, and biological processes of different lakes.

$$\text{Shoreline configuration} = \frac{\text{length of lake shoreline}}{\text{circumference of circle}}$$



$$\text{Shoreline configuration} = \frac{9{,}000 \text{ feet}}{6{,}000 \text{ feet}} = 1.5$$

FIGURE 12.--Determination of shoreline configuration.

PHYSICAL PROCESSES

Hydrology

"The pond rises and falls, but whether regularly or not, and within what period, nobody knows, though, as usual, many pretend to know."

The water supply of a lake is governed by the hydrologic cycle, the system in which water evaporates into the atmosphere from the earth's surface and then condenses to return to earth as precipitation to replenish the surface and underground supplies of water. The cycle, portrayed in figure 13, is driven chiefly by solar energy and gravity. Even though water may be temporarily detained or stored in such places as glaciers, lakes, snowpacks, oceans, or ground-water aquifers, the hydrologic cycle is in continuous motion. Lakes may gain water from precipitation, from surface inflows such as rivers and streams, and from the subsurface inflow of ground water through seeps and springs. Lakes may also lose water by evaporation (including transpiration from aquatic plants), and by surface and subsurface outflow.

The general pattern of lake-level fluctuations of most Washington lakes (fig. 14) is a rising stage in spring and early summer and a decline in the fall and winter. The lake levels rise when inflow from snowmelt and precipitation on the watershed exceeds the losses by outflow and evaporation. After the early summer peak is reached, the stage declines gradually to the winter low because of the reduction in precipitation and the increase in evaporation during late summer and early autumn.

The general pattern described above is different in the lowland areas of western Washington where winter temperatures are generally above freezing. In this region, lake stages begin rising in autumn in response to greater rainfall and a lower rate of evaporation. After peaking in mid- to late winter, lake stages decline to a late-summer low in response to decreased rainfall and increased evaporation.

Most Washington lakes possess some form of outlet and are termed open lakes. Open lakes catch sediments introduced by inflowing streams, but substances dissolved in water generally move through without accumulating. The relationships of inflow, outflow, evaporation, and seepage (in and out) determine the stage of an open lake. Water-level fluctuations of open lakes usually occur rapidly in response to changes in inflow, and may be of large magnitude in small lakes fed by large rivers. In forested areas or other regions where the soil in the drainage basin can store large amounts of water, the magnitude of water-level fluctuations is reduced significantly.

In the semiarid regions of Washington, such as the Columbia Basin, some streams do not find their way to the sea, but end in lakes without outlets. In those regions evaporation usually exceeds precipitation, and such lakes seldom fill to overflowing and may even dry completely in summer. These lakes are termed closed lakes and are typically saline, that is, high in salt content. As do open lakes, closed lakes tend to trap sediment; but unlike open

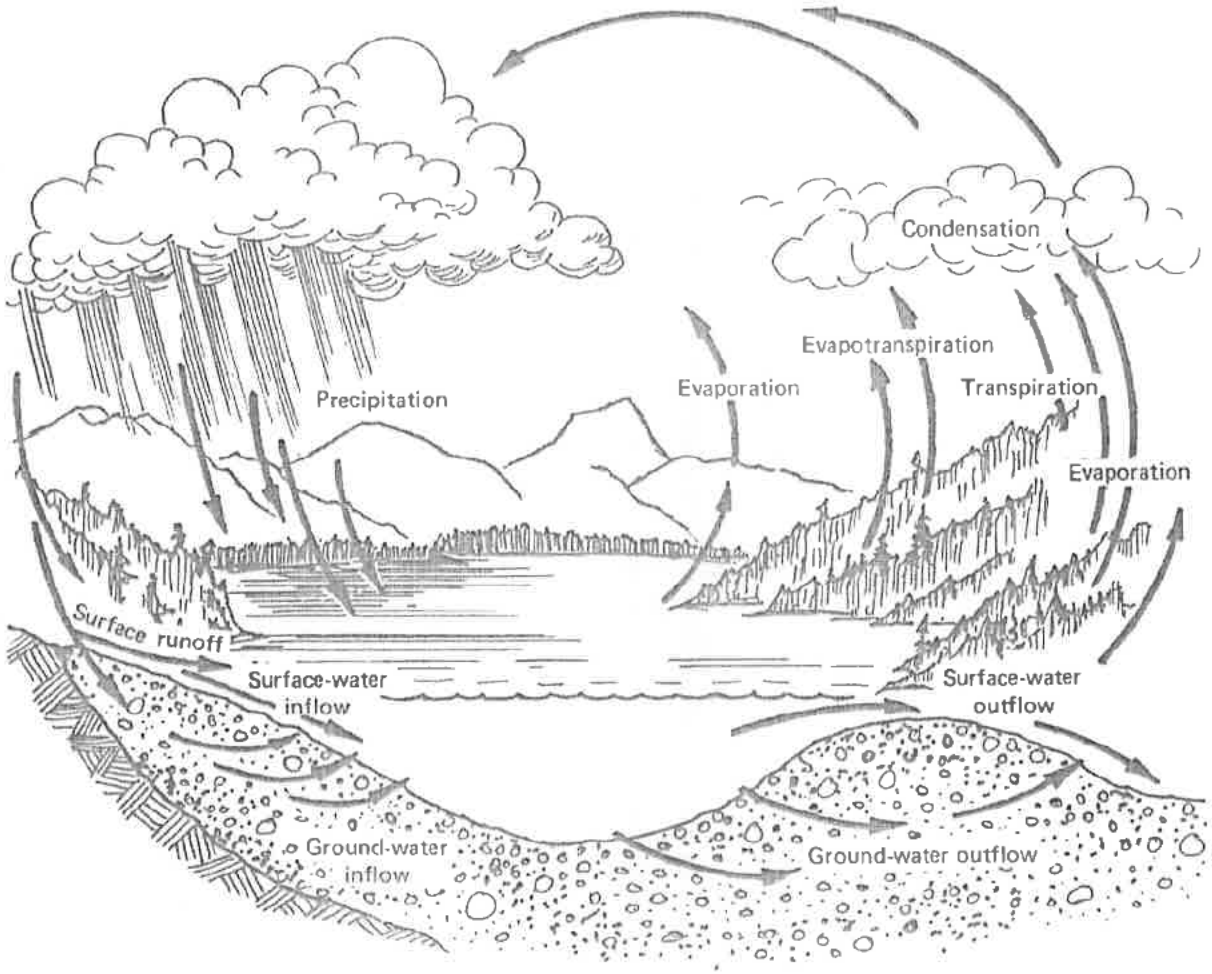


FIGURE 13.--The hydrologic cycle.

lakes, the absence of an outlet and the high rate of evaporation create deposits of mineral salts which would otherwise have remained in solution and been carried to sea. Water-level fluctuations of closed lakes may be rapid or slow, depending on the type and size of inflow. It should be pointed out that truly closed lakes occur only rarely because most lakes have at least some outflow seepage to ground water.

One of the hydrologic variables sometimes used in comparing lakes is the water renewal time. It is the time needed to replace the entire volume of a lake under average conditions of inflow and outflow, and it is usually longer for closed lakes than for open lakes.

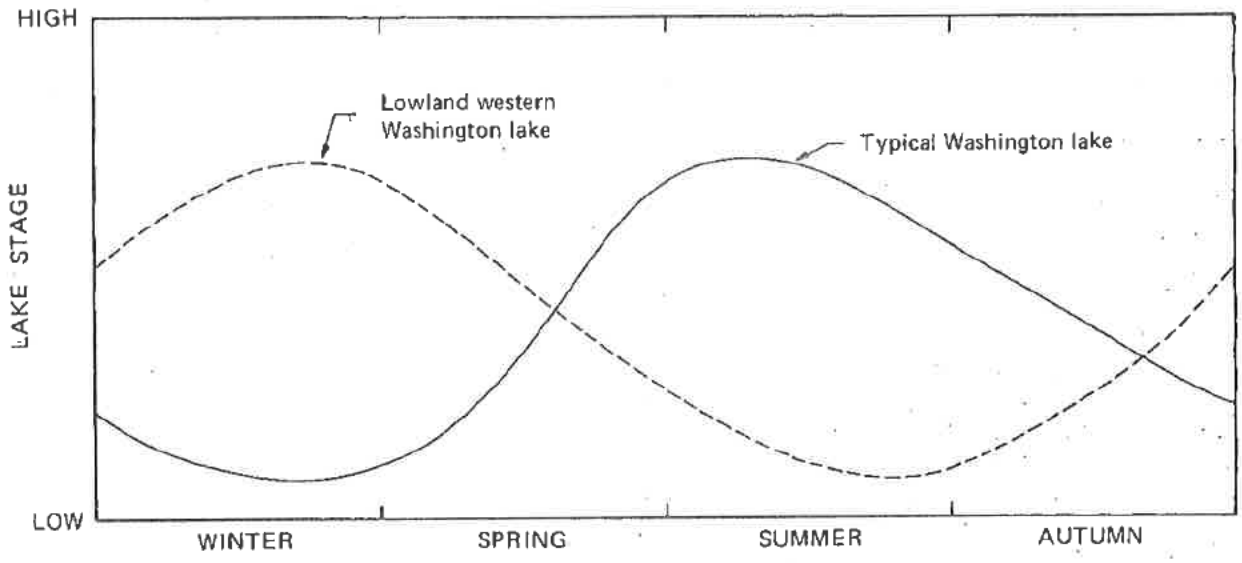


FIGURE 14.--Lake stage fluctuations in Washington lakes.

Temperature

"Moreover in summer, Walden never becomes so warm as most water which is exposed to the sun, on account of its depth."

Most liquids, including water, contract and become more dense as they cool. Water is unique, however, in that it is one of only two known compounds (the other being cesium chloride) that reaches its maximum density above, rather than at, the freezing point. As shown in figure 15, fresh water reaches its maximum density (at sea level) in the liquid state at about 4°C (degrees Celsius), a few degrees above the freezing point. Because ice is less dense than water at near-freezing temperatures, ice floats. If the maximum density of water were at the freezing point, ice would sink and lakes would freeze from the bottom up. In severe winters lakes would freeze solid and most aquatic plants and animals would be killed. These seemingly simple facts help explain the complex thermal phenomena that are observed in lakes.

The annual temperature cycle of moderately deep and deep lakes in temperate climates is illustrated in figure 16. In winter, a temperate-region lake is typically covered with ice. With the arrival of spring, warmer air temperatures and increased day length bring about the melting of the ice and a rise in the temperature of the upper water of the lake. As this water warms to 4°C, it becomes more dense than underlying water, sinks, and is replaced by less dense (and colder) water from below. This convective circulation, aided by the stirring of the wind, eventually produces a water body of uniform temperature (4°C) and maximum density. This mixing process has been termed the spring overturn. As the upper water warms above 4°C, it becomes less dense and no longer mixes with the underlying water. With increased heating the resistance to mixing between layers of different densities increases and thermal stratification develops.

Summer thermal stratification is characterized by (1) an upper zone of uniformly warm water; (2) an intermediate zone of transition where temperature decreases rapidly with depth; and (3) a lower zone of uniformly cold water. Limnologists call these three zones the epilimnion, the metalimnion (sometimes called the "thermocline"), and the hypolimnion, respectively. The condition of thermal stratification is a stable one; the transition zone acts as a barrier between the upper warm-water zone and the lower cold-water zone, preventing the exchange of heat and dissolved substances. In addition to acting as a physical barrier by restricting the movement of water masses, the transition zone also acts as a biological barrier that affects the movement and dispersal of many aquatic organisms.

In autumn, cooler air temperatures and decreased day length cool the upper water of the lake. This cooled water, being more dense, settles and is replaced by warmer (and less dense) water from below. As cooling approaches 4°C, the cooled upper water approaches maximum density and sinks all the way to the bottom. This process of fall overturn again produces a water body of uniform temperature (4°C) and maximum density. At this time there is a complete mixing of dissolved gases and chemicals that had accumulated in the warm and cold zones during summer thermal stratification, thereby producing uniform chemical conditions throughout the lake.

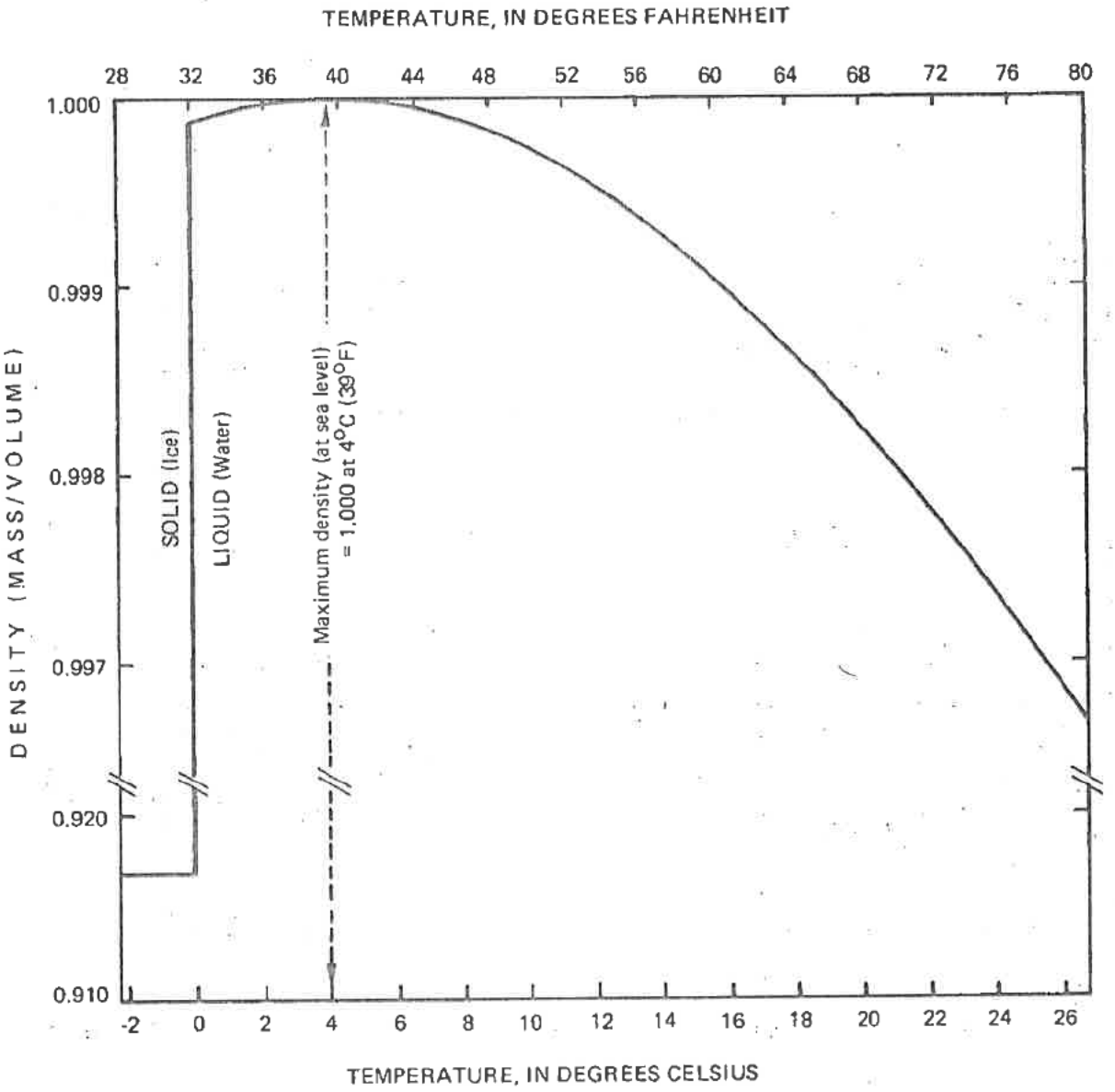


FIGURE 15.--The temperature-density relationship of fresh water.

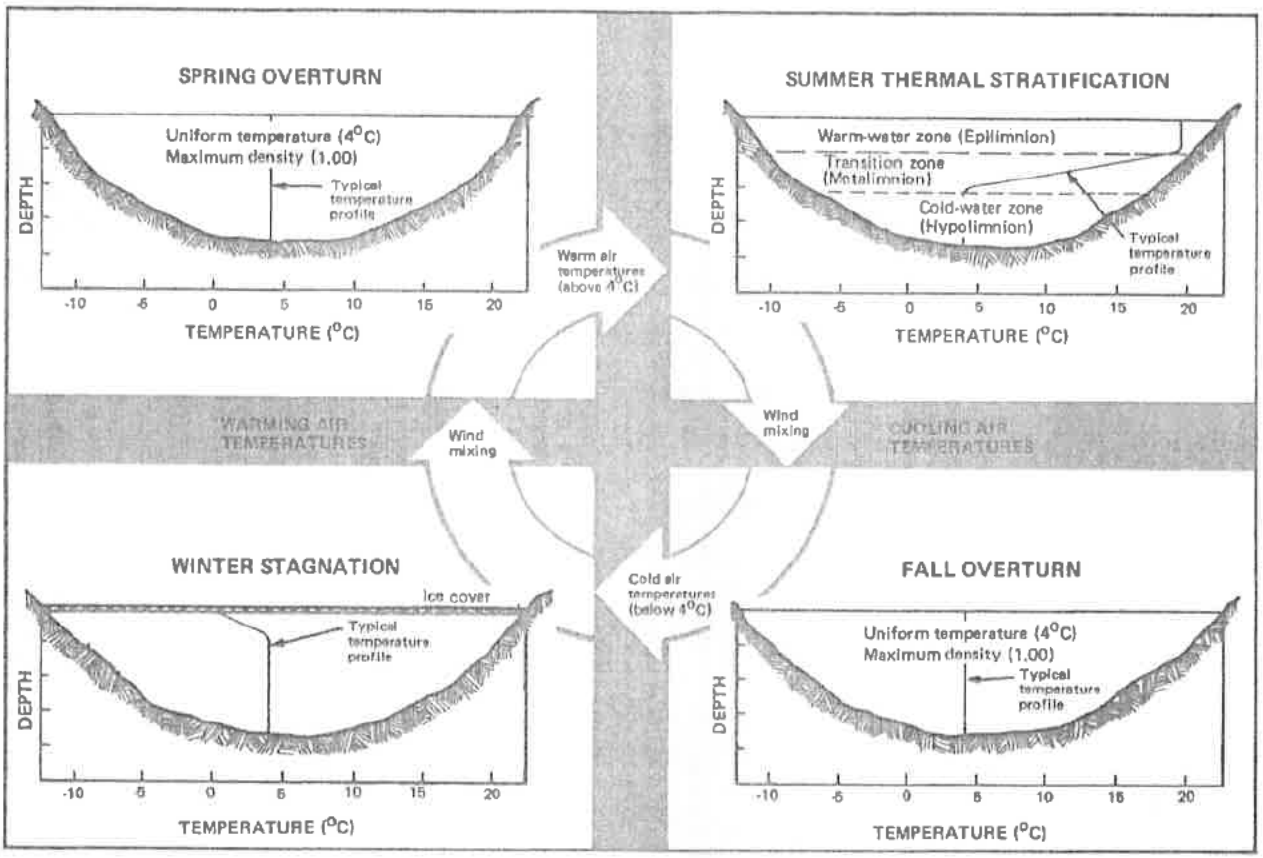


FIGURE 16.--The annual temperature cycle of a temperate-region lake.

Continued cooling during autumn lowers the upper-water temperature below 4°C, and an inverse temperature stratification develops, with water at about 4°C on the bottom and slightly colder, less dense, water above. This inverse stratification is most pronounced following the formation of the ice cover. Below the ice (0°C), the temperature of the water rises to near 4°C. The period of winter stagnation now exists.

Spring warming results in the melting of the ice cover, a spring overturn, and the continuation of the annual temperature cycle. Lakes that undergo this twice-yearly process of thermal overturn are referred to as dimictic.

Many lakes throughout Washington are too shallow to stratify thermally. Water temperatures in these lakes are practically constant from top to bottom, indicating that the waters are well mixed throughout.

Water density is not determined solely by temperature; it is also a function of salinity, or the amount of salts dissolved in the water. As salinity increases, water density also increases. In some lakes in eastern Washington the salinity of the bottom waters has increased the density of the water sufficiently to prevent vertical mixing. Such lakes do not undergo complete overturn regardless of air temperature or depth and are called meromictic. Some examples of meromictic lakes in Washington include Hot, Soap, and Wannacutt Lakes.

Light Penetration

"The water is so transparent that the bottom can easily be discerned at the depth of twenty-five or thirty feet."

An important physical property of water is its transparency, its capacity to transmit light. Not all solar radiation (sunlight) reaching the surface of a lake penetrates the water; a significant portion is reflected from the water surface back to the atmosphere. Turbidity is the principal factor affecting the depth of light penetration in lake water, and results from high concentrations of plankton (small, free-drifting organisms) and suspended organic and inorganic substances. The depth of light penetration through clear, colorless ice is similar to that through water, but is greatly decreased if the ice is stained with organic matter, clouded with air bubbles, or formed in irregular crystals. Snow cover further reduces or prevents light transmission through ice.

A very simple device for measuring the transparency of lake water is the Secchi disc, a disc 8 inches in diameter and painted white and black in alternating quadrants. Its use is depicted in figure 17. The depth at which the disc disappears from view is termed the "Secchi-disc transparency" of the lake. Lakes in Washington vary greatly in transparency. The Secchi-disc transparency of Summit Lake in Pierce County was 79 feet (the highest measured thus far in Washington) on July 17, 1973. In contrast, the transparency for Artesian Lake in Grant County was only 0.1 foot on June 10, 1974. Where small Secchi-disc readings are caused by plankton only, the readings provide an index of a lake's productivity (yield of organic matter) relative to other lakes at that same time.

Sunlight is required by aquatic plants for the basic metabolic process of photosynthesis, in which chlorophyll-containing plants convert carbon dioxide and water into sugar and oxygen. The sugar is used by aquatic plants and animals to build tissue. The oxygen is vital to plant and animal respiration and is also necessary for the decomposition of organic and inorganic substances.

As shown in figure 17, the lake zone that has sufficient light for photosynthesis is called the euphotic zone and, in summer, it often corresponds closely with the warm-water zone of many lakes. The lower limit of the euphotic zone occurs at a level where oxygen is consumed at the same rate as it is produced. This is the compensation level, and it is approximately 3 to 5 times the Secchi-disc depth. Below the compensation level is the aphotic zone where there is insufficient light to maintain photosynthesis. As with Secchi-disc transparency, the depth of the compensation level varies with time of day and season of the year.

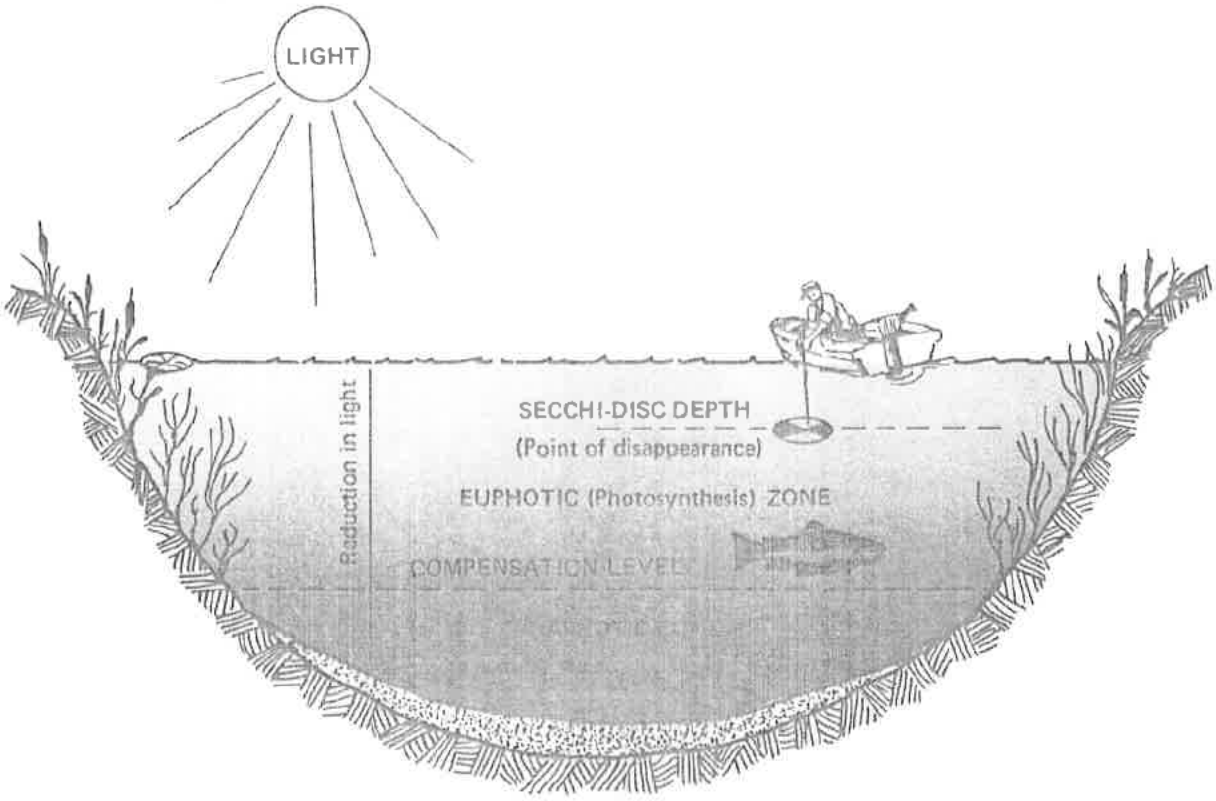


FIGURE 17.--Light zones and transparency measurements in lakes.

WATER CHEMISTRY

Pure water does not occur in nature; all lake waters contain varying amounts and kinds of dissolved solids and gases. The substances in solution are critical to the continuation of aquatic life to the extent that the size and type of many aquatic communities are often determined by the amounts and kinds of dissolved substances available. For example, the only nutrients (chemicals required for life processes) available to algae (simple, usually microscopic plants) are those that are dissolved in the water. In addition, certain organisms may depend on the availability of specific dissolved substances; snails, mussels, and other animals with limey shells are dependent on the availability of dissolved calcium carbonate. The processes of respiration and photosynthesis are dependent on the availability of certain gases, namely oxygen and carbon dioxide, in the proper concentrations. Certain other gases, even in small quantities, are known to be harmful to aquatic life.

Dissolved Solids

".....the waves, I suspect, do not so much construct as wear down a material which has already acquired consistency."

The composition and content of dissolved solids in any particular lake water is governed by the lake's hydrology--the sources and amounts of inflow and the relative amounts of inflow and outflow. In many places the natural composition and content of solids is altered, either beneficially or adversely by people.

The geology of a lake's drainage basin is an important factor in determining the mineral load carried to a lake, particularly an open lake. If the drainage basin is underlain by volcanic or dense, highly crystalline rocks, which are relatively insoluble, the lake water is generally low in dissolved minerals. If, on the other hand, the drainage basin is underlain by sedimentary rocks which are relatively soluble, the lake water is apt to be high in dissolved minerals.

The atmosphere is also an important source of dissolved solids. Near coastlines, the sea supplies large amounts of sodium, chloride, magnesium, and sulfate to the atmosphere. This salinity can be carried inland for great distances, although most of it is precipitated with rainfall in the coastal regions. Windblown dust from the soil contributes calcium and potassium to lakes; in semiarid regions the fallout of these elements in dust often exceeds the amounts contributed through precipitation. Dissolved-solids concentrations are usually higher in closed lakes than in open lakes because in closed lakes the soluble salts remain in the lakes as evaporation proceeds.

The specific conductance of water--its capacity to conduct an electrical current--is an approximate measure of its total mineral content. Specific conductance is usually expressed as micromhos per centimeter (μmho/cm) at 25°C. The purer the water is, the greater its resistance to electrical flow will be, and the lower the specific conductance value. The specific conductance of water in western Washington lakes usually ranges from 25 to 100 μmho/cm and in eastern Washington lakes from 100 to 400 μmho/cm, except in the Columbia Basin, where the values range from 400 to 800 μmho/cm.

The chemical constituents commonly found in Washington lakes in the greatest concentrations are calcium, magnesium, sodium, potassium, bicarbonate, carbonate, sulfate, chloride, fluoride, and silica. In addition, measurable amounts of iron, aluminum, nitrogen, and phosphorus also occur, but typically in lower concentrations. Although many elements and compounds act as nutrients to nourish aquatic plants, nitrogen and phosphorus generally limit the extent of plant growth because they are needed in relatively large amounts and these needs often exceed available amounts. Measurements of nitrogen and phosphorus are thus often used by limnologists as indices of a lake's plant-producing potential.

Dissolved Gases

"How peaceful the phenomena of the lake!"

Of all the chemical substances dissolved in water, oxygen is by far the most important because it is required by aquatic plants and animals for life processes. The amount of oxygen in lake water is thus a good indicator of life-support conditions in the lake. Many of the compounds necessary for the continuation of aquatic life, such as proteins and carbohydrates, can be stored within an organism. They have no capacity, however, for the long-term internal storage of oxygen; oxygen deprivation for just a short time is usually harmful or fatal. As an indicator of lake conditions, limnologists generally agree that a series of oxygen determinations is probably more valuable than any other single series of measurements.

The oxygen available for biological processes in lake water is in solution, much like dissolved solids. Oxygen is absorbed directly from the atmosphere and is produced by plant photosynthesis; it is removed from solution by the respiration of organisms and by the oxidation of organic and inorganic matter.

The amount of oxygen dissolved in water at any given time is dependent on the temperature and the salinity of the water, and on the atmospheric pressure at the lake surface. The solubility of oxygen in water is decreased by (1) increased temperature, (2) increased salinity, and (3) decreased atmospheric pressure. Hence, all other factors being equal, cold water contains more oxygen than warm water, fresh water contains more oxygen than saline water, and a lake at low altitude contains more oxygen than one at high altitude.

Most of the oxygen produced by photosynthesis in the upper, lighted (euphotic) zone of a lake is produced by phytoplankton (the plant part of the plankton) which usually saturate that zone with oxygen. The oxygen content of the lower, dark (aphotic) zone is usually low because the small amount of oxygen produced there is consumed by the oxidation of decomposing organic and inorganic matter.

Aquatic plants and animals, especially fish, are adversely affected by oxygen depletion; certain minimum levels of oxygen are needed to maintain healthy conditions. A reduction of dissolved-oxygen concentration to less than 3 mg/L (milligrams per liter) has been shown to interfere with fish populations through delayed hatching of eggs, decreased tolerance to toxicants, and reduced growth rate. A dissolved-oxygen concentration greater than 5 mg/L is normally recommended for warm-water fish species; for cold-water fish species the concentration should not be less than 6 mg/L.

Another gas of importance in the aquatic environment is carbon dioxide, which is produced by respiration and by the decomposition of organic and inorganic matter, and which is absorbed from the atmosphere. Carbon dioxide is important because (1) it protects the water against rapid changes of acidity or alkalinity, (2) it regulates certain biological processes in aquatic organisms, and (3) it contains carbon, one of the critical building blocks of organic matter. Carbon dioxide is very soluble in water but, like oxygen, its solubility decreases with increasing temperature.

Although high concentrations of carbon dioxide interfere with the proper respiration of some fish species, the interference occurs at concentrations much higher than those usually found in natural situations. Because most fish species can acclimatize to widely changing concentrations of carbon dioxide, the presence of high concentrations of carbon dioxide cannot be considered a serious health hazard.

When all the oxygen in the cold, lower region (hypolimnion) of a lake has been depleted, the decomposition of organic matter may continue anaerobically (without oxygen), resulting in the production of the gases methane and hydrogen sulfide. Methane, also called "marsh gas," is odorless and in the concentrations found in nature, it does not apear to be toxic to aquatic organisms. Hydrogen sulfide can easily be detected, even in low concentrations, by its distinctive "rotten eggs" odor. It is a poisonous gas, and concentrations well below 1 mg/L are known to interfere with the growth of fish and the hatching of fish eggs.

LAKE INHABITANTS

Aquatic Plants

"A closer scrutiny does not detect a flag nor a bulrush, nor even a lily, yellow or white, but only a few small heartleaves and potamogeton, and perhaps a water target or two....."

Aquatic plants are found in most lakes but differ in type and quantity from lake to lake and with time. The composition and richness of a lake's plant growth is often a measure of the overall "health" of the lake.

Lake plants can be broadly divided into the simple, microscopic algae and the larger, more complex macrophytes. Most macrophytes have roots, stems, and leaves, and can readily be seen with the unaided eye. They are divided into those that are attached, or rooted, to the lake bottom and those that are freely floating. The rooted forms can be further subdivided into emersed, floating-leaved, and submersed plants. Some typical examples of each category which are common in Washington lakes are given below.

Aquatic Macrophytes

Manner of growth	Representative plants
Rooted	--
Emersed	Bulrush, cattail, sedge
Floating-leaved	Watershield, waterlilies, some pondweed
Submersed	Elodea, watermilfoil, most pondweed
Freely floating	Duckweed

Rooted plants are usually found attached in shallow areas where sunlight reaches the lake bottom. These plants provide bases of attachment for some forms of algae, provide shelter and protection for insects, birds, and fish, and contribute, as do all plants, to the oxygen supply of the lake. In addition, rooted plants draw nutrients from the soil; upon the death and decay of the plants the nutrients become available to nourish algae.

Algae contain chlorophyll but lack the roots, stems, and leaves characteristic of macrophytes. Most algae are planktonic--that is, they float passively in the water--but others are attached to submerged rocks, wood, concrete, and even larger plants. A few algae common to Washington lakes are shown in figure 18.

Algae occur in various shapes, sizes, and ecological roles. The most commonly encountered groups of algae are the greens, blue-greens, and diatoms. Green algae contain bright, grass-green pigments, have a well-defined nucleus, and are more abundant than all other groups combined. The cells of green algae may occur singly, as spherical colonies, or as filaments.

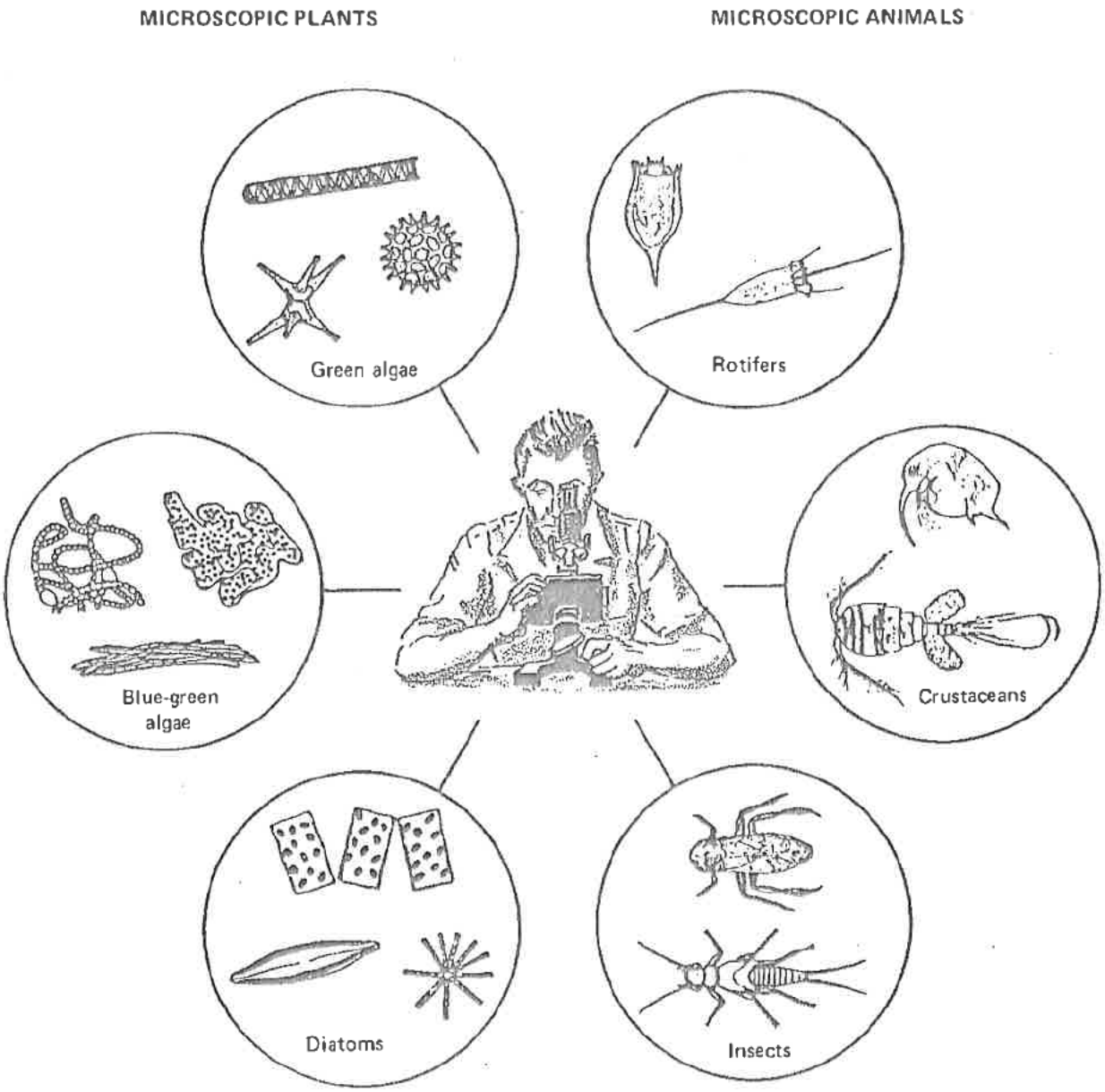


FIGURE 18.--Microscopic plants and animals typical of Washington lakes.

Blue-green algae lack the well-defined nucleus found in green algae and, in addition to green chlorophyll, contain blue, and often red, pigments. Most blue-green algae are filamentous and all occur in gelatinous sheaths. Blue-green algae are the most apt to produce the offensive algal blooms frequently seen on the surface of stagnant water bodies. When they become overabundant, blue-green algae may give water an unpleasant odor or taste and some, through the release of toxins, make the water poisonous to the animals that drink it. In addition, the gelatinous sheaths of blue-green algae make the algae difficult to filter in water-treatment operations.

Diatoms are yellow-green or yellow-brown algae that occur singly or, more rarely, in colonies. Their cells, the walls of which are made of hard silica, are composed of two overlapping halves, similar to a pillbox. In addition to being dependent on the same dissolved nutrients as other aquatic plants, diatoms also require an available supply of dissolved silica for the building of their cell walls.

Aquatic Animals

"Nevertheless, the pond is not very fertile in fish. Its pickerel, though not abundant, are its chief boast."

The aquatic animals commonly seen in Washington lakes range in size from microscopic, invertebrate (without backbone) animals to the larger, vertebrate animals such as fish. Some spend their entire life in water and can be called truly aquatic; others are aquatic only during part of their lives.

The aquatic vertebrates commonly seen in lakes are fishes, amphibians, reptiles, birds, and mammals. Because of their larger size, they are more conspicuous and generally of more interest to people than are the smaller animals without backbones. Numerically, however, the vertebrates constitute a relatively small part of a lake's animal population.

The most common and numerous animals in Washington lakes are the invertebrate rotifers, crustaceans, and insects, a few of which are shown in figure 18. Although they are usually present in large numbers, they are seldom noticed because of their small size. The smaller invertebrates that drift passively with the water currents are known collectively as zooplankton (the animal part of the plankton). Unlike the phytoplankton, however, many of the zooplankton are capable of limited locomotion. Zooplankton are important because they convert small food particles (chiefly algae) into forms large enough for larger, vertebrate animals.

Rotifers are among the most widely distributed and abundant of freshwater animals. They have a mouth which is surrounded by fine hairs and feed upon bacteria, algae, and small bits of organic matter. When feeding, the hairs beat in such a manner as to resemble a miniature pair of revolving wheels, hence the name "rotifer."

Crustaceans are shrimplike animals that have two pairs of antennae, one pair of appendages per segment, and gills. They eat algae and organic matter and are an important source of food for small fish and some large fish, such as Washington's sockeye and chum salmon. The two groups of crustaceans most commonly seen in Washington lakes are water fleas and copepods.

Literally thousands of species of insects spend part, or all, of their lives in fresh water. Many that spend their adult life out of water, such as mayflies and stoneflies, have immature stages--nymphs, larvae, and pupae--that develop beneath the water. All insects, especially in their immature stages, are important sources of food for vertebrates.

The Lake Ecosystem

"The perch swallows the grub-worm, the pickerel swallows the perch, and the fisherman swallows the pickerel...."

The ecosystem of a lake is the interaction of the biological communities of plants and animals with the physical and chemical environments of the lake. Even though most ecosystems can be regarded as stable--they persist as recognizable entities over the years--they are nonetheless continually changing in response to changes in their physical, chemical, or biological parts. The interdependence of these parts makes ecosystems complex; disruption of one part of a lake ecosystem affects numerous other parts.

Limnologists may divide the organisms that make up an ecosystem into different classes in several different ways. The organisms may be classified according to life zone, community, or ecological function.

The four principal life zones of a lake--the littoral, limnetic, profundal, and water-surface zones--are shown in figure 19a. The littoral zone is that part of a lake, usually along the shoreline, where light penetrates to the lake bottom. The limnetic zone is the lighted, open-water region that extends downward from the water surface to the depth of effective light penetration (the compensation level). The profundal zone includes the lake bottom and the dimly-lit, deep-water area below the compensation level. The water-surface zone is the habitat at, or immediately below, the surface film of water. Organisms may inhabit one or more life zones, but the littoral zone usually contains the greatest variety of organisms due to the unique combination of food, shelter, and light found there.

Five major biologic communities typically found in a lake are shown in figure 19b; these are the benthos, periphyton, plankton, nekton, and neuston communities. The benthos community includes organisms, such as snails and rooted plants, that crawl or rest on the lake bottom or in the bottom sediments. The periphyton community includes all organisms, such as filamentous algae and diatoms, that are attached or clinging to such submerged substrates as rocks, plants, and piers. Those organisms whose movements are dependent on water currents belong to the plankton community, which is composed chiefly of microscopic plants and animals such as algae, rotifers, water fleas, and copepods. Animal plankton can exist at virtually all depths, but plant plankton are generally restricted to the upper, lighted zones of the lake. The nekton community is composed of organisms, such as fish, amphibians, and certain insects, that are able to navigate at will and consequently are found in virtually all regions of the lake. The organisms of the neuston community, such as whirligig beetles and floating plants, rest or swim on the water surface.

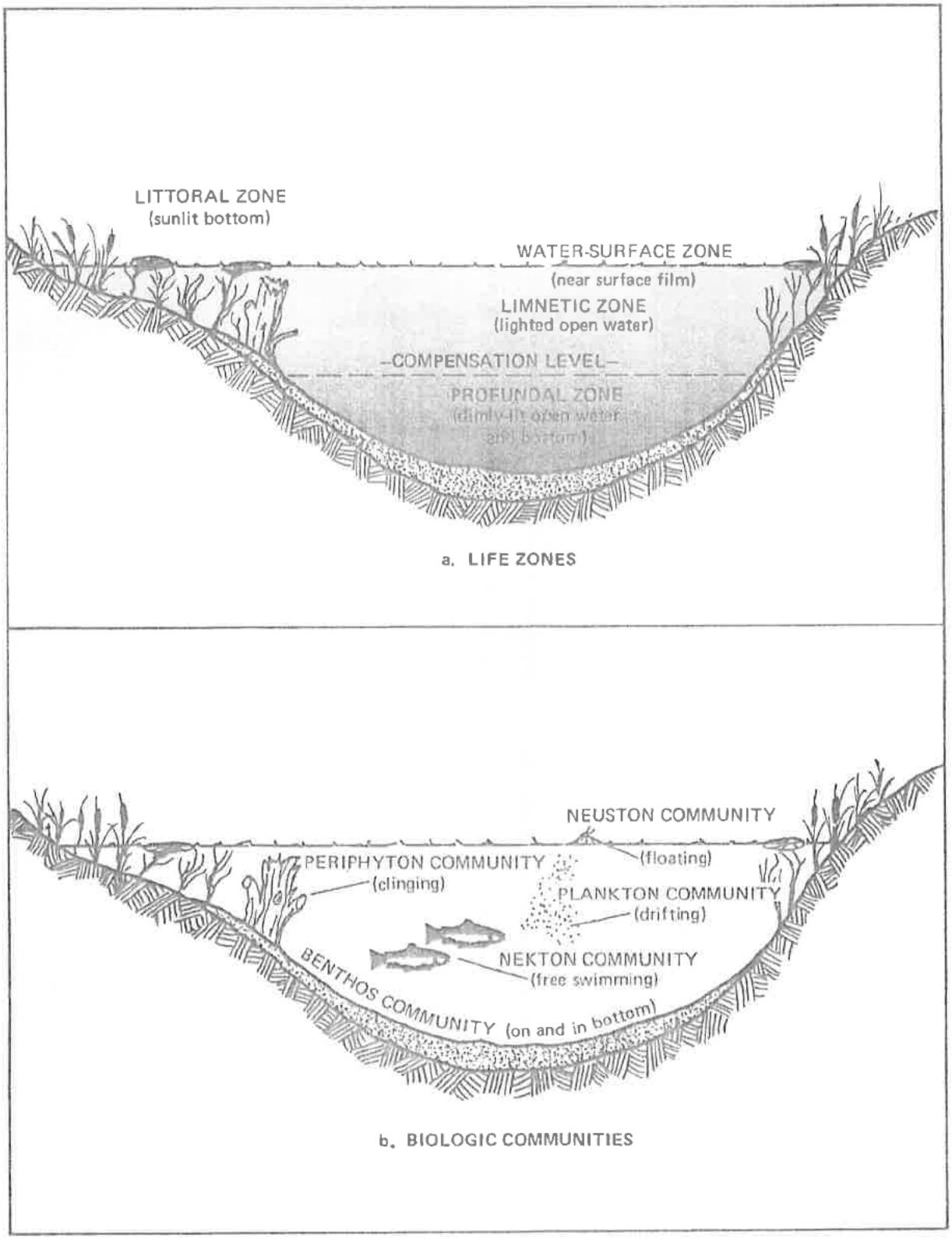


FIGURE 19.--The life zones and biologic communities of a lake.

From the previous discussion it is apparent that the communities differ in their degree of locomotion. Those communities that are mobile can usually escape from an adverse environment, provided it is only local in extent. Communities that are not mobile, however, must either adapt to the adverse environment or perish.

From an ecological viewpoint, perhaps the most important classification of organisms is by function within the ecosystem. The functional components of a lake ecosystem consist of producers, consumers, and decomposers. Producers are those organisms, chiefly algae, that produce organic tissue from inorganic substances dissolved in water. Consumers are the larger organisms that feed on the producers and smaller consumers. As producers and consumers die, decomposers, chiefly bacteria and fungi, break down the organic matter into its inorganic constituents. This continuous transfer of food energy, with repeated eating and being eaten, is referred to as the food chain (fig. 20).

Decomposers, in recycling materials used to build tissue, are an important link in the food chain. As bacteria and fungi decompose the complex organic substances produced in the lake, they liberate essential nutrients. Without decomposers, all of the available nutrients would soon be consumed, no oxygen would be produced by algae, and the lake would become barren of any life.

The producers, consumers, and decomposers within a lake ecosystem are usually in healthy balance, but remain so only under suitable water-quality conditions. This balance can be disrupted by the introduction of excessive amounts of organic or inorganic materials as a result of natural or man-caused activities. The lake ecosystem is capable of adjusting for such events, but the change often leads to lake conditions that are adverse to man's use and enjoyment of the water. Periodic evaluations of the ecosystems of Washington's lakes are important to ascertain the general health of the lakes and to determine if any adverse changes in lake conditions have occurred.

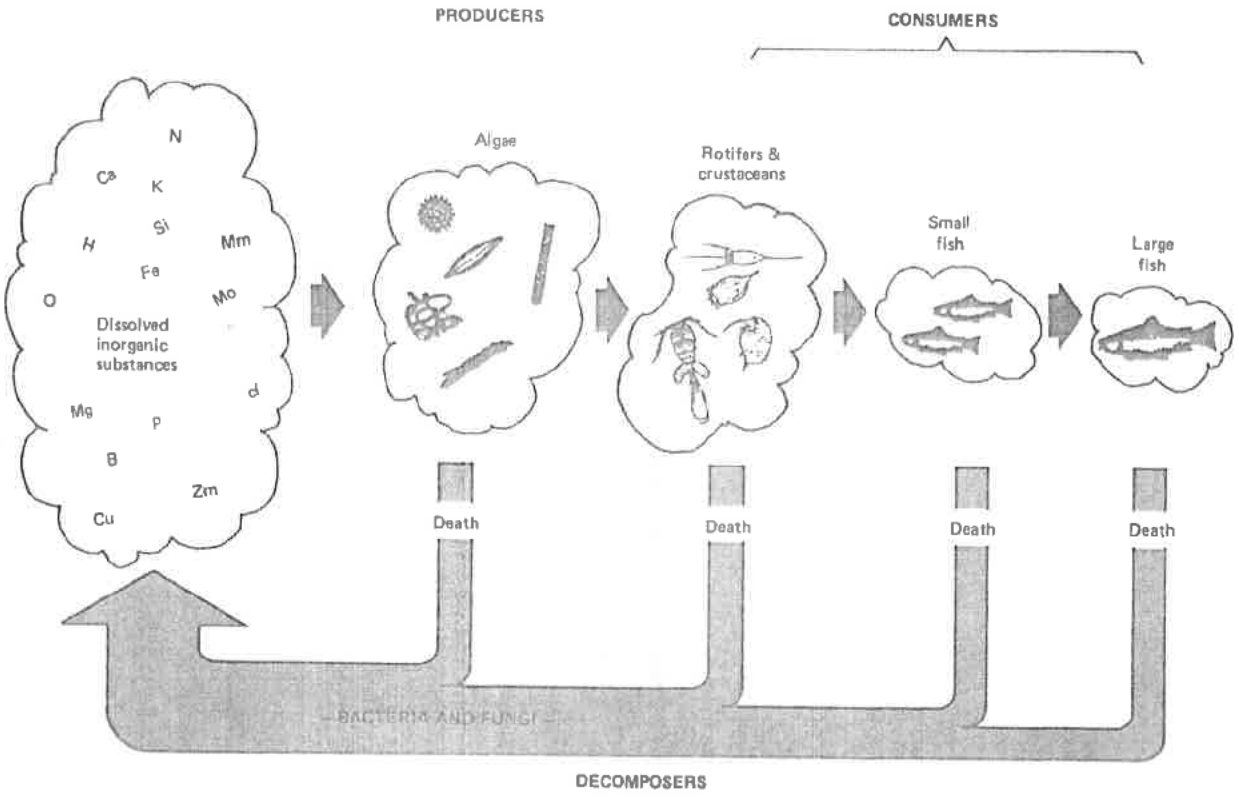


FIGURE 20.--A simplified food chain of a lake.

THE LIFESPAN OF A LAKE

Natural Succession and Eutrophication

"Perhaps on that spring morning when Adam and Eve were driven out of Eden Walden Pond was already in existence."

Lakes seldom exist more than a few thousands or tens of thousands of years--a relatively short period when considered in terms of geologic time. Because lakes are simply water-filled depressions in the earth's crust, they act as giant traps for organic and inorganic materials moved by water and wind. The ultimate fate of a lake basin is to become filled with sediment and to revert back to terrestrial vegetation. This natural evolutionary process is referred to as lake succession. As depicted in figure 21, the usual sequence of events in the succession process is: (1) Creation of a lake basin and its filling with water; (2) aging, or eutrophication, of the lake; (3) transformation of the lake to a marsh or swamp; and (4) the complete filling of the marsh or swamp with sediment and the growth of terrestrial vegetation.

The aging process of eutrophication is generally a natural one; it begins as soon as the lake is formed and continues as long as the lake exists as a body of water. As eutrophication progresses, lakes become smaller and more productive, primarily as a result of sedimentation and nutrient enrichment from numerous sources. In many lakes, only a fraction of the incoming sediments and nutrients is carried back out. Eventually, the lake reaches the eutrophic stage, characterized by frequent algal blooms, and seasonal deficiencies of dissolved oxygen. At this stage, sediments and plant debris have made the lake shallower and shoreline vegetation has invaded the lake. What was once sandy or gravelly shoreline is now silty or mucky wetland. With continued sedimentation, the lake is eventually transformed into a swamp or marsh; in time, trees and other dryland vegetation take over in the fertile soil.

In addition to increases in the numbers of plants and animals, the types of organisms may also change as eutrophication progresses. For instance, green algae and diatoms may be replaced by the more troublesome blue-green algae, and game fish such as salmon, trout, and bass may be replaced by carp, suckers, and catfish.

Sedimentation is a major cause of lake eutrophication. Most sediments are brought into a lake by tributary streams, storm runoff, and wind, but some originate within the lake from decaying vegetation and from shoreline erosion. Sedimentation increases the productivity of a lake because plant nutrients are usually attached to the incoming sediments and the newly deposited sediments provide additional rooting areas for aquatic plants. The turbidity caused by sedimentation somewhat compensates for the increased productivity, however, by reducing light penetration and, consequently, the amount of photosynthesis by plants.

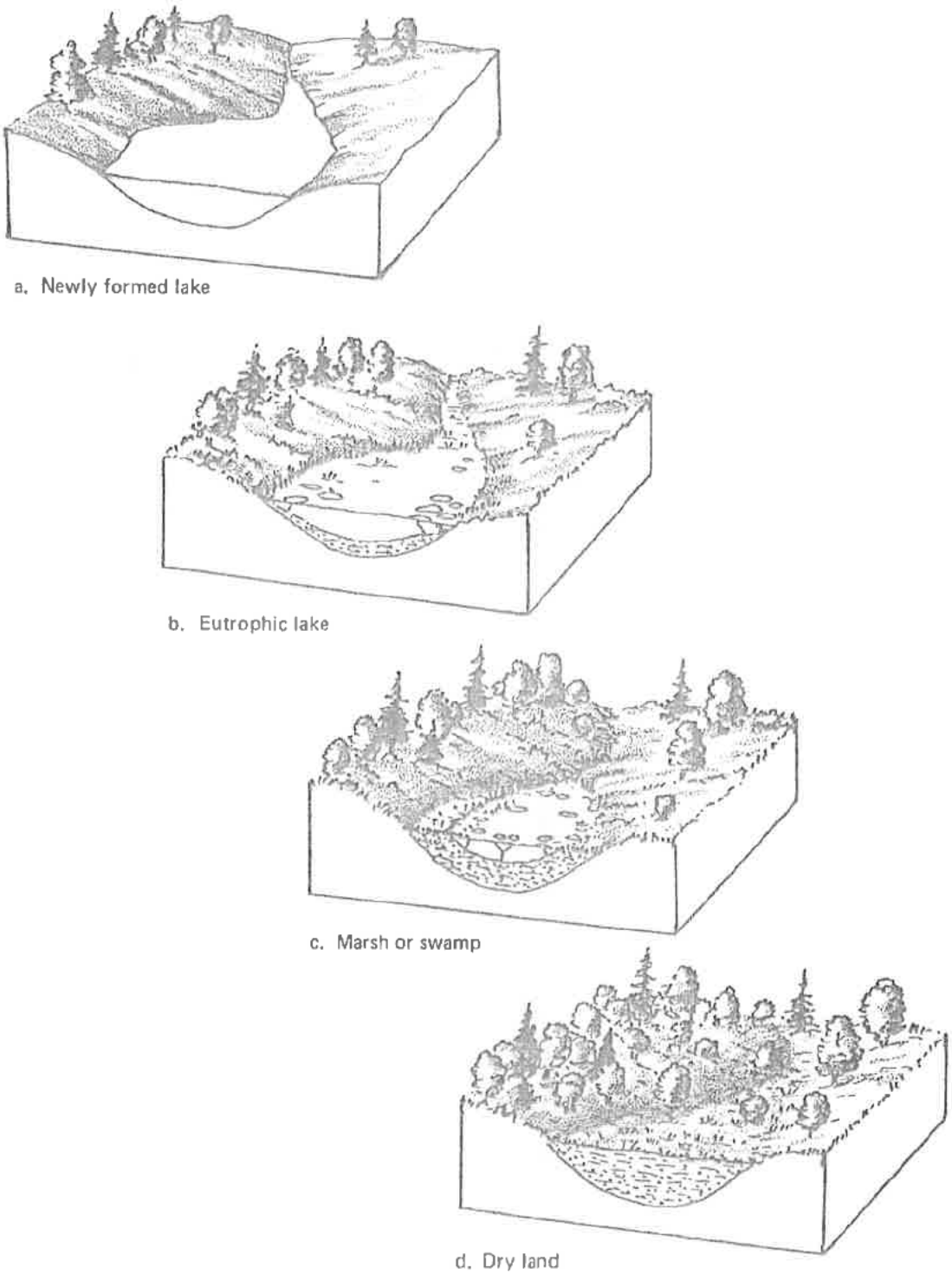


FIGURE 21.--The natural succession of a lake.

Cultural Eutrophication

"It needs no fence. Nations come and go without defiling it."

Cultural eutrophication is lake aging in which the natural aging process is accelerated by human activities. In an undisturbed lake there is usually a healthy balance between the inflow of plant nutrients from natural sources, the number of algae, and their predators. People, however, can upset this balance and compress the aging process to a matter of just a few years by overenriching the lake water with nutrients, primarily the compounds of nitrogen and phosphorus. When that happens, algal populations "bloom" to concentrations too great to be consumed by their predators. Some typical sources of nitrogen and phosphorus are domestic, agricultural, and industrial wastes.

Most of the "symptoms" associated with cultural eutrophication, such as the decrease of light penetration through lake water, are the direct result of increased algal populations. As the algae die, they sink to the bottom of the lake where they are oxidized, thereby reducing the dissolved-oxygen concentration there.

The usual effects of cultural eutrophication are to impair the quality of the water and to increase the costs and complexities of water treatment for domestic, industrial, agricultural, and recreational uses. One of the more troublesome aspects of lake eutrophication is the increased frequency of taste and odor problems. Various species of algae smell or taste like fish, pigpens, cucumbers, geraniums, and grass. In the deep zone of an eutrophic lake, where algae cannot grow, the reduced oxygen concentration often causes the accumulation of large amounts of iron and manganese. Water supplies taken from this zone may have a "rusty" appearance and cause a reddish-brown stain on porcelain fixtures.

Eutrophic lakes have several other undesirable features. Certain blue-green algae release toxins (substances that are poisonous). Eutrophic waters are sometimes high in dissolved minerals, and excessive concentrations of certain minerals, such as sodium, could prevent use of the water for certain purposes, such as irrigation. Should sedimentation eliminate the cold, deep-water part of the lake, or if oxygen depletion occurs within that zone, only the warm, sunlit part remains with enough oxygen to support fish life and, as a result, the number and types of fish could decrease.

Not all cultural eutrophication is necessarily bad; much depends on the use of the water and the degree of eutrophication. Lakes that are used as water supplies or for contact recreation should be kept as oligotrophic (unproductive) as possible. Other lakes, however, may have to be artificially fertilized to increase the production of fish for sporting or commercial purposes.

Pollution

"....a mirror in which all impurity presented to it sinks...."

Pollution, which is broadly defined as the unfavorable alteration of a lake environment, can result in three general types of damage to a lake: (1) Ecological damage, such as harmful changes to the aquatic life; (2) economic damage, such as cleanup costs, reduced revenues, and depressed property values; and (3) esthetic damage, such as changes which make the lake less pleasing to use or to enjoy.

The presence of a pollutant is often difficult to detect. Some can be seen, tasted, or smelled; others are detectable only by their effects on plants or animals, or by chemical analysis of the lake water.

Pollutants that are potentially harmful to a lake may take several forms--organic materials (including petroleum products), poisons, radioactive materials, and thermal loads. However, pollution by organic materials from sewage, garbage, and animal wastes is the form that most frequently causes damage to lakes. Organic materials can degrade a lake by reducing or depleting the dissolved oxygen, by adding disease-carrying bacteria and viruses, and by adding plant nutrients that eventually lead to the cultural eutrophication of the lake. Organic pollution tends to suppress the development of some species of aquatic life and encourage the development of others. The normal, clean-water assemblage of plants and animals (for example, diatoms and stoneflies) is quickly replaced by pollution-tolerant species of plants and animals (for example, blue-green algae and sludge worms). The effects of organic pollution, therefore, are usually readily apparent, both to the eye and nose, and should be prevented whenever possible.

Poisons affect the metabolic efficiency of organisms. Common poisons include both organic materials, such as the pesticide DDT, and inorganic materials, such as the toxic metals cadmium, mercury, and zinc. Unlike pollution from sewage, poisons are usually difficult to detect and they affect all forms of life adversely. Some poisons, such as DDT, can be selectively concentrated in the tissues of organisms.

Radioactive materials can be particularly dangerous to the reproductive cells of both people and lower animals and, like DDT, certain types can be selectively concentrated in tissue. Fortunately, radioactive pollution of lakes is rarely encountered.

A more common, yet unconventional, type of pollution is thermal wastes or thermal loading, which causes raised water temperatures. Raised water temperatures adversely affect plants and animals by lowering the solubility of oxygen and increasing the rate of metabolism in the organism. In addition, warm water may stimulate the growth of algae, often leading to nuisance algal blooms.

Pollution may be introduced directly into the lake or it may be brought to the lake by tributary streams. Not all undesirable substances carried by tributaries necessarily enter lakes, however. Because of natural processes operating within streams, some polluting substances may dissipate before reaching a lake. For example, harmful bacteria may die, organic matter may be completely oxidized, or warm water may cool before reaching the lake. However, many polluting substances, such as toxic metals, remain intact regardless of the distance traveled.

ASSESSING LAKE CONDITIONS

"It is a gem of the first water which Concord wears in her coronet."

Assessing the condition of a lake is not an easy matter because there are so many different factors that can affect the condition, either adversely or beneficially. Lake condition cannot be determined by the measurement of a single characteristic; most limnologists measure many different physical, chemical, and biological characteristics and combine the results to arrive at the trophic level (degree of eutrophication) of a particular lake. Some that are usually measured include the amount of algae present, the dissolved substances in the water, the extent of light penetration, the concentration of oxygen in the hypolimnion (deep water) during thermal stratification, and the plant nutrient concentrations, in particular the compounds of nitrogen and phosphorus.

The indicators of lake eutrophication are best described by comparing the characteristics of both oligotrophic and eutrophic lakes, as presented in the table below (modified from Lee, 1970):

Characteristic	Oligotrophic (unproductive) lake	Eutrophic (productive) lake
Aquatic plant and animal production	Low	High
Dissolved substances in the water	Low	High
Light penetration through the water	Great	Small
Oxygen in the hypolimnion	Present	Absent
Water quality for most uses	Good	Poor

As might be expected, trophic conditions in Washington lakes range from highly oligotrophic to highly eutrophic. Of the lakes studied by the U.S. Geological Survey to date, Summit Lake in Pierce County is one of the most oligotrophic. Some of the more eutrophic lakes include Larsen Lake in King County, Stallard Lake in Douglas County, and West Medical Lake in Spokane County.

The trophic and water-quality conditions of Washington's lakes have been the object of reconnaissance- and intensive-level investigations by various agencies, colleges and universities, private consulting groups, and others. The results of most of these investigations have been published and the reports are included in those listed on pages 51 - 55. For descriptions of conditions in specific lakes, the reader is referred to one or more of the publications listed in these references.

LAKE-RESTORATION PROGRAMS IN WASHINGTON

"It is a mirror which no stone can crack, whose quicksilver will never wear off, whose gilding Nature continually repairs."

Although the best solution to lake problems is to prevent them from happening in the first place, that is not always feasible. In certain circumstances, problem lakes can and must be restored. Such projects are currently being conducted in Washington.

For many years the Washington Game Department has been using lake-restoration techniques as a fisheries-management tool in order to provide improved conditions for a particular fish species (for example, a replacement of scrap-fish with trout). Recent undertakings by the Washington Department of Ecology, however, are much broader in scope. The objectives of the Department of Ecology's lake-restoration program are to restore to selected lakes those beneficial uses that have been lost or imparied in the recent past.

The ratification of Referendum 26 (Washington Future) in 1972 resulted in the appropriation of almost $7.5 million in fiscal years 1975-77 to the Department of Ecology for the purpose of rehabilitating highly eutrophic lakes. In 1973 the Department of Ecology, in cooperation with the U.S. Geological Survey, made a reconnaissance investigation of all lakes in the State covered under the Shoreline Management Act of 1971. The data obtained in that study were used to classify the lakes and identify those most in need of restoration. Using the results of the classification, the Department of Ecology selected 18 lakes for additional study, and restoration projects have now begun on some of these lakes.

The eligibility for funding of restoration projects under Referendum 26 is limited to such public bodies as local governments and municipal corporations. In operation, the Department of Ecology grants as much as 50 percent of the cost of any one project while the public body must make up the remaining 50 percent. However, a large part of the funds needed from the public body can be obtained from the Federal Government under Section 314 of Public law 92-500, the Water Pollution Control Act of 1972.

Although it is too early to determine how effective the lake-restoration projects in Washington will be, it is hoped that they will provide lake mangers with an effective tool in dealing with the problems of lake pollution and eutrophication.

TERMS COMMONLY USED IN LIMNOLOGY

Acre-foot. The volume of water required to cover 1 acre to a depth of 1 foot, and equal to 43,560 cubic feet, or 325,900 U.S. gallons.

Algae. Small, simple plants, usually aquatic, which contain chlorophyll but lack roots, stems, and leaves.

Algal bloom. A large number of a particular algal species. A condition in which the algae cloud the water noticeably.

Anaerobic. Conditions characterized by the absence of oxygen.

Aphotic zone. That part of a water body to which light does not penetrate with sufficient intensity to maintain photosynthesis.

Aquifer. A rock formation that is water bearing.

Bathymetric. Relating to the measurement of water depths, as for a lake.

Benthos community. The organisms living in or on the bottom of an aquatic environment.

Cirque. A deep, steep-walled basin in the side of a mountain, caused by glacial erosion.

Closed lake. A lake, usually in an arid or semiarid region, that does not have a surface outlet.

Compensation level. The depth at which oxygen production by photosynthesis balances oxygen uptake by respiration.

Consumers. Organisms that are unable to manufacture their food from nonliving matter and that feed upon other organisms.

Coulee. A short gulch or water channel.

Crater lake. A lake that occupies the crater of an inactive volcano.

Cultural eutrophication. The acceleration of the natural aging, or enrichment, process of a lake as a result of man's activities.

Decomposers. Organisms, mostly bacteria or fungi, that break down complex organic material into its inorganic constituents.

Dimictic. A term applied to a lake which undergoes two periods of thermal circulation, or overturn each year--in spring and fall.

Drainage basin. The area drained by, or contributing to, a stream, lake, or other water body.

Drift. Any rock material transported and deposited directly or indirectly by a glacier.

Ecosystem. The community of plants and animals interacting together within the physical and chemical environment.

Epilimnion. The upper, relatively warm, circulating zone of water in a thermally stratified lake.

Euphotic zone. That part of a water body where light penetration is sufficient to maintain photosynthesis.

Eutrophic. A term applied to a water body in which organic production is high as a result of a large supply of available nutrients.

Eutrophication. The natural process of enrichment and aging of a body of water.

Fall overturn. A natural mixing of thermally stratified waters that commonly occurs during early autumn. The sequence of events leading to fall overturn includes (1) cooling of surface water, (2) density change in surface water that produces convection currents from top to bottom, and (3) circulation of the total water volume by wind action. The overturn generally results in a uniformity of the physical and chemical properties of the water.

Fluviatile. Pertaining to a river or stream.

Food chain. The transfer of food energy and materials from plants through other organisms, with repeated eating and being eaten.

Hydrologic cycle. The cycling of water from the earth to the atmosphere, in the form of evaporation and transpiration, and back to earth in the form of precipitation.

Hypolimnion. The lower, relatively cold, non-circulating water zone in a thermally stratified lake.

Kettle. A basin formed by the melting of a detached mass of glacial ice buried or submerged in glacial drift.

Limnetic zone. The open-water part of a water body above the compensation level.

Limnologist. A specialist in the field of limnology.

Limnology. The science or study of inland bodies of water, such as lakes.

Littoral zone. The shallow part of a water body where light penetrates to the bottom.

Macrophyte. A plant that can be seen with the unaided eye.

Mean depth. A morphometric parameter of a lake obtained by dividing the volume by the area.

Meromictic. A term applied to a lake in which dissolved substances have increased the density of the bottom water sufficiently to prevent complete vertical mixing.

Metalimnion. The middle layer of water in a thermally stratified lake, in which temperature decreases rapidly with depth.

Morphometry. The measurement of the shape characteristics of lakes and lake basins.

Nekton community. Organisms that are able to navigate at will and consequently are found in virtually all regions of a lake.

Neuston community. Organisms that live on or just under the surface film of water.

Nutrient. Any chemical element, ion, or compound required by an organism for the continuation of growth, reproduction, and other life processes.

Oligotrophic. Pertaining to waters in which production is low as a consequence of a small supply of available nutrients.

Open lake. A lake, usually in a humid climate, that has a surface outlet.

Oxbow lake. A crescent-shaped lake formed in the abandoned meander of a river channel.

Periphyton community. Organisms that are attached to, or live upon, submerged surfaces.

Phytoplankton. The plant part of the plankton.

Plankton (community). Suspended or floating organisms that drift passively with water currents.

Producers. Organisms that can directly utilize dissolved minerals and gases to form organic matter.

Productivity. The total amount of living matter produced in an area per unit time regardless of the fate of the living matter.

Profundal zone. The deep part of a water body in which plant growth is limited by the absence of light.

Relative depth. A morphometric parameter of a lake defined as the ratio of the maximum depth to the mean lake diameter, in percent.

Scablands. Areas where erosion has removed the soil and the underlying rock is exposed or covered largely with its own coarse debris.

Secchi disc. A disc 8 inches in diameter and painted in white and black alternating quadrants, used to measure light transparency in lakes.

Shoreline configuration. A morphometric characteristic of a lake defined as the dimensionless ratio of the shoreline length to the circumference of a circle having the same area as the lake.

Specific conductance. The measure of a water's ability to conduct an electric current, usually expressed as micromhos per centimeter.

Spring overturn. A natural mixing of thermally stratified water that commonly occurs during the early spring. The sequence of events leading to spring overturn includes (1) melting of ice cover, if present, (2) warming of surface water, (3) temperature change in surface water that produces convection currents from top to bottom, and (4) circulation of the total water volume by wind action. The overturn generally results in a uniformity of the physical and chemical properties of the water.

Succession. The natural evolutionary process in which a lake eventually becomes filled with sediment and reverts back to terrestrial vegetation.

Tarn. A small mountain lake that occupies a basin gouged from rock by a glacier.

Thermal stratification. A temperature distribution characteristic of many lakes in which the water is separated into three horizontal layers: An epilimnion (warm water) at the top, a metalimnion in which the temperature changes rapidly with depth, and a hypolimnion (cold water) at the bottom.

Turbidity. Organic and inorganic materials suspended in water that reduce the pentration of light.

Water-renewal time. The time needed to replace the entire volume of a lake under average conditions of inflow and outflow.

Water-surface zone. That part of the lake at, or immediately below, the surface film of water.

Zooplankton. The animal part of the plankton.

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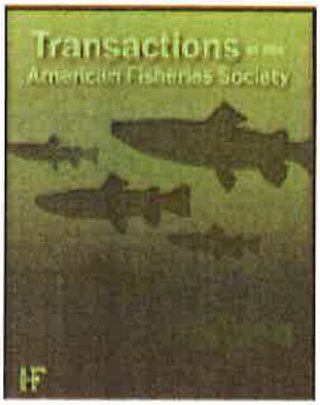

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Documentation of Unusual, Fall Spawning by Coastal Cutthroat Trout in the Elwha River System, Washington

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NOTE

Documentation of Unusual, Fall Spawning by Coastal Cutthroat Trout in the Elwha River System, Washington

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Abstract

The timing of breeding is a key trait, reflecting selective forces acting on the adults and offspring in the population, contributing to reproductive isolation, and affecting the population's success during rapid environmental change. Salmon and trout populations vary greatly in the peak and range of breeding dates, and timing is a defining trait for salmonid populations. This study reports the occurrence and details of spawning by Coastal Cutthroat Trout *Oncorhynchus clarkii clarkii* in Indian Creek in the Elwha River, Washington, in October and November. This is unusually early in the season for this characteristically spring-spawning species and is much earlier than conspecifics elsewhere in the river system and the region. We hypothesize that the stream's low gradient and lake-dampened hydrologic regime reduced the depth of gravel scouring in the fall, and thus permitted the evolution of such an early breeding date by these small-bodied (ca. 20–35 cm) fish. The exclusion of otherwise sympatric, fall-spawning Coho Salmon *O. kisutch* for the past century from the habitat by Elwha Dam may also have contributed to this adaptation, and the recolonization by the larger and later-spawning Coho Salmon may have affected the Coastal Cutthroat Trout through redd disturbance.

The timing of breeding by animals is a very important feature of their biology, as it reflects ecological pressures on both parents and offspring (Krebs and Davies 1997). The great majority of freshwater fishes in the Northern Hemisphere breed in spring. A short larval period follows, allowing juveniles to feed when temperatures and food availability favor growth (Wootton 1984). Salmonids are among the few fishes in this region that breed in the fall, and they compensate for this with large eggs and protracted embryonic development so that juveniles emerge to feed in spring (Wootton 1984). Fall spawning is characteristic of the genera *Salmo* (Jonsson and Jonsson 2011) and *Salvelinus* (Balon 1980), and the semelparous Pacific salmon of the genus *Oncorhynchus* (Quinn 2005). In this case, fall is somewhat loosely defined, because Sockeye Salmon *O. nerka* begin spawning in mid to late July in southwestern Alaska (Burgner 1991), Coho Salmon *O. kisutch* can spawn as early as October and as late as March (Sandercock 1991), and Chum Salmon *O. keta* can spawn from July to March (Salo 1991). Unlike other salmonids, Pacific trout of the genus *Oncorhynchus*, including Cutthroat Trout *O. clarkii* and Rainbow Trout *O. mykiss* typically spawn in spring on the descending limb of the hydrograph as water temperatures increase (Behnke 1992). However, there are exceptions among native Rainbow Trout populations (Shapovalov and Taft 1954; Buchanan et al. 1990; Hemmingsen and Buchanan 1993) and introduced populations (e.g., Van Velson 1974). These exceptions are often associated with unusual physical features, such as the Rainbow Trout spawning in late November and early December

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in the geothermally heated waters of the Firehole River in Yellowstone National Park, Wyoming (Kaya 1977).

In Oregon, Washington, and southern British Columbia, Coastal Cutthroat Trout *O. clarkii clarkii* generally spawn from mid-December through June with a peak occurring typically in February, and emerge as fry in spring (Trotter 1989). Spawning occurs later (April and May) in colder streams in Alaska (e.g., Armstrong 1971; Saiget et al. 2007). Given these general patterns, preliminary observations (M. L. McHenry, unpublished data) of what appeared to be spawning Coastal Cutthroat Trout (hereafter, Cutthroat Trout, as no other subspecies is found in this basin) from mid-October through November in the upper reaches of Indian Creek, a tributary of the Elwha River in the Olympic Peninsula of Washington, seemed sufficiently unusual to merit further investigation. Montgomery et al. (1999) hypothesized that high flows select against fall spawning in such small-bodied salmonids, so we assessed aspects of the habitat, flow, and thermal regimes that might permit or select for fall spawning. Moreover, the habitat where these trout spawn had been inaccessible to anadromous fishes since the construction of the Elwha Dam without fish passage facilities in 1913 (Duda et al. 2008). The dam was removed in fall 2011 and anadromous fishes are colonizing the habitat, including larger-bodied Coho Salmon that may compete with the Cutthroat Trout for spawning habitat as adults and compete for food and space as juveniles.

The selective advantage of early spawning by Cutthroat Trout may be altered by colonizing Coho Salmon through redd superimposition (Hayes 1987; Essington et al. 1998). Hence, it seemed particularly important to document the spawning timing of the trout and salmon before the anticipated numerical and spatial expansion of salmon. Accordingly, the purposes of this investigation were to (1) document the spawning by Cutthroat Trout in this system, including the dates of redd construction and redd site characteristics, (2) determine whether stream flow and temperature in the spawning reach differ from the lower part of the creek where Cutthroat Trout do not spawn in the fall, and (3) document the spatial and temporal extent of spawning by Coho Salmon. Such information may identify factors that influence the timing of breeding by Cutthroat Trout in this system, provide insights into future interactions with colonizing Coho Salmon, and guide investigation of Cutthroat Trout reproductive timing elsewhere.

METHODS

Study site.—Indian Creek is a second-order stream (wetted width, 5–13 m) originating at the outlet of Lake Sutherland (elevation, 160 m), and flowing 9.1 km west into the

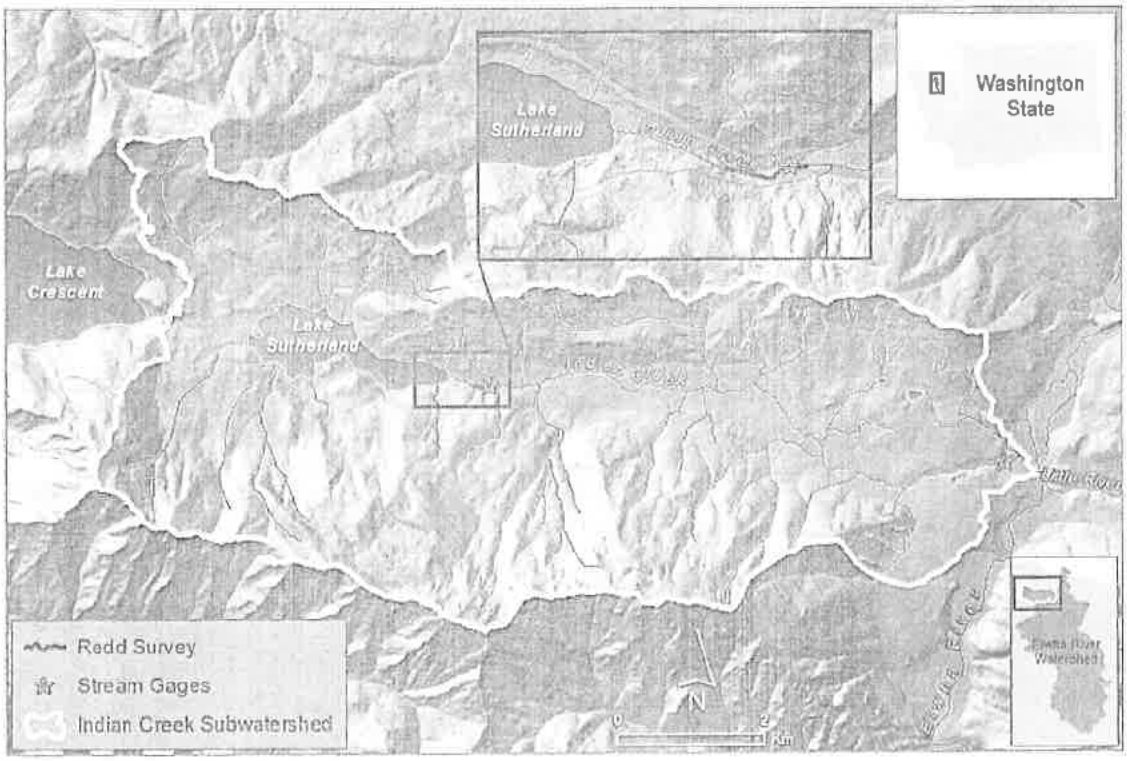

FIGURE 1. Indian Creek within the Elwha River drainage, Olympic Peninsula, Washington, and the location of the survey reach where the Coastal Cutthroat Trout redds were observed.

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TABLE 1. The locations of upper and lower Indian Creek and physical attributes relevant to spawning Coastal Cutthroat Trout, including channel gradient and mean width, depth, water temperature, and stream flow for the entire year and, in parentheses, during the fall spawning period, and CV of flow during the fall spawning period.

Attribute	Upper Indian Creek	Lower Indian Creek
Location (rkm)	7.1–9.1	0.0–7.1
Channel gradient (%) (SD)	0.4 (0.01)	1.7 (1.1)
Mean wetted width (m) (SD)	6.1 (1.6)	10.4 (3.1)
Mean depth (m) (SD)	0.70 (0.22)	0.40 (0.13)
Mean water temperature (°C) for entire year (October–November)	12.3 (10.3)	9.0 (8.0)
Mean stream flow (m^3/s) for entire year (October–November)	0.56 (0.36)	1.61 (1.56)
CV of stream flow in October–November	0.18	0.72

Elwha River at river kilometer (rkm) 12.7 (elevation 65 m) (Figure 1). Lake Sutherland is a small (area, 146 ha; mean depth, 17.4 m) lake that drains 21 km^2 (Hiss and Wunderlich 1994). Groundwater inputs are the dominant source of water for Lake Sutherland, and Fall's Creek, the principle source of surface water, is very small. Consequently, Indian Creek has a slow and rather steady flow regime.

Indian Creek is unusual in that the upper 2.0 km below the lake are very different from the lower 7.1 km (Table 1), and it is the only stream in the Elwha River drainage known to support an abundant population of Cutthroat Trout, which is otherwise dominated by Rainbow Trout (Brenkman et al. 2008). Indian Creek has a very low gradient below the lake for 2.0 km (Table 1) as evidenced by its small substrate and lack of pool and riffle formations. In this reach there is dense instream and overhead cover from standing and fallen trees that protects rearing and spawning salmonids, but also greatly hinders surveying. Moving downstream, the creek gradually steepens, becoming more representative of typical mountain streams with alternating pools, riffles, and rapids. The fish population in the upper 2.0 km of Indian Creek is dominated by Cutthroat Trout, although within 400 m of the lake there are also a few Redside Shiners *Richardsonius balteatus* and spawning kokanee (lacustrine Sockeye Salmon). The latter species are absent in the lower 7.0 km of the creek, where the population is a mixture of Cutthroat Trout and resident Rainbow Trout. During and following the removal of the former Elwha Dam in 2011–2013, anadromous Coho Salmon, Chinook Salmon *O. tshawytscha*, and steelhead (anadromous Rainbow Trout) were reintroduced by comanagers to Indian Creek, but Chinook Salmon and steelhead have so far only been observed spawning in the lower 4.5 km of the creek (J. R. McMillan, unpublished data). Given the differences in habitat features and salmonid populations, we delineated the stream into two sections: upper (rkm 7.1–9.1) and lower (rkm 0.0–7.1) Indian Creek (Figure 1; Table 1).

Redd counts, particle size sampling, and observations of spawning Cutthroat Trout.—We conducted weekly surveys by foot and snorkeling in 2012 and 2013 to determine the temporal and spatial extent of Cutthroat Trout spawning. Weekly redd surveys were conducted on 14 dates in 2012 and 13 dates in 2013, from October through early January, and monthly surveys thereafter in 2012. We surveyed from rkm 7.1–8.9, the bottom of which is 7.1 km upstream from its confluence with the Elwha River and the upper part of which is 225 m downstream from the lake's outlet (Figure 1). After several initial surveys it was clear that nearly all Cutthroat Trout spawning occurred from rkm 8.2 to rkm 8.9, so we selected a representative 300-m reach to avoid damaging the ubiquitous but small redds. Redds, identified as disturbed areas in the stream bed where gravels were overturned to form the oval depression and tail spill characteristic of salmonids, were counted, and the locations were recorded on a hand-held GPS to prevent double counting in subsequent surveys. In 2012 we measured the surface area of 30 redds (length and width to nearest centimeter) and quantified the substrate size in the redd pit and the surrounding disturbed area by measuring the median axis on 100 randomly selected pebbles to the nearest millimeter (Wolman 1954). Substrate size was summarized as D50 (size of the 50th percentile). We tested for linear correlation between redd surface area and D50 substrate size using a Pearson product-moment correlation.

We also conducted weekly snorkel surveys to estimate the abundance and body length of male and female Cutthroat Trout and to record any reproductive behaviors (e.g., females digging redds, males courting and competing for access to females). We also counted Coho Salmon redds in 2012 and 2013 from rkm 7.1 to rkm 8.9 and in lower Indian Creek from rkm 0.0 to rkm 7.1. In the latter section we also counted Cutthroat Trout and smaller-sized Cutthroat Trout redds if they were present.

Stream flow, temperature, and habitat.—We obtained daily discharge (m^3/s) and water temperature data in upper and lower Indian Creek to test the hypothesis that fall spawning is associated with a more moderate flow regime and to allow estimation of embryo incubation rates. The upper Indian Creek gauge (Washington State Department of Ecology Gauge ID 18Q240) was at rkm 8.6, within the reach where the Cutthroat Trout spawned in the fall, and the lower Indian Creek gauge (Washington State Department of Ecology Gauge ID 18C070)

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was at rkm 1.4, where they have not been observed spawning in the fall. Continuous stream flow and water temperature data were not available, so we used the most recent data (water year 2009–2010 for stream flow and 2011–2012 for water temperature). Only weekly discharge measurements were available for the upper Indian Creek gauge, whereas daily measurements of mean discharge were obtained at the lower Indian Creek gauge.

RESULTS

Timing of Redd Excavation and Spawning Activity

We counted 104 Cutthroat Trout redds in 2012 and 138 in 2013, all of which were in upper Indian Creek. We did not enumerate any Cutthroat Trout redds in lower Indian Creek while conducting Coho Salmon redd surveys. The spawning period in upper Indian Creek was restricted to the fall, lasting approximately 7 weeks in 2012 (October 20–December 5) and 8 weeks in 2013 (October 4–December 2; Figure 2a). In 2012 most redds were constructed within a 2-week period in mid-November, but spawning was even earlier in 2013, occurring primarily in mid-October (Figure 2a). No redds were counted during winter–spring of 2012 or 2013. The downstream extent of spawning by Cutthroat Trout mostly ended at the head of a large beaver pond at rkm 8.2 but continued sporadically downstream to rkm 7.3.

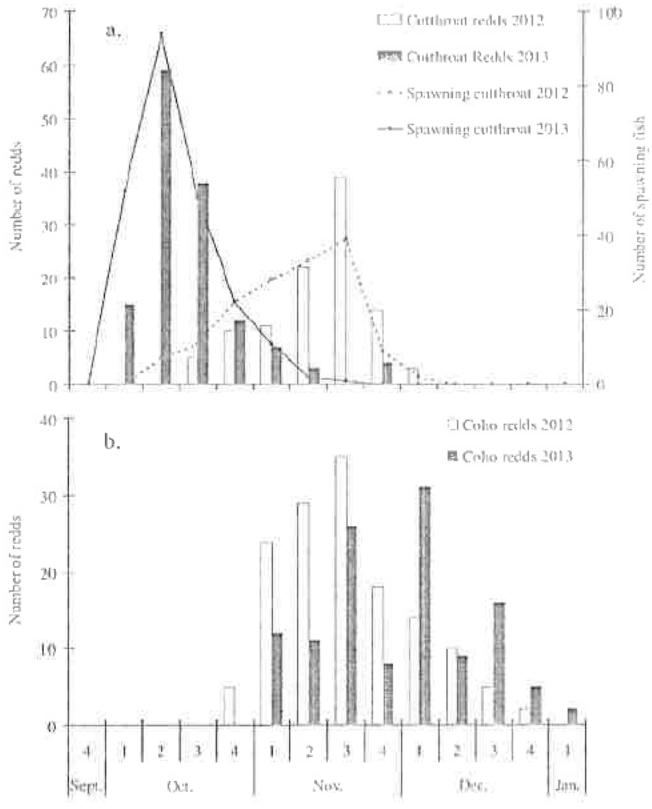

FIGURE 2. Timing of redd excavation and spawning activity by week (1–4) and month for (a) Coastal Cutthroat Trout in 300 m of upper Indian Creek by week (1–4) and month for 2012 and 2013, and (b) the number of Coho Salmon redds counted in Indian Creek throughout the entire drainage in 2012 and 2013.

Cutthroat Trout displaying reproductive activity were abundant (141 in 2012 and 232 in 2013). The peak counts tended to match the timing of redd counts (Figure 2a). In most cases, a single female occupied a redd and was flanked by several (up to 12) males. Total length of spawners was estimated visually as 100–375 mm. Of those, 58 (41%) in 2012 and 85 (37%) in 2013 were apparently females based on their spawning behavior, body morphology (e.g., short blunt nose and head), and other features (e.g., worn edges on the tails, distended ovipositors). The largest fish were apparently females (200–375 mm); males were mostly between 100 and 250 mm with a few larger than 300 mm.

We counted 142 Coho Salmon redds in Indian Creek in 2012 and another 120 redds in 2013. Only three redds were enumerated in an area that directly overlapped with the dense congregation of spawning Cutthroat Trout, but 29 redds were in the reach immediately downstream from the beaver pond at rkm 8.2 where a few Cutthroat Trout spawned. Coho Salmon spawning ranged from November to January and overlapped with Cutthroat Trout, though the trout began spawning before the salmon (Figure 2b). Peak Coho Salmon spawning occurred during the first 3 weeks of November in 2012, and during late November and early December in 2013 (Figure 2b).

Redd Size and Redd Particle Size

The mean surface area of 30 measured Cutthroat Trout redds was 664 cm^2 (SD = 419; range, 225–1,560 cm^2). Particle size distributions within the redd pits and surrounding disturbed areas also varied but were generally small (D50 range, 8–19 mm; mean = 11.5, SD = 2.8; maximum particle size range, 27–55 mm). The minimum particle size was less than 2 mm in all but two redds, where it was 3 mm. There was a strong positive correlation between redd substrate D50 and redd size (Pearson's correlation coefficient = 0.88, df = 29, $P < 0.0001$).

Stream Flow and Water Temperature

The upper and lower sections of Indian Creek differed in water temperature and flow regimes (Figure 3a, b). Upper Indian Creek was warmer than lower Indian Creek (and sometimes substantially so) in the spring, summer, and fall but was similar or colder in winter (Figure 3a; Table 1). During the fall Cutthroat Trout spawning period, upper Indian Creek ranged from 8.0°C to 13.0°C, compared with 6.5–9.0°C in lower Indian Creek (Figure 3a; Table 1). Peak flows were greatly reduced and occurred later in the year in upper Indian Creek compared with lower Indian Creek, particularly during

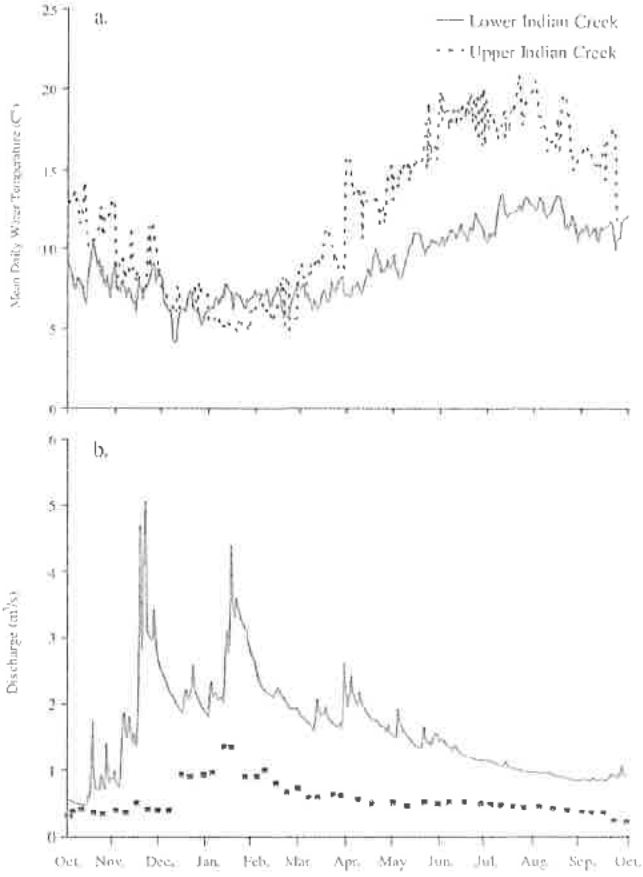

FIGURE 3. Annual patterns in daily mean (a) water temperature (°C) in 2011–2012 and (b) stream flow (m^3/s) in lower (gray line) and upper (black squares) Indian Creek in 2009–2010. Stream flow measurements were taken weekly in upper Indian Creek and hourly in lower Indian Creek.

the spawning season (Figure 3b; Table 1). For example, flows in upper Indian Creek ranged only from 0.34 to 0.40 m^3/s during the spawning season and peaked at only 1.39 m^3/s in January (Figure 3b); the CV (SD/mean) in flow was 0.18 (Table 1). In comparison, flows ranged from 0.68 to 5.09 m^3/s during the same period in lower Indian Creek (Figure 3b) and the CV in flow was 0.72 (Table 1).

DISCUSSION

Our major finding was the documentation of an unusually early and brief spawning period by Coastal Cutthroat Trout in Indian Creek, which contrasts with the more protracted spring spawning of most Pacific trout species (Behnke 1992). The timing of Cutthroat Trout spawning in Indian Creek is several months prior to the average of February through May in most Pacific Northwest populations (Trotter 1989), though Cutthroat Trout in nearby Lake Crescent also begin spawning early but over a much more protracted period (Samuel Brenkman, U.S. National Park Service, personal communication). Breeding date can evolve quickly under natural (Quinn et al. 2000) and artificial selection (Siitonen and Gall 1989; Sato et al. 2000; Quinn et al. 2002), and some streams have early and late spawning runs of salmon, sometimes spatially separated (Tallman and Healey 1991) and sometimes sympatric (Gharrett et al. 2013). In Indian Creek, the fall spawning is restricted to the upper section near the lake, as only spring spawning has been seen in the lower section during steelhead redd counts (McMillan, unpublished data). Such divergence in timing over a small spatial scale is especially remarkable because the shift is not merely earlier within the spring season but from spring to fall, reversing the normal trout cues for reproduction with increasing temperature and day length.

The Cutthroat Trout in Indian Creek fell within the range of body sizes previously reported (Trotter 2008). However, the range of substrate particle sizes (2–55 mm) and median particle size in our study were smaller or at the lower end of substrate size ranges reported previously for Coastal Cutthroat Trout redds (16–64 mm: Hooper 1973; 6–102 mm: Hunter 1973; 20–50 mm: June 1981) and for larger-bodied subspecies of interior Cutthroat Trout (60–100 mm: Cope 1957; Hickman and Raleigh 1982; Varley and Gresswell 1988; Thurow and King 1994). The substrate size in redds in our study reflects the smaller substrates present in upper Indian Creek compared with those in lower Indian Creek and other tributaries in the Elwha River basin (G. R. Pess, unpublished data).

The number of small-bodied Cutthroat Trout spawning early in the season in the same reach in multiple years suggests that this is a viable, discrete population. We hypothesize the fall spawning may occur here for several reasons. First, the flow regime and gravel scour that typically preclude fall spawning by small-bodied salmonids (Montgomery et al. 1999) must be relaxed; it is unlikely that the small females in Indian Creek could dig redds deep enough to avoid scour during the higher flows of fall and winter that characterize many coastal streams. For example, Kennedy Creek, in southern Puget Sound, is dominated by fall rains and commonly scours to depths of 10–20 cm (Montgomery et al. 1996; Schuett-Hames et al. 2000). Given the general relationship between female length and egg burial depth (Quinn 2005), a 300-mm female trout would bury her eggs only 8–10 cm deep, exposing embryos to scouring flow events, but large-bodied Chum Salmon successfully spawn in November. In upper Indian Creek, however, the peak stream flows were delayed and dramatically reduced, which presumably also reduced scour, compared with lower Indian Creek. We cannot be sure why this happens in upper Indian Creek, but the extensive groundwater and the lake may combine to flatten the fall and winter hydrograph.

The moderate temperature regime in upper Indian Creek likely also reflects proximity to the lake, and it too may affect spawning timing in this system. Temperatures were warmer during the fall spawning period in upper Indian Creek and also

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became warmer earlier in the spring than in lower Indian Creek, and warmer water accelerates embryonic development. Based on a temperature (8.0°C), which is similar to that of upper Indian Creek after spawning in early October, we predicted Cutthroat Trout fry would emerge after 79 d, in mid-December (estimated from data in Merriman 1935; Murray and McPhail 1988).

In addition to the mild regimes of flow and temperature, we hypothesize that the unusually early timing of spawning by Cutthroat Trout in upper Indian Creek reflects, in part, the absence of competition with larger, anadromous Coho Salmon. Coho Salmon have been excluded from the stream for almost 100 years by the Elwha Dam (Brenkman et al. 2008), but since the dam has been removed they are now present and likely to become increasingly abundant. Their spawning timing overlapped with, but was generally later than, that of the Cutthroat Trout. Competition for redd sites and redd superimposition by the larger-bodied salmon may select against early spawning by Cutthroat Trout in the reach studied here, as the spawning trout used much of the suitable stream bottom. Such interspecific competition affected the survival and dynamics of Brown Trout *Salmo trutta* and Rainbow Trout in New Zealand (Hayes 1987), and nonnative Chinook Salmon seem to have had a negative effect on native Atlantic Salmon *S. salar* in Lake Ontario tributaries (Scott et al. 2003). The effects of Coho Salmon on Cutthroat Trout could be magnified if the salmon selectively re-used trout redd sites, as was reported for Brook Trout *Salvelinus fontinalis* and Brown Trout in Minnesota (Essington et al. 1998).

Increased overlap in spawning locations could also increase interactions among juveniles, and larger Coho Salmon tend to dominate Cutthroat Trout (Sabo and Pauley 1997). However, the earlier spawning by trout in upper Indian Creek could reverse the normal pattern in which salmon emerge earlier and achieve a larger size at age. At an average incubation temperature of 8.0°C, Coho Salmon would require 109 d to emerge after spawning (Murray and McPhail 1988). Combined with the later spawning date, the Coho Salmon fry would emerge in mid-March compared with mid-December for the trout, reversing the normal pattern in these species. Earlier emergence by the Cutthroat Trout may allow them to grow and establish territories (Rhodes and Quinn 1998) before Coho Salmon emerge and thus compensate somewhat for their smaller initial size, though growth opportunities during winter are likely limited.

In conclusion, we documented unusually early spawning by Coastal Cutthroat Trout in one small reach of a tributary to the Elwha River. We were not able to determine the specific causes, but a strong candidate is the local hydrology that delays and truncates the fall peak flow events. The evolution of this unusual timing of reproduction could also be related to the absence of competition with fall-spawning Coho Salmon. It is difficult to predict whether the breeding time of Cutthroat Trout will persist as Coho Salmon abundance increases following dam removal, but the outcome will likely depend on the extent of spatial and temporal overlap during breeding and rearing. In this context, understanding dam removal is as much about documenting changes in upstream populations as it is about documenting the recolonization of anadromous salmonids from below the dam. Finally, the physical environment of upper Indian Creek is unusual but probably not unique, and other Coastal Cutthroat Trout populations spawn in small streams below beaver dams or have other features to moderate the thermal and flow regimes. If these populations spawn above barriers to anadromous salmon, they might also exhibit early spawning. Information on such populations might provide a useful test of the hypotheses underlying the present study.

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Harvey, Diane

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 3:54 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 27, 2020 11:05 AM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi again, I just wanted to reach-out and confirm you received the draft materials I sent last week.
Also, we'd love to reserve a date & time in the coming weeks for a group discussion.

Thanks & Happy Monday,

~ Michelle McConnell

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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From: McConnell, Michelle (ECY)
Sent: Monday, April 20, 2020 12:27 PM
To: 'Winborn, Mary Ellen' <mwinborn@co.clallam.wa.us>; Ballard, Greg <gballard@co.clallam.wa.us>
Cc: Blair, Misty (ECY) <mbla461@ECY.WA.GOV>
Subject: SMP - draft ECY changes for staff review

Hello Mary Ellen and Greg,

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Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

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Harvey, Diane

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
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State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Coastal Region • Region 6 • 48 Devonshire Road, Montesano, WA 98563-9618
Telephone: (360) 249-4628 • Fax: (360) 249-1229

April 17, 2020

Michelle McConnell
WA Dept. of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

SUBJECT: WDFW ADDITIONAL CLARIFICATIONS AND TECHNICAL DETAILS TO DEPARTMENT OF ECOLOGY ON PROPOSED CLALLAM COUNTY SHORELINE MASTER PROGRAM COMPREHENSIVE UPDATE

Dear Ms. McConnell,

Thank you for welcoming additional collaboration on the Shoreline Master Program (SMP) Comprehensive Update for Clallam County (the County). The Washington Department of Fish and Wildlife (WDFW) applauds the commitment by the Department of Ecology (Ecology), the County, and stakeholders to craft an updated SMP for the County reflective of our shared responsibility of durable land use planning, for which the perpetuation of natural resources is fundamental.

Indian Creek, as a tributary of the Elwha River, was historically part of a thriving ecosystem that proved to be an ideal habitat for anadromous fish. Construction began on the Elwha Dam in 1910, downstream of the Indian Creek confluence with the Elwha River. The dam failed in 1912 and reconstruction was complete in 1913, blocking migration of salmon upstream and disrupting the flow of sediment and wood downstream. The Elwha River Ecosystem and Fisheries Restoration Act, passed by the U.S. Congress and was signed by President Clinton in 1992, authorizing dam removal to restore the ecosystem. The Elwha Dam removal was complete in 2012 and two years later the Glines Canyon Dam was removed, finalizing the largest dam removal project in U.S. history.

The Elwha River and its tributaries, including Indian Creek downstream of US 101, now flows freely from the headwaters to the Strait of Juan de Fuca. Since the dams were removed, anadromous salmon have been observed spawning above the former dam locations. Indian Creek flows from Lake Sutherland where, for a hundred years, a population of land-locked sockeye transitioned to non-anadromous kokanee. Fisheries biologists anticipate that the kokanee currently living in Lake Sutherland will provide the source for new anadromous sockeye runs.

Lake Sutherland currently provides habitat for native kokanee salmon, a relic population from former anadromous sockeye salmon from the pre-dam era, a unique population of cutthroat trout that spawns near the outlet of the Lake and spawns in the fall (typically cutthroat spawn in the spring). Rainbow Trout stocking by the department ended in approximately 2012 with removal of downstream dams.

The downstream crossing of Indian Creek between Lake Sutherland and the Elwha River, one of two water crossings on Indian Creek on State Route 101 owned by Washington State Department of Transportation (WSDOT) are not always passable for fish. The crossing is one of the most impacting in the state, by priority score, whereas the quantity and quality of habitat above the barrier that fish cannot access is ranked, it is the second highest priority to be replaced. And will be the first priority once Chimacum Creek is completed in 2020. Currently the existing crossing is scheduled to go to ad in 2021 and construction completed by 2023. The new crossing will be a bridge with an approximate 45 to 55-foot channel; that meets all requirements of the hydraulic code and fish passage injunction; to pass all fish at all times and all life stages.

Additional habitat largely unavailable to anadromous fish will soon become available with the correction of the barrier crossing. Habitat for fish resources in the lake include additional rearing for coho and steelhead juveniles in the lake as spawning adult fish use ideal habitats located just downstream of the outlet. Coho and Steelhead fry, will seek out low energy shallow areas where they can grow, avoid predation, and conserve energy. The undeveloped shallow habitat around the lake also provides woody material input, fallen trees, limbs and detritus provide shoreline complexity. This complexity can in turn reduce erosion, provide cover and a growth medium for aquatic insects. Terrestrial insects falling from the riparian around the lake provide prey for small fish, shade the shoreline helping to reduce thermal stressors, and in places improving water quality as stormwater filters through functional riparian areas.

None of the shoreline functions listed above can be achieved without an appropriate vegetated buffer on Lake Sutherland. WDFW maintains that a 35-foot standard buffer width on Lake Sutherland may be insufficient to ensure that new permitted developments on the shoreline will not contribute to a net loss of ecological function necessary for fish. This existing condition set poses a considerable challenge to the recovery of the current resident listed fish species, as well as for the anadromous species that are anticipated to use the nearshore habitat of Lake Sutherland after the Highway 101 culvert downstream is corrected. At present, this fish barrier passage work is projected for 2022; therefore, it is appropriate to address anadromous fish species' habitat needs in Lake Sutherland during this present SMP Comprehensive Update. Areas along the western half of the lake and areas near the outlet of the lake still maintain some resemblances of intact riparian areas and can provide functions as described above for the current and future fish in the lake.

While Lake Sutherland does have a substantial amount of existing developed shorelines, it also contains areas less developed, and areas with development and relatively intact riparian areas. The entire lake shoreline is not already intensively developed and is not deserving of a minimum 35 feet buffer. The appropriate Site Potential Tree Height (SPTH) buffer, where the ecological functions of the buffer would provide the most benefit, is 161-213 feet, depending on the location/parcel around the lake. As indicated in circled areas on the figure below, these areas, at a coarse scale, still appear to contain riparian area that is generally protective of the desired ecological functions of the SPTH buffers and would provide the functions and values described above and are more appropriate of a Residential Shoreline-Conservancy Designation similar to the outlet of the lake.



No Net Loss and use of Restoration to achieve NNL.

WDFW is also concerned by the SMP's characterization of restoration as a means of compensating for allowed ecological impacts. Restoration projects, by definition, are intended to result in net ecological lift when compared to the baseline condition. It is inappropriate to rely on restoration to perform the function of compensatory repair; it is not to be used to offset regulatory inabilities to meet no net loss. In addition to eroding the principle of no net loss, this misuse of the restoration tool shifts the responsibility for impact avoidance off of the project proponent causing ecological harm, and onto a surrogate. This raises significant concerns not only from an ecological perspective, but also from the vantage point of financial ethics. For this and other reasons, many restoration funding sources strictly prohibit funding from being used to mitigate impacts from development.

The County appears to be relying on restoration to help achieve no net loss (NNL) of shoreline functions as we have shown below. We firmly hold to the definition of restoration[1] as enhancement for the purpose of generating net ecological gain. In contrast, mitigation standards must be fully sufficient to ensure that each permitted development will not cause a net loss of ecological function of the shoreline, and mitigation is, by definition, a mandatory regulatory requirement, while restoration is inherently voluntary.

---

1. "Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020 (31))

We agree with and support the County's commitment to the sequential prioritization of impact avoidance, minimization, and compensatory mitigation. However, we hold that any impacts which cannot be avoided entirely be fully compensated to meet the principle of NNL through mitigation exclusively, as the use of restoration to meet this standard undermines both the obligation of mitigation and the efficacy of restoration to achieve the State's salmon recovery goals.

Examples in the SMP where Restoration seems to be used to address No Net Loss (NNL).-
The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved. 3.9.9 #4

No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated. Chapter 8.1

These are just a few locations of many throughout the SMP where we felt it was unclear why restoration had to be used to meet no net loss. We would ask Ecology to make a statement that restoration and impacts from violations are intended to lift above base line conditions and not make up for the loss of function that development impacts cannot fully mitigate.

In closing, WDFW appreciates Ecology's willingness to receive our additional comments outside the public comment period for this SMP Comprehensive Update. The shorelines in Clallam County play a crucial role in providing irreplaceable habitat for fish and wildlife, contributing to recreation, and protecting local communities. We look forward to arriving together at a SMP update for Clallam County that meets the State's shared goals and purpose around riparian conservation and salmon recovery. We offer our comments in a spirit of partnership and collaboration, and hope that through this continued dialogue, we have clearly highlighted our outstanding areas of concern. Our relationship with your agency is very important to us, and in deference to that relationship, I welcome any opportunity to be of assistance or to discuss these comments further. Please feel free to contact me with any questions at 360-874-7258.

Sincerely,

Chris Waldbillig

Chris Waldbillig
Assistant Regional Habitat Program Manager

Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Thursday, June 18, 2020 4:26 PM
To: Harvey, Diane; Winborn, Mary Ellen; Blair, Misty (ECY)
Subject: SMP next steps

Hello Diane, Mary Ellen, and Misty –

Thanks again to all of you for our call this morning, we appreciate the opportunity for discussion and feel that valuable progress was made. We already accommodated most of the wordsmithing requests into our change matrices as real-time edits. Just to recap our next steps, here's a quick list of who's doing what 'homework' before our next group call(s):

- **Required #1 MSP –** We'll confirm/correct if it's June or August.
- **Required #8 ORMA/MSP** – Misty is wrapping-up the draft guidance and will provide to you for consideration so we can work together to figure out where in the document the needed language is best added, and specifically what the words on the page will say. Look for those materials in the next ~10 days. Then we'll schedule another call for ~1 hour to discuss.
- **Required #9 Lake Sutherland Buffer** – You'll send us 1) a USB drive with the GIS mapping of 50-100-150' along the lake shoreline (my PO Box is noted below); and 2) proposed text for an added provision to require a NNL/biological assessment report at the project level. Then we'll schedule another call for ~1 hour to discuss.
- **Required #23 List of Waterbodies** – We'll send you an example from another jurisdiction of an approach we've approved; then you'll send us proposed language that we'll add to our change matrix.
- **Recommended #4 MSP** - We'll confirm/correct if it's June or August. [duplicate of Req#1 – drop the matrix row?]
- **Recommended #10 Resource Conservancy** – You'll follow-up with us to confirm/deny that the RC designation is applied to areas outside any UGAs; we'll adjust the redline text as needed.
- **Recommended #17 Photo Series** – You'll follow-up with us to confirm either 30- or 50-year photo series; we'll adjust the redline text as needed.
- **Recommended #21 Ag Land Definition** – We'll revise the Description/Rationale text to provide more robust explanation for the proposed edits.
- **Additional Staff Request Changes** – You'll send me any other text revisions you want to address so we can include them in our Recommended Changes, such as:
  - **SMP 8.2 Mitigation & NNL Policy #3 –** Rephrasing "*Specific indicators that should be measured on frequent and regular basis at least once every five years and compared to 2012 baseline levels…*"
- **Options for Combining Comprehensive Update & Periodic Review Processes** – We'll send you a description of the options, including 1) Add the PR Process into the BoCC's response to our Conditional Approval decision on the Comprehensive Update; or 2) Complete the Comprehensive Update first, then conduct a subsequent PR process.
- **EAGL Application** – Once you get all the forms completed, I'll take a look at everything to catch/correct any issues before you submit & avoid the Modifications Required process, as needed.

'll, that should be enough to keep us busy! Please let me know if I've omitted/misrepresented any items 'ir discussion.

Looking forward to moving this ahead towards our formal ECY decision and – ultimately – completion!

Have a great weekend & we'll be in touch soon,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

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Ecology celebrates **LGBTQ Pride Month**! Learn more: RAIN; Pride Video

□ Ecology stands in solidarity with our co-workers, colleagues, partners & customers of the Black Community and other Communities of Color: we cannot ignore racism – we must recognize it & work to eradicate it. Learn more: https://www.buildwa.org/

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Sent: Monday, April 27, 2020 11:05 AM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
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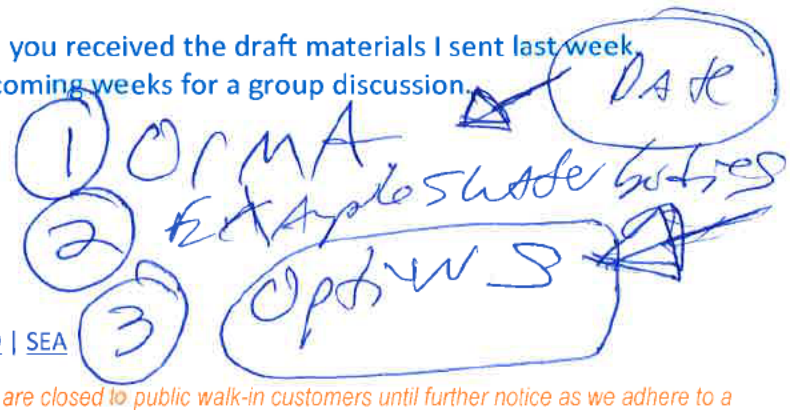

Thanks & Happy Monday,

~ Michelle McConnell

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Explain why

put under Buffer Section

Kitsap

22.700.115

Habitat Management Plan

Harvey, Diane

From: Ballard, Greg
Sent: Tuesday, May 05, 2020 7:10 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Location of SMP docs

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, April 24, 2020 10:10 AM
To: Kucipeck, Deborah
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

THANKS

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Kucipeck, Deborah
Sent: Friday, April 24, 2020 10:08 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Good morning,

I'm not exactly sure what are looking for, but there are word versions of the 2018 Draft on the J drive under: file:///J:\nr%20N%20through%20Z\Shoreline%20Master%20Program\DRAFT%20SMP\2018_BOCC_Draft_SMP

Hope that helps!

Deb

From: Ballard, Greg
Sent: Friday, April 24, 2020 9:19 AM
To: Kucipeck, Deborah
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Could you send me the specific language for the SMP text.

We are supposed to make changes for the 2018 SMP Update (attached) & I want to know where the word files are found.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

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it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

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Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, **Diane**

From: Gray, Steve
Sent: Tuesday, May 12, 2020 9:49 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Diane,

Our contract with ESA has expired. Margaret Clancy was the ESA project manager and the primary person I worked with extensively on the SMP and supporting documents over the years.

Margaret is vested in seeing the County being successful to obtain final state approval and was always willing to support related to work they provided to the County. If she is still with ESA, she would likely assist on questions she could quickly respond too. If we want any significant work, we would likely need another contract.

Copies of our past ESA contracts should be with Lori Kennedy. They may also be in the SMP files I left with Kevin. However, likely quickest to obtain from Lori.

-Steve

From: Harvey, Diane
Sent: Tuesday, May 12, 2020 9:26 AM
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Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Steve,

Here is what Ecology sent to the Director.

Do we still have ESA under contract? If so, can you tell me where the contract is located so I can read it.

See you Thursday morning.

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director

Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

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Harvey, Diane

From: Winborn, Mary Ellen
Sent: Tuesday, May 12, 2020 2:08 PM
To: McConnell, Michelle (ECY)
Cc: Harvey, Diane; Ballard, Greg
Subject: SMP new planner introduction

Hi Michelle,

I am including Diane Harvey on this email as an introduction. She will be working on the SMP from this point forward. Greg has some other projects that he is working on that are requiring a good amount of his time and attention.

Diane is a retired attorney and is very good at researching, reading and comprehending complex documents. I believe you will quickly understand that she is the right person to handle this last component of the process.

Hope all is well and maybe one day we will see each other in person, again.
Mary Ellen

Mary Ellen Winborn, Director
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Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Tuesday, May 12, 2020 2:08 PM
To: Harvey, Diane
Subject: RE: ESA

Thank you!

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Harvey, Diane
Sent: Tuesday, May 12, 2020 9:54 AM
To: Winborn, Mary Ellen
Subject: ESA

Director,

Below is the answer to my question about ESA.

I'll follow up with Lori to obtain the expired contract.

D.

Diane Harvey
Planner III
Clallam County
dharvey@co.clallam.wa.us

From: Gray, Steve
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To: Harvey, Diane
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Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Tuesday, May 12, 2020 4:09 PM
To: Winborn, Mary Ellen
Cc: Harvey, Diane; Ballard, Greg
Subject: RE: SMP new planner introduction (External Email: USE Caution)

Hello Diane,
So nice to 'e-meet' you! Please let me know if you have questions as you get started on the SMP project. This has been a long process and we're eager to wrap-up the final steps – you're really jumping in at a unique phase of the effort! Just in case you're new to shoreline planning &/or Washington's Shoreline Management Act (RCW 90.58), our website has some helpful information, including the Shoreline Planners Toolbox and our SMP Handbook. Of course at this final stage, we're down to some rather 'surgical' fixes to specific SMP provisions so you don't necessarily need to have the whole world of SMA memorized. And for reference, here is our Clallam SMP project webpage – I promise we won't give you a pop-quiz on all those maps! :D

Thank you, Mary Ellen!

Best wishes that all of you are staying safe, healthy & sane these days,

~ *Michelle McConnell*
Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

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To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Cc: Harvey, Diane <dharvey@co.clallam.wa.us>; Ballard, Greg <gballard@co.clallam.wa.us>
Subject: SMP new planner introduction

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Michelle,

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Diane is a retired attorney and is very good at researching, reading and comprehending complex documents. I believe you will quickly understand that she is the right person to handle this last component of the process.

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Harvey, Diane

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

HI Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

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To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

HI Mike was wandering if you know if ESA Species are in Lake Sutherland?

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Harvey, Diane

From: Ballard, Greg
Sent: Friday, June 05, 2020 9:51 AM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Hi Mike, I guess the WDFW letter was not public so please don't distribute it.

Thanks for your input.

Greg Ballard
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM
To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Greg,

The Fish and Wildlife Letter has not been made public. Ecology provided it to Clallam County only. The Drafts were not to be distributed outside the County. Please explain this to Mr. McHenry and ask him to not distribute it to any one else and that you sent it in error.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
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Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:rnicm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

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From: Ballard, Greg
Sent: Friday, June 05, 2020 9:52 AM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)

fyi

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From: Mike McHenry [mailto:mike.mchenry@elwha.org]
Sent: Friday, June 05, 2020 9:22 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)

Greg,
The species we have seen that inhabit Sutherland (so far) include: kokanne, cutthroat (several life histories), coho, red-side shiners, prickly sculpin, sticklebacks, and bluegill (introduced). None of these are listed. The listed species do utilize the lower reaches of Indian Creek for spawning and rearing. There is a significant thermal gradient as you move upstream and this in my opinion limits the distribution of chinook, steelhead and bull trout.

For what its worth I agree with WDFW about the 35' buffer being grossly inadequate. The county probably views 161' as too much. Is there a middle ground?

Mike

From: Ballard, Greg <gballard@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 4:42 PM
To: Mike McHenry <mike.mchenry@elwha.org>
Cc: Harvey, Diane <dharvey@co.clallam.wa.us>
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Thanks, I feel bad. I was trying to help.

Sometimes I try to get too many things done & proceed too quickly (info from Elwha & Vandewege (HPA)) & don't read things like Michele's memo before I proceed.

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Talk to you next week.

D.

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- Draft Attachment C – ECY Recommended Changes (31); and
- April 2020 WDFW Clarifications to Previous Comments.

Please note, these materials are discussion drafts not intended for distribution. As you may know:

- Required changes are issues of compliance with RCW & WAC that must be addressed before our final approval;
- Recommended changes are optional issues intended to improve the document for more effective implementation.

As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
PO Box 47775, Olympia, WA 98504-7775 | 300 Desmond Dr SE, Lacey, WA 98503

COVID-19 Response: *WA State Department of Ecology offices are closed to public walk-in customers until further notice as we adhere to a statewide effort to slow the spread of the coronavirus (COVID-19). Regional staff are available by telephone and email, and information is also available online. We remain committed to service, so don't hesitate to reach out to us. Rely on* **coronavirus.wa.gov** *as the state's primary source of coronavirus information and please: practice patience, handwashing & social distancing for your & everyone's health!*

Conserve our natural resources – print only as needed!

Public Record: *This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.*

Harvey, Diane

From: Kevin Van De Wege <kevinvandewege@hotmail.com>
Sent: Friday, June 05, 2020 3:45 PM
To: Harvey, Diane; Ballard, Greg
Subject: Re: SMP - draft ECY changes for staff review (External Email: USE Caution) (External Email: USE Caution)
Attachments: HPA.pdf; SEPA.pdf

Hi Diane and Greg,
Happy things are well. Thank you for wading through this virus - I know it has been difficult and you both have been juggling stuff from different angles. Thank you.

Thank you as well for the insight here. I will keep it private but obviously am very concerned, not just because this is an unwarranted government overreach but because it could potentially make our lot not able to have a home on it in addition to our garage, as was our original plan.

Once you give me the OK I will be happy to start pressuring WDFW as to why this is not needed.

Attached is HPA and SEPA. Let me know if you need more or were looking for something else.

Many thanks,
Kevin
360-477-0548
Diane - let me know if you need anything on Midway Metals

Sent from Outlook

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Thursday, June 4, 2020 7:58 PM
To: Kevin Van De Wege <kevinvandewege@hotmail.com>
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Senator Van De Wege,

The Fish and Wildlife letter Mr. Ballard referred to in his email to you is not public and is part of a conversation Clallam County is having with the Department of Ecology. It is Fish and Wildlife that requested the buffer change, not Ecology. Ecology has raised the issue for discussion. I would be most happy to talk to you about the issue, but at this point we are in preliminary discussions where no decisions have been made.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
360 417-2520
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

Our intent for providing draft materials for staff review is in keeping with our state-local partnership approach and to help avoid any 'surprises' at the Board's final review & approval stage. For the issues identified we include suggested approaches to address our concerns. Attached please find the following materials:

- Draft Attachment B – ECY Required Changes (24);
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As you'll see indicated, there are some issues we'd like to further discuss to determine if any additional changes are needed. If you prefer alternative language to address any of the issues presented, we're happy to discuss that before issuing our decision. And we'd like to discuss procedural details of how the County will also satisfy the Periodic Review requirements and proceed with an EAGL grant Application.

No need to make any SMP edits at this time. Please look over these materials and let's schedule a group discussion to occur in the next week or two. We can set up a voice-only conference call or a WebEx meeting if it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

We appreciate the patience you've afforded us during the unintended delay & we're excited to take this next step forward towards completion!

Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

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Public Record: *This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.*

Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Tuesday, June 16, 2020 3:49 PM
To: Harvey, Diane
Cc: Blair, Misty (ECY)
Subject: RE: June 18th Call

Hello Diane – thanks for sending these. Yes, we still plan start at 9am and will send out WebEx call-in information soon!

~ *Michelle McConnell*

Regional Shoreline Planner | 360.407.6349 | ECY | SWRO | SEA

Ecology celebrates **LGBTQ Pride Month**! Learn more: RAIN; Pride Video

Ecology stands in solidarity with our co-workers, colleagues, partners & customers of the Black Community and other Communities of Color: we cannot ignore racism – we must recognize it & work to eradicate it. Learn more: https://www.buildwa.org/

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From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Tuesday, June 16, 2020 3:07 PM
To: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Subject: June 18th Call

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM - Take caution not to open attachments or links unless you know the sender AND were expecting the attachment or the link

Hi Michelle,

Hope all is well with you. In anticipation of our call on Thursday, I wanted to forward to you two documents I plan on referring to during our call that you may not have in your possession.

Do you and Misty still want to start at 9am?

Regards,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

Subject:	Clallam SMP draft changes
Location:	open for WEbEx details
Start:	Thu 6/18/2020 9:00 AM
End:	Thu 6/18/2020 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McConnell, Michelle (ECY)

6/17 UPDATE: Let's consider this agenda for tomorrow's discussion:

- Draft Required Changes, including:
  - #8 – Ocean Management, Marine Spatial Plan (Misty will provide materials for consideration)
  - #9 – Lake Sutherland buffer, SEDs
- Draft Recommended Changes
- Overall process for Comprehensive Update, Periodic Review, and the EAGL grant

Here's the Web-Ex call in info – we're looking forward to our discussion:

Clallam SMP draft changes

Thursday, June 18, 2020

9:00 am | (UTC-07:00) Pacific Time (US & Canada) | 3 hrs

Meeting number (access code): 133 787 5358

Meeting password: cVTHVRP3z48

Join meeting

Join by video system, application or Skype for business

Dial 1337875358@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

Tap to call in from a mobile device (attendees only)

+1-415-655-0001 US Toll

Toll Free
+1-855-929-3239

Can't join the meeting?

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Staff-level discussion of 4/2020 draft Required and Recommended changes.

Harvey, Diane

From: McConnell, Michelle (ECY) <micm461@ECY.WA.GOV>
Sent: Thursday, June 18, 2020 4:26 PM
To: Harvey, Diane; Winborn, Mary Ellen; Blair, Misty (ECY)
Subject: SMP next steps

Hello Diane, Mary Ellen, and Misty –

Thanks again to all of you for our call this morning, we appreciate the opportunity for discussion and feel that valuable progress was made. We already accommodated most of the wordsmithing requests into our change matrices as real-time edits. Just to recap our next steps, here's a quick list of who's doing what 'homework' before our next group call(s):

- **Required #1 MSP** – We'll confirm/correct if it's June or August.
- **Required #8 ORMA/MSP** – Misty is wrapping-up the draft guidance and will provide to you for consideration so we can work together to figure out where in the document the needed language is best added, and specifically what the words on the page will say. Look for those materials in the next ~10 days. Then we'll schedule another call for ~1 hour to discuss.
- **Required #9 Lake Sutherland Buffer** – You'll send us 1) a USB drive with the GIS mapping of 50-100-150' along the lake shoreline (my PO Box is noted below); and 2) proposed text for an added provision to require a NNL/biological assessment report at the project level. Then we'll schedule another call for ~1 hour to discuss.
- **Required #23 List of Waterbodies** – We'll send you an example from another jurisdiction of an approach we've approved; then you'll send us proposed language that we'll add to our change matrix.
- **Recommended #4 MSP** - We'll confirm/correct if it's June or August. [duplicate of Req#1 – drop the matrix row?]
- **Recommended #10 Resource Conservancy** – You'll follow-up with us to confirm/deny that the RC designation is applied to areas outside any UGAs; we'll adjust the redline text as needed.
- **Recommended #17 Photo Series** – You'll follow-up with us to confirm either 30- or 50-year photo series; we'll adjust the redline text as needed.
- **Recommended #21 Ag Land Definition** – We'll revise the Description/Rationale text to provide more robust explanation for the proposed edits.
- **Additional Staff Request Changes** – You'll send me any other text revisions you want to address so we can include them in our Recommended Changes, such as:
    - **SMP 8.2 Mitigation & NNL Policy #3 –** Rephrasing *"Specific indicators that should be measured on frequent and regular basis at least once every five years and compared to 2012 baseline levels..."*
- **Options for Combining Comprehensive Update & Periodic Review Processes** – We'll send you a description of the options, including 1) Add the PR Process into the BoCC's response to our Conditional Approval decision on the Comprehensive Update; or 2) Complete the Comprehensive Update first, then conduct a subsequent PR process.
- **EAGL Application** – Once you get all the forms completed, I'll take a look at everything to catch/correct any issues before you submit & avoid the Modifications Required process, as needed.

Well, that should be enough to keep us busy! Please let me know if I've omitted/misrepresented any items from our discussion.

Looking forward to moving this ahead towards our formal ECY decision and – ultimately – completion!

Have a great weekend & we'll be in touch soon,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, Diane

From: Gray, Steve
Sent: Tuesday, May 12, 2020 9:13 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Hi Diane,

9:30 am on Thursday works for me. Please send me the Ecology comments so I can be better prepared to answer your questions. Plus, given the time I sunk into the SMP process and coordinating with Ecology, I am simply curious on the results of their review. Sounds like most comments are minor, but with a few more substantive required or requested changes such as l.k. Sutherland buffers.

As I noted previously, Resolution 91, 2018 contains a summary of the entire SMP process thru adoption of our locally-approved October 2018 SMP. Below are key action steps by the County and Ecology taken since local approval of the October 2018 SMP under Resolution 91,2018:

Description	Action Date	Comments
Clallam County Locally-Approved SMP	Oct. 30, 2018	Prior to this action, the BOCC held a public hearing on December 12, 2017 and held 16 subsequent work sessions on the public comments received and Planning Commission recommendation.
County SMP Submittal Package to Ecology	Nov. 8, 2018	This included completion of a required state SMP Checklist and submittal of a significant number of supporting reports/documents (e.g., evidence of public process) that were required to document our process. This package and related letter/memo I submitted to Ecology is a good resource for summarizing our SMP update process.
Ecology Acceptance of Our SMP Submittal Package	Dec. 4, 2018	This step allowed Ecology to begin their formal state review process for determining whether submittal is consistent with RCW 90.58 and WAC 173-26.
Ecology Public Comment Period on our October 2018 Locally-Approved SMP	Jan. 14-Feb. 28, 2019	Ecology provided us electronic copies of all public testimony they received. I prepared binders and table of contents of these comments for BOCC review by topic area.
Received Ecology's Public Comment Summary Table for County Response	April 23, 2019	County responded per WAC 173-26-120 (2e).
County Response to Ecology Public Comment Summary Table	June 10, 2019	This 60-plus page response I prepared to the public comments received was reviewed with the County Commissioners.
Decision by Ecology on County SMP.	May 2020	WAC directs Ecology to complete this review within 30 days of receipt of the County response. Ecology notified us early that they were anticipating upwards of 90 days due to other work load. Ecology did affirm in writing that the review of the SMP would also cover our 2020 periodic update review.

As you likely now know, there is an extensive record associated with this SMP update dating back 10-years. I organized key SMP hard copy documents such as various SMP draft, supporting SMP documents (e.g., inventory and characterization), SMP Committee deliberations, public process , public comments, etc... prior to leaving. Most of those key documents are in binders. These documents and others are also part of extensive SMP electronic files on the DCD

J:drive. One of the electronic folders includes all the documents part of our full November 8, 2018 Ecology Submittal described above that also contains supporting SMP documents (e.g., public participation plan, inventory and characterization, cumulative impact analysis, consistency review, etc....) and required documentation (e.g., SMP checklist) by Ecology. Please note that Starla has the binders of hard copies of public comments received. The good news is that the key SMP documents are on the SMP web page.

Good luck taking the SMP to the finish line! Please don't hesitate to ask questions. I will do what I can to help. See you Thursday morning.

-Steve

Steve Gray
Transportation Program Manager
Clallam County Public Works / Road Department
360-417-2290; sgray@co.clallam.wa.us

From: Harvey, Diane
Sent: Monday, May 11, 2020 5:55 PM
To: Gray, Steve
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Steve,

Thank you for the historical download. We aren't quite past the goal line just yet. Ecology sent us a 9 page list of" required" changes and an additional 10 page list of recommended changes. The required changes deal mostly with wordsmithing in order to be consistent with certain WAC provisions, some internal inconsistencies that need to be corrected in certain Tables, seeking newly drafted sections on implementation of the MSP, changes to certain definitions and seeking to change the 35' uniform buffer at Lake Sutherland. I have some ideas on the proposed ordinance and would be most appreciative to be able to discuss them with you.

Thursday morning would work for me. Would 9:30 am work for you in your office?

Regards,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Gray, Steve
Sent: Monday, May 11, 2020 5:24 PM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: SMP Question

Hi Diane,

That is great news to hear that Ecology has finally concluded their review! It has been over 16-months since they accepted our SMP submittal package.

Since Ecology's changes are "proposed," it sounds like they would approve our October 2018 SMP update document with recommended changes versus mandatory or conditional needed changes. Is that the case?

I would be happy to schedule a time that works to answer your questions either by phone or in person. In terms of this week, Thursday would likely be the best day for me.

In terms of your question: Did any expert or staff begin to draft the Title 35 Ordinance that would be proposed to the Board assuming Ecology grants approval of the SMP?

The development of our "locally-approved", October 2018 SMP was led by ESA Consultants and yours truly. This process included a very extensive and comprehensive public process at key phases of the update process that culminated in public hearings with the Planning Commission and Board of County Commissioners. Resolution 91, 2018 that adopted our "locally-approved" October 2018 SMP provides a comprehensive summary of the update process. Therefore, the October 2018 SMP would be the substantive content of any Ordinance to incorporate the SMP update under Title 35 CCC.

Per Resolution 91, 2018, the locally-approved October 2018 SMP submitted to Ecology for state review was approved by the BOCC with the intent to update and replace: (1) the 1976 SMP (last amended 1992); and (2) Chapter 35.01 CCC, Shoreline Management. The current Chapter 35.01 CCC, Shoreline Management, is mostly administrative procedures to administer the 1976 SMP (last amended 1992). Chapter 10 of our October 2018 SMP update covers administrative procedures and was intended to update and replace those in Chapter 35.01 CCC.

Once Ecology completed their review the plan was for the County to take final action to amend the October 2018 SMP to incorporate any needed changes and adopt (by Ordinance) into the Clallam County Code. Since the SMP is a regulatory document, final adoption by Ordinance is best versus a Resolution. There are three basic ways to adopt the final October 2018 SMP and any amendments by ordinance to update and replace Chapter 35.01 CCC:

1. Replace the current Chapter 35.01 CCC with the full contents of the October 2018 SMP and any amendments. One issue with this option is that due to the nature of the SMP document it was not put into the County codification format under CCC 1.01 CCC. I believe the intent of the County codification requirements can still be met if we adopt the SMP under a "new" section and make it clear as to the intent of that section. [Note: The current 1976 SMP was not codified only the administrative procedures found under Chapter 35.01 CCC.]

2. Adopt an ordinance that adopts the contents of the October 2018 SMP and any amendments by reference under Chapter 35.01 CCC. Under this option, the final SMP (as updated) would be an attachment to the ordinance.

3. Re-format the entire SMP to fit in the County's code codification format. This option is not recommended due to the time to re-format and update all internal cross-references in the document. More importantly, the codification format is not ideal for this document that is both a policy and regulatory document from a readability standpoint.

I would recommend either option 1 or 2 above. DCD may want to obtain early input from legal on the approach. I would be happy to join the conversation if that would help you.

To comply with the County Home Rule Charter, a minimum of one public hearing will need to be held by the BOCC prior to adoption of the SMP by ordinance. This would even be the case if no additional changes were made to the October 2018 SMP that was approved by Resolution to send to Ecology for review. Additional public process considerations would depend on the nature of any recommended changes to the October 2018 SMP.

The notice of any public hearing should be very clear that the intent is to focus on gathering comments on any proposed revisions to the October 2018 SMP. The notice should reference the prior extensive public process as noted under Resolution 91, 2018. If no changes are to be made, the public notice would reflect Ecology did not require any mandatory or conditional changes for state approval.

Some additional code clean-up should also be done such as repealing Chapter 26.02, Shorelines and Sensitive Areas Committee.

Let me know whether Thursday works for you. My schedule right now on Thursday is wide open.

Regards, Steve

Steve Gray
Transportation Program Manager
Clallam County Public Works / Road Department
360-417-2290; sgray@co.clallam.wa.us

From: Harvey, Diane
Sent: Monday, May 11, 2020 9:34 AM
To: Gray, Steve
Subject: SMP Question

Good morning Steve,

Ecology has provided some proposed changes to the SMP draft submitted last year. The DCD Director has asked me to take over the project. I would greatly appreciate it if we could sit down for about 20 minutes this week or early next week to discuss some historical background. I'm working mostly from home, but could come in any time that works for you. In the meantime, I'm reviewing the binders that have been created to get up to speed as quickly as possible.

One initial question, did any expert or staff begin to draft the Title 35 Ordinance that would be proposed to the Board assuming Ecology grants approval of the SMP?

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 1:31 PM
To: Harvey, Diane
Cc: Jodoin, Starla
Subject: RE: Request for Lake Sutherland Map with certain features

Hi Starla,

I asked Diane to send me an email requesting that you help her with the Draft SMP regarding the Lake Sutherland buffers. Please see the email below and coordinate with Diane on the timing.

Thank you,
Mary Ellen

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Harvey, Diane
Sent: Wednesday, June 03, 2020 12:55 PM
To: Winborn, Mary Ellen
Subject: Request for Lake Sutherland Map with certain features

Director,

As we discussed today, in connection with the County's communications with Ecology regarding the Draft SMP, it would be extremely helpful to have a map of Lake Sutherland that shows (highlighted) which parcels have not been developed. The map would require a measurement overlay that shows a 50 ft, 100 ft and 150 ft contour line beginning at the shoreline and drawn in a fashion that would allow me to understand the length of the parcels (i.e., the approximate distance of the parcels measured from the shoreline to the back of the parcels. There is also a map that Fish and Wildlife used in a letter in which they have circled certain of Lake Sutherland. It appears on the attached letter at page 3. If those four red circles could be drawn on the created map, that would also be extremely helpful. I realize the red circles won't be very precise since the Fish and Wildlife map is small, but we are trying to get an idea of where the no development parcels are located and the length of those parcels.

Thank you for any assistance in this matter,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Jodoin, Starla
Sent: Wednesday, June 03, 2020 2:04 PM
To: Winborn, Mary Ellen; Harvey, Diane
Subject: RE: Request for Lake Sutherland Map with certain features

Good afternoon,

In reading your request I have to point out that I cannot identify which parcels are "developed". This question has come up many times and the Assessor's office cannot seem to identify them either. Part of the problem is the definition of "developed".

I will phone Diane Harvey and explain further and answer any questions I can.

I will do my best to assist, but am limited by the data I have available and it's accuracy.

Starla Jodoin
GIS Coordinator
Clallam County
Community Development
223 E. 4th St.
Port Angeles, WA 98362
Ph: 360-417-2496

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 1:31 PM
To: Harvey, Diane
Cc: Jodoin, Starla
Subject: RE: Request for Lake Sutherland Map with certain features

HI Starla,

I asked Diane to send me an email requesting that you help her with the Draft SMP regarding the Lake Sutherland buffers. Please see the email below and coordinate with Diane on the timing.

Thank you,
Mary Ellen

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Harvey, Diane
Sent: Wednesday, June 03, 2020 12:55 PM

To: Winborn, Mary Ellen
Subject: Request for Lake Sutherland Map with certain features

Director,

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Thank you for any assistance in this matter,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Winborn, Mary Ellen
Sent: Wednesday, June 03, 2020 2:55 PM
To: Jodoin, Starla; Harvey, Diane
Subject: RE: Request for Lake Sutherland Map with certain features

Can you determine which parcels have homes on them?

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: Jodoin, Starla
Sent: Wednesday, June 03, 2020 2:04 PM
To: Winborn, Mary Ellen; Harvey, Diane
Subject: RE: Request for Lake Sutherland Map with certain features

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Starla Jodoin
GIS Coordinator
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223 E. 4th St.
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Ph: 360-417-2496

From: Winborn, Mary Ellen
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To: Harvey, Diane
Cc: Jodoin, Starla
Subject: RE: Request for Lake Sutherland Map with certain features

Hi Starla,

I asked Diane to send me an email requesting that you help her with the Draft SMP regarding the Lake Sutherland buffers. Please see the email below and coordinate with Diane on the timing.

Thank you,
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From: Jodoin, Starla
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Perfect.

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Harvey, Diane

From: Jodoin, Starla
Sent: Monday, June 08, 2020 10:03 AM
To: Harvey, Diane
Subject: Lake Sutherland test map

Diane,
I have placed a draft version of your map at the 50 ft buffer over on the server at D:\GIS\PROJECT DATA\SMP\Lake Sutherland\Parcels_150ft.xlsx .

Please review and let me know if this scale works for you.

I can also create a map to go along with it that does not have the ID number if that obscures your vision of the photography.

Let me know.

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From: Jodoin, Starla
Sent: Monday, June 08, 2020 3:42 PM
To: Harvey, Diane
Subject: RE: Lake Sutherland test map

Ok. Just what I wanted to hear!!

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From: Jodoin, Starla
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To: Harvey, Diane
Subject: RE: Lake Sutherland test map

Diane,

Your maps and excel spreadsheets are at: J:\dcd\Maps\SMP

I hope this meets your needs. I will consider this project complete.

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Harvey, Diane

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM
To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Hi Greg,

The Fish and Wildlife Letter has not been made public. Ecology provided it to Clallam County only. The Drafts were not to be distributed outside the County. Please explain this to Mr. McHenry and ask him to not distribute it to any one else and that you sent it in error.

Diane Harvey
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Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

HI Mike was wandering if you know if ESA Species are in Lake Sutherland?

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Ballard, Greg
Sent: Thursday, June 04, 2020 4:26 PM
To: 'Kevin Van De Wege'
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

HI Kevin all is great here.

Was wondering if you have a copy of the HPA for your pier.

WDFW just provided comment to our SMP update that they want a 161 ft setback in 5 areas of lake Sutherland and your area is one them (see attached).

We are done with our SMP update in 2018 and received the comment from WDFW on our update and now Ecology wants us to chance the setback from 35 to 161 feet.

Diane Harvey in our office is finishing the SMP update but was trying to give her some examples of how WDFW did not seem to regulate Lake Sutherland until a few years ago.

Thanks

Greg Ballard
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From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hello Mary Ellen and Greg,

At long last, we are completing our state consistency review of the County's locally-approved Shoreline Master Program (SMP) Comprehensive Update (link to materials) and we are preparing to issue our formal agency decision. Ecology review has shown the SMP Update is largely consistent but we have identified elements that appear to be inconsistent with applicable laws and rules, and other elements that could be improved to aid implementation.

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it would be helpful to share documents during the discussion. Please let us know some good date/time options during April 27 – May 8, or later as needed.

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Best regards,

Michelle McConnell | Regional Shoreline Planner
360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, Diane

From: Harvey, Diane
Sent: Friday, June 05, 2020 9:56 AM
To: Ballard, Greg; Michael McHenry (mike.mchenry@elwha.nsn.us)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mr. McHenry,

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Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 9:51 AM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Mike, I guess the WDFW letter was not public so please don't distribute it.

Thanks for your input.

Greg Ballard
Senior Planner
Clallam County Department of Community Development
223 E. 4th Street, Suite 5, Port Angeles, WA 98362
Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

From: Harvey, Diane
Sent: Thursday, June 04, 2020 8:05 PM
To: Ballard, Greg
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Hi Greg,

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dharvey@co.clallam.wa.us

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Sent: Thursday, June 04, 2020 4:42 PM
To: Michael McHenry (mike.mchenry@elwha.nsn.us)
Cc: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

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From: Harvey, Diane
Sent: Friday, June 05, 2020 10:13 AM
To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

No harm, no foul. Life happens.

Talk to you next week.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Ballard, Greg
Sent: Friday, June 05, 2020 10:10 AM
To: Harvey, Diane
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

I didn't realize it was not for distribution until I just read Michele's e-mail.

Greg Ballard
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Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
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Harvey, Diane

From: Harvey, Diane
Sent: Wednesday, June 17, 2020 12:43 PM
To: 'McConnell, Michelle (ECY)'
Subject: Accepted: Clallam SMP draft changes

Harvey, Diane

From: Harvey, Diane
Sent: Tuesday, May 12, 2020 9:26 AM
To: Gray, Steve
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)
Attachments: WDFWtech_comments_ECY_041720.pdf; AttB_RequiredChanges_DRAFT.docx; AttC_RecChanges_DRAFT.docx

Steve,

Here is what Ecology sent to the Director.

Do we still have ESA under contract? If so, can you tell me where the contract is located so I can read it.

See you Thursday morning.

Thanks,

Diane

Diane Harvey
Planner III/Advisor to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Winborn, Mary Ellen
Sent: Thursday, April 30, 2020 4:30 PM
To: Harvey, Diane
Subject: FW: SMP - draft ECY changes for staff review (External Email: USE Caution)

Mary Ellen Winborn, Director
Clallam County Dept. of Community Development
E. 4th Street, Suite 5, Port Angeles, WA 98362
Phone: 360-417-2323 Fax: 360-417-2443
mwinborn@co.clallam.wa.us
http://www.clallam.net/dcd/

From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
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Harvey, Diane

From: Harvey, Diane
Sent: Thursday, June 04, 2020 7:58 PM
To: 'Kevin Van De Wege'
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

Senator Van De Wege,

The Fish and Wildlife letter Mr. Ballard referred to in his email to you is not public and is part of a conversation Clallam County is having with the Department of Ecology. It is Fish and Wildlife that requested the buffer change, not Ecology. Ecology has raised the issue for discussion. I would be most happy to talk to you about the issue, but at this point we are in preliminary discussions where no decisions have been made.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
360 417-2520
dharvey@co.clallam.wa.us

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Cc: Harvey, Diane
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360.407.6349 | michelle.mcconnell@ecy.wa.gov | Pronouns: she/her

Shorelands & Environmental Assistance (SEA) Program | Southwest & Olympic Region | WA Department of Ecology
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Harvey, Diane

From: Harvey, Diane
Sent: Friday, June 05, 2020 9:56 AM
To: Ballard, Greg; Michael McHenry (mike.mchenry@elwha.nsn.us)
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Greg Ballard
Senior Planner
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Direct Phone# (360) 565-2616 Fax# (360) 417-2443
Email: gballard@co.clallam.wa.us

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From: McConnell, Michelle (ECY) [mailto:micm461@ECY.WA.GOV]
Sent: Monday, April 20, 2020 12:27 PM
To: Winborn, Mary Ellen; Ballard, Greg
Cc: Blair, Misty (ECY)
Subject: SMP - draft ECY changes for staff review (External Email: USE Caution)

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To: Ballard, Greg
Subject: RE: SMP - draft ECY changes for staff review (External Email: USE Caution)

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Talk to you next week.

D.

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

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I explained it to Vander Wege. So you don't have to send him an email.

Don't be too hard on yourself. Your heart was in the right place.

D.

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Thanks, I feel bad. I was trying to help.

Sometimes I try to get too many things done & proceed too quickly (info from Elwha & Vandewege (HPA)) & don't read things like Michele's memo before I proceed.

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Harvey, Diane

From: Alvarez, David
Sent: Wednesday, May 27, 2020 11:21 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: Shoreline Master Program (SMP)

Hi Diane:
I'm doing fine.
How are your goats doing?
Anyway, I am available tomorrow (Thursday) all day.
Or next week Tuesday or Wednesday at 9 am.
Your choice.

David Alvarez Working from home Work cell: 360 477 3125

From: Harvey, Diane
Sent: Wednesday, May 27, 2020 11:06 AM
To: Alvarez, David
Cc: Winborn, Mary Ellen
Subject: Shoreline Master Program (SMP)

Hi David,

Hope all is well with you. Director Winborn has assigned me to be the project lead on addressing the Draft SMP/Periodic Review with Ecology. We have received an Ecology "draft" of required changes and recommended changes to the Draft SMP. There is one "required" change that I would like to discuss with you – listed by Ecology as Item 9. Would you have a telephone time slot for me sometime next week, about 20 minutes?

Regards,

Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Alvarez, David
Sent: Monday, June 29, 2020 11:49 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: Executive Session SMP not stormwater



David Alvarez
Chief Civil DPA
Working from home
360-477-3125

From: Harvey, Diane
Sent: Monday, June 29, 2020 11:35 AM
To: Alvarez, David
Cc: Winborn, Mary Ellen
Subject: RE: Executive Session (June 29, 2020) - Confidential Handout

David,



Diane

Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

From: Alvarez, David
Sent: Monday, June 29, 2020 11:29 AM
To: Harvey, Diane
Cc: Winborn, Mary Ellen
Subject: RE: Executive Session (June 29, 2020) - Confidential Handout

Hi Diane



David Alvarez
Chief Civil DPA
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Diane Harvey
Acting Manager to Code Enforcement
Clallam County
dharvey@co.clallam.wa.us

Harvey, Diane

From: Mike McHenry <mike.mchenry@elwha.org>
Sent: Tuesday, June 09, 2020 10:24 AM
To: Harvey, Diane
Subject: RE: Lake Sutherland (External Email: USE Caution)

Ill call you next week. Heading out of town shortly to the east side for some dispersed camping!

From: Harvey, Diane <dharvey@co.clallam.wa.us>
Sent: Tuesday, June 9, 2020 10:02 AM
To: Mike McHenry <mike.mchenry@elwha.org>
Subject: Lake Sutherland

Hi Mr. McHenry,

Rebecca was kind enough to show me the Indian Creek trap yesterday and we had a very informative chat. She indicated that I could reach out to you to speak in a little more detail about the ecological function in Lake Sutherland. Here is my number: 360 417-2520.

Best Regards,

Diane Harvey

Acting Manager to Code Enforcement
Clallam County
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Harvey, Diane

From: Rebecca Paradis <rebecca.paradis@Elwha.org>
Sent: Tuesday, June 09, 2020 8:35 AM
To: Lear, Cathy; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)
Attachments: mcmillan et al 2014 unusual fall spawning cutthroat elwha river TAFS.pdf

---

From: Lear, Cathy <CLear@co.clallam.wa.us>
Sent: Monday, June 8, 2020 5:43 PM
To: Rebecca Paradis; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

Great conversation today! Thanks for teaching us about the creek and the lake. It feels like a system that will become richer and richer in species.
Cathy
360.417.2361
All you *have* to decide is what to do with the time that is given you.

-- Gandalf

Progress, not perfection

-- Jeff Ward

From: Rebecca Paradis [mailto:rebecca.paradis@Elwha.org]
Sent: Monday, June 08, 2020 4:55 PM
To: Lear, Cathy; Harvey, Diane
Subject: RE: Lake Sutherland question (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution) (External Email: USE Caution)

I am sorry I am just seeing your messages now. I was out in the field already.

It was great meeting you Diane and always good to see you Cathy! Here is some reading material. I have the data and other articles on my computer in the office. I will send them either wed or thurs this week.

Cheers,
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Attachments: Hansen et al 2016 Sockeye recovery & smolt carrying capacity after Elwha dam removal.pdf; 2019 Elwha Smolt Outmigration Report Final 041520 (2).pdf

I am sorry I am just seeing your messages now. I was out in the field already.

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Redacted

NON Responsive

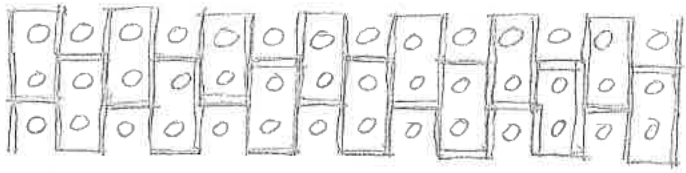
6/1/2020

Lake Sutherland
Ocean Management

- overall process
-

inventory characterization - 8½ years
buffer
Lake Sutherland/Indian Creek - tribe data
tribe real concerns to help them on Lake Sutherland
w/ Mike McHenry

Buffer inconsistant
peer review data
public record - 2012 Rep - 35'-50' - 7 months later
ESA/Margaret Clancy analized & continue 35'
2014/2017 study - Margaret - said 35'
affluent people on Lk Sutherland
- public comment never talked about
County acting as an agent
Chain Case: Bay
Tribe: 1) like Fish & Wildlife for help - signs to not fish smolts & dates for fishing & when
2) F&W granting special permits for dredging - sending loads of sediment & change in flow neighbors went out & did dredging
3) 85% developed -
4) assessment report - instead of moving buffer
5) Tribe - bad blood - w/ home owners association

Ecy: Where they are? 

Misty - understands & concerns same
appreciates effort
- requirement of no net loss - part permit review
Mr McHenry - add sentence biological
assessment to make sure no net loss on
fish project by project assessment - & make
recomendations
How to trigger review - new concept, but no doubt
what would trigger
list — 20-plankton; spawning;
287 parcels - just those properties
GREAT thing to "Do" - resolve the way we want
to pursue
- will respond to WDFW
letter not consistent with data ~~gap~~ in lake
2018
responce -

buffer 131-140 ft no consistent 161-231 ft.
not published
volume II draft on website - need to look up.
reports show smolts driving water quality not load not
great

WDFW; letter to discuss; Ecy asked -
8 people in room better clarity -
sister agencies
obligation where came from
} does WDFW know letter & Ecy rec.

* science & actual conditions

parcels & canopy cover; some more than others
broader than fish. <10R

USB2 50'; 100'; 150;
fish & W items circled

adress comments & Ecy. feels like it can defend
realist plan envelope
Diane reach out —
needs to be address

Missty

periodic review: draft periodic review checklist
one more public hearing; Charter
Clallam
movement of buffer - remand to P.C.

several different ways:
think sent review

Aiger/Low
and
1) public outreach: 30 day Comment Hearing
...
modified into comprehensive update
wrap into interim

what about buffer requirement?

#2 three way
wrap comp. as is w/o period review
think about & let know —

? How to combine periodic review
language per forma WAC 173 applies even
public outreach
timing ck list by end of next week (10 day 2 weeks)
follow up meeting

Michelle
Mitsy Blaire

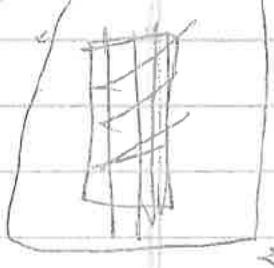
Process

Ocean Management

Spatial

Draft Form

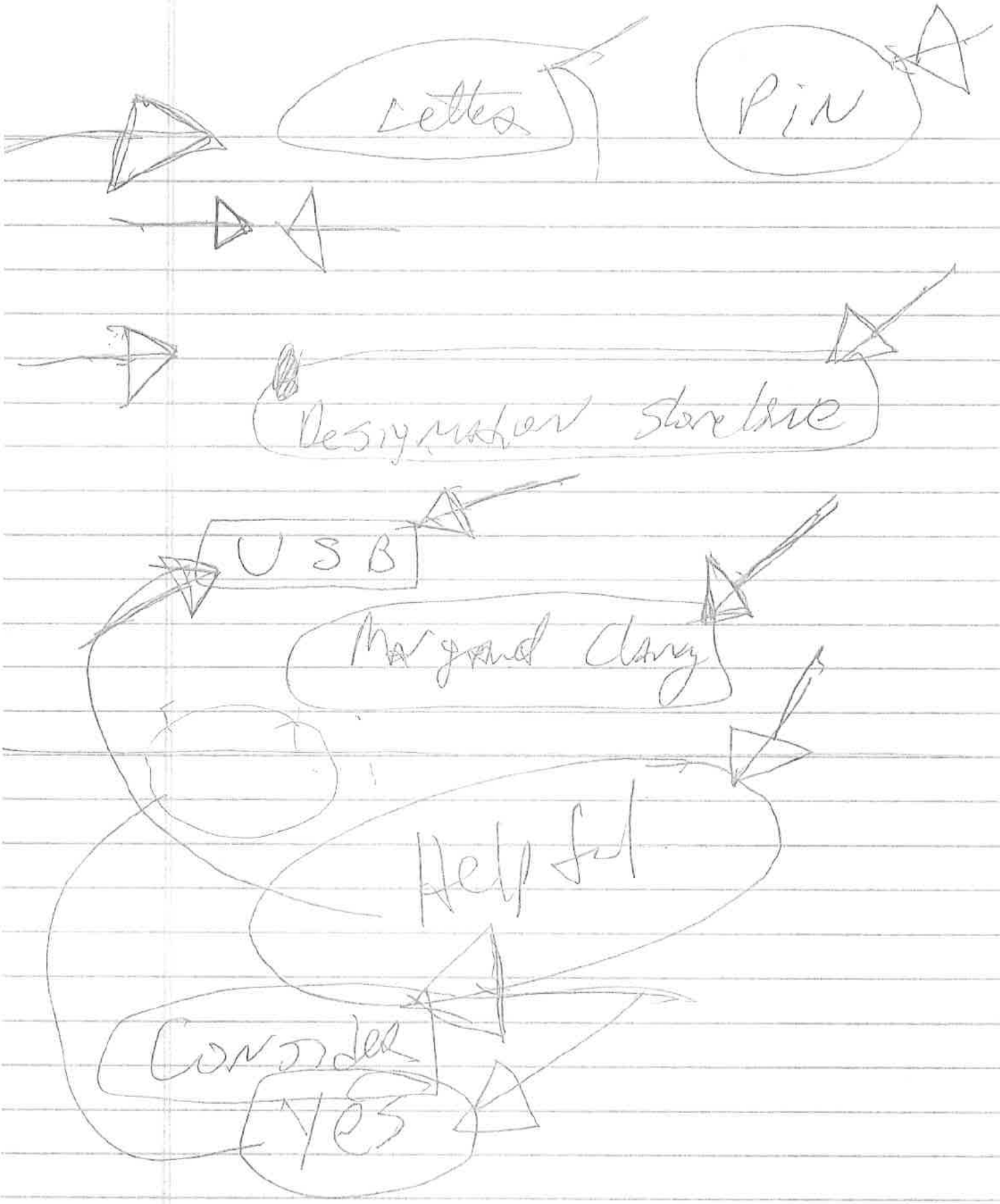
Next week

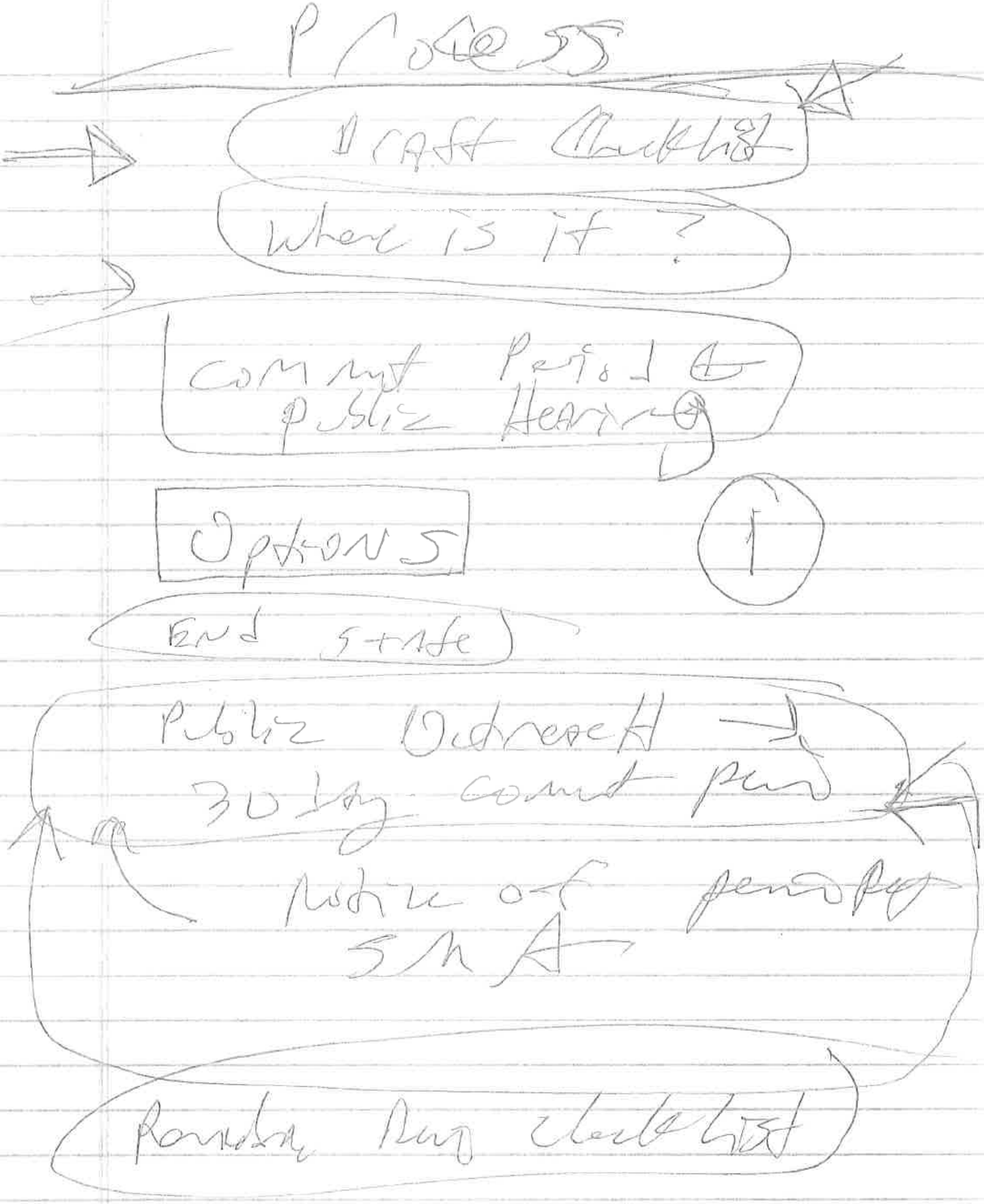


Same Concerns

Biological Assessment

35 foot buffer


Letter
Pin
Designation Shoreline
USB
Margaret Clancy
Helpful
Consider
Yes



Process

Draft Checklist

Where is it?

Comment Period &
Public Hearing

Options

1

End state

Public Outreach
30 day comment period

Notice of period
SMA

Reviewing Rev checklist

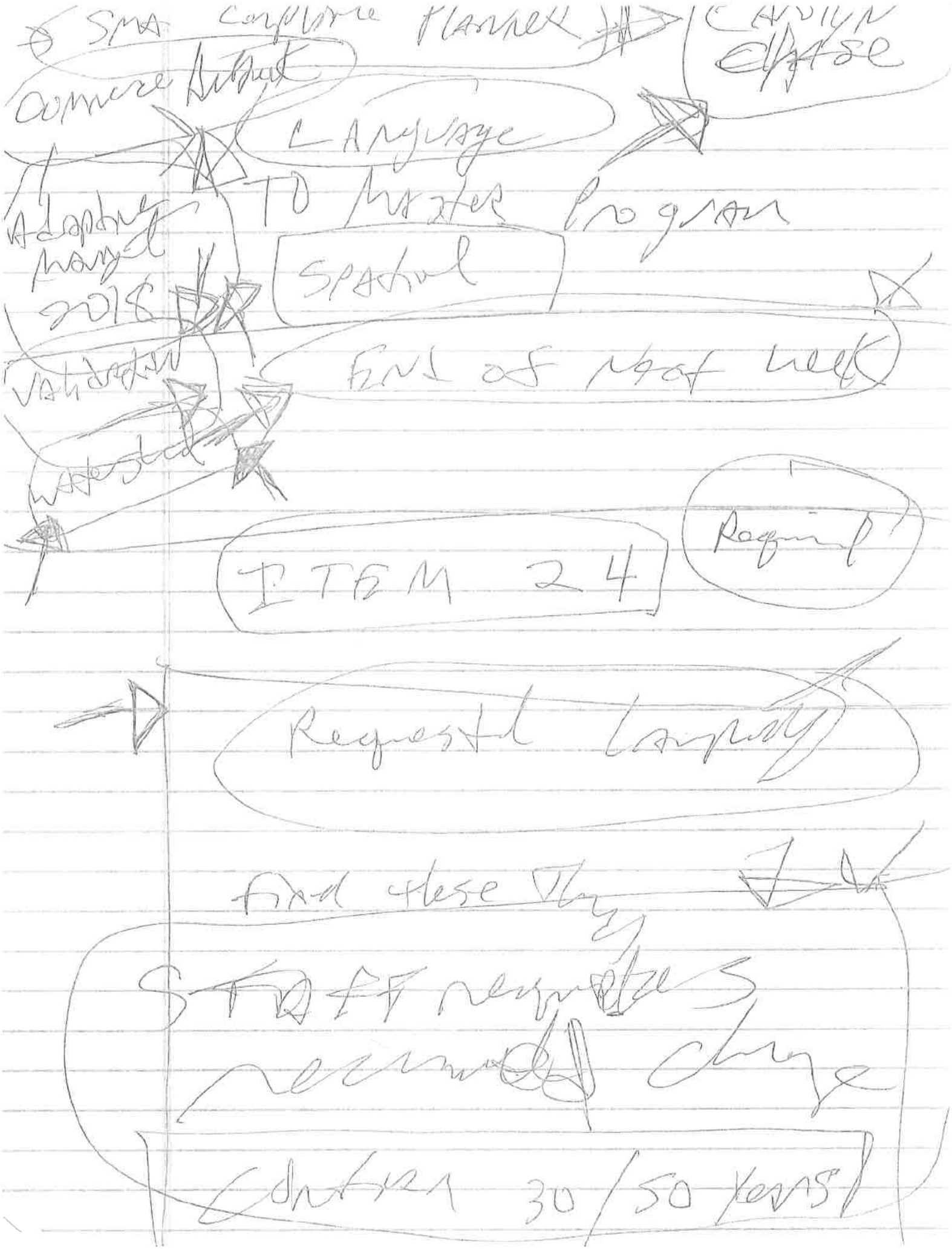
(2) Contract This Review

Ump Up Company

Public Process

Finding of Adequacy

Which would be determined



SMA Compliance Planner → Carolyn Chase

Commerce Authority

Language

Adaptive Management 2018

TO Master Program

Spatial

Validation

End of Next Week

Watershed

ITEM 24

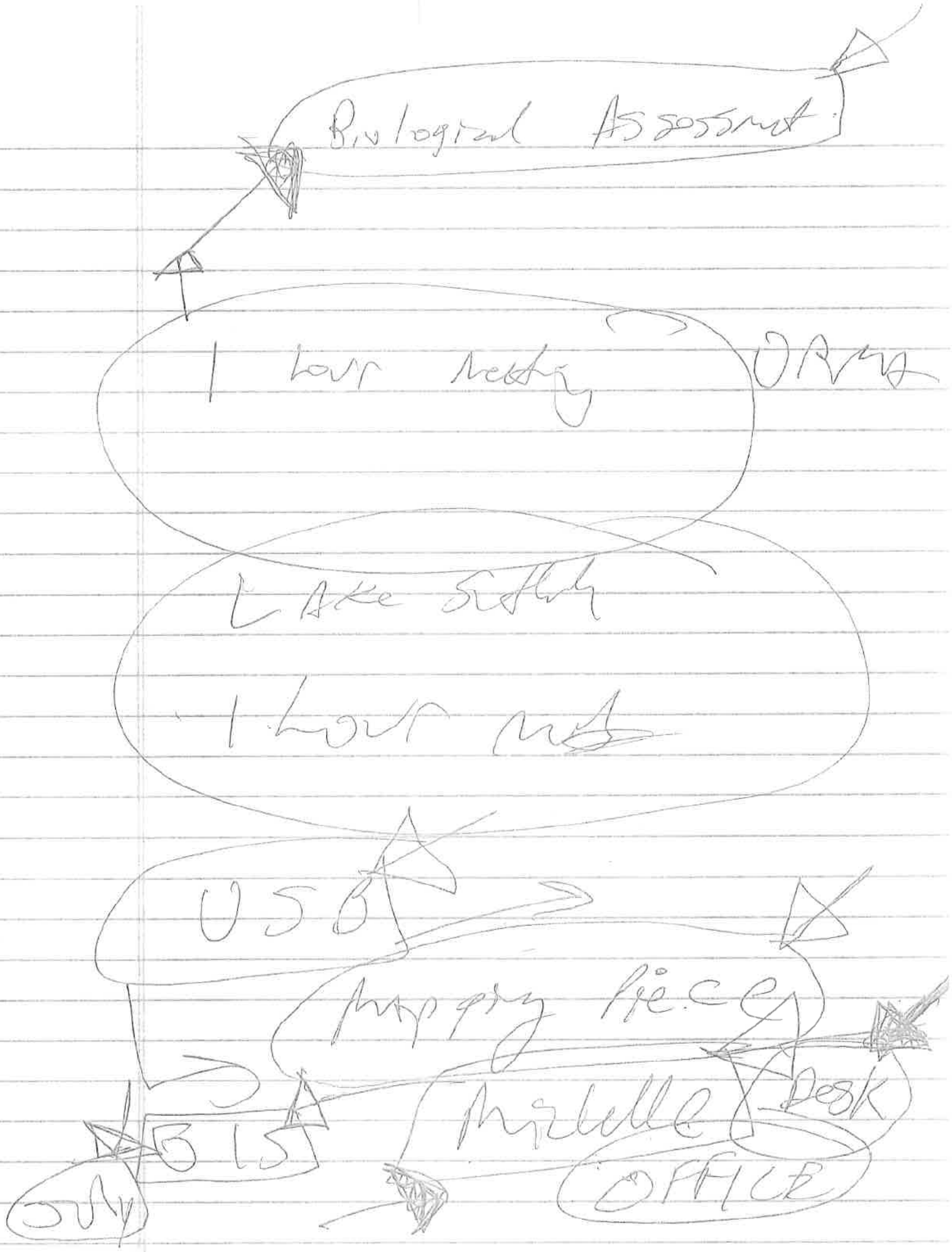
Required

Requested Language

Find these Thing

STAFF requires recommended change

Contain 30/50 years



Biological Assessment

1 hour meeting

ORMA

Lake Sutton

1 hour meeting

USB

Mapping Piece

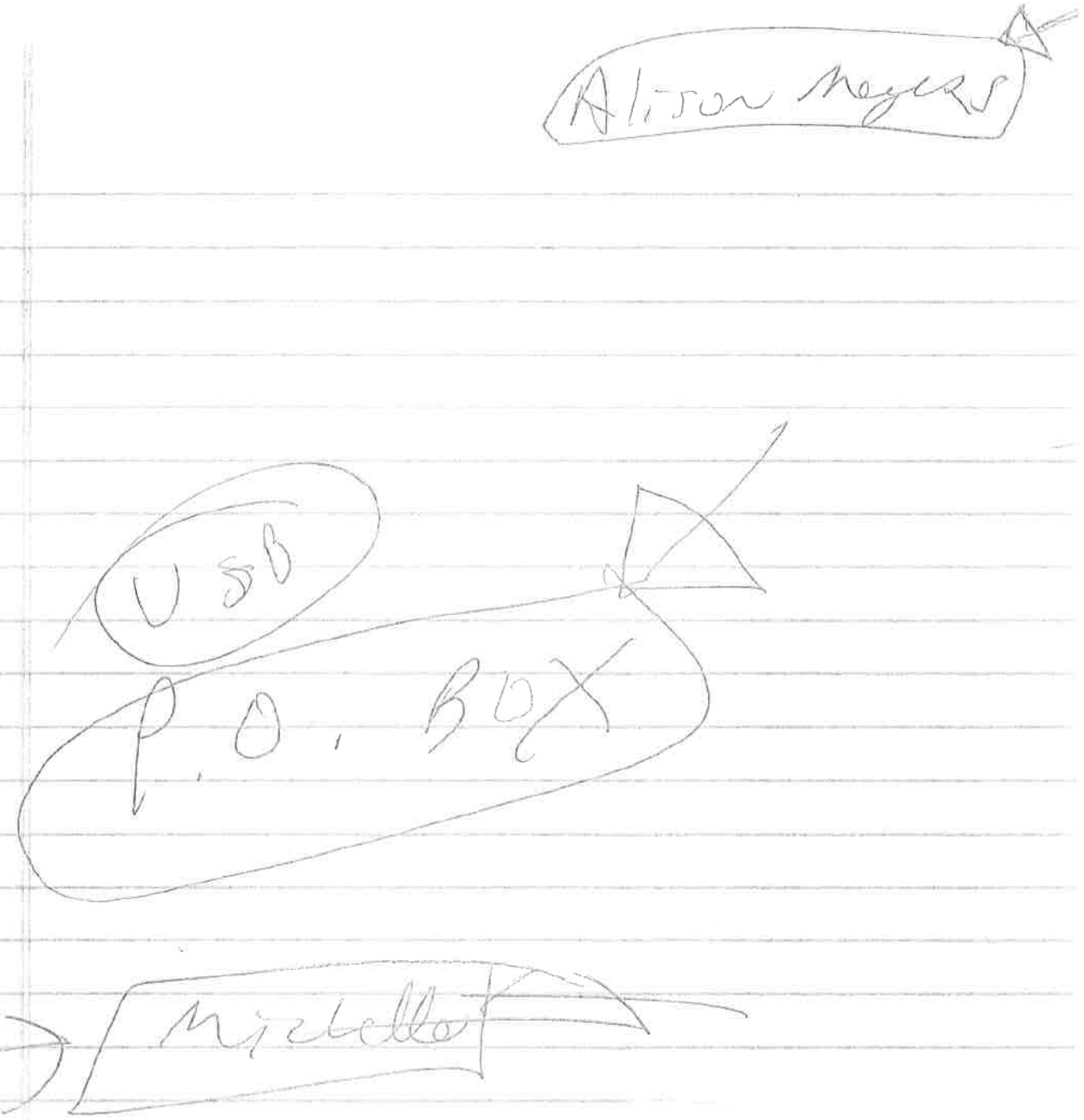
Michelle

Desk

OFFICE

GIS

Sun


Alison Meyers
USB
P.O. BOX
Michelle

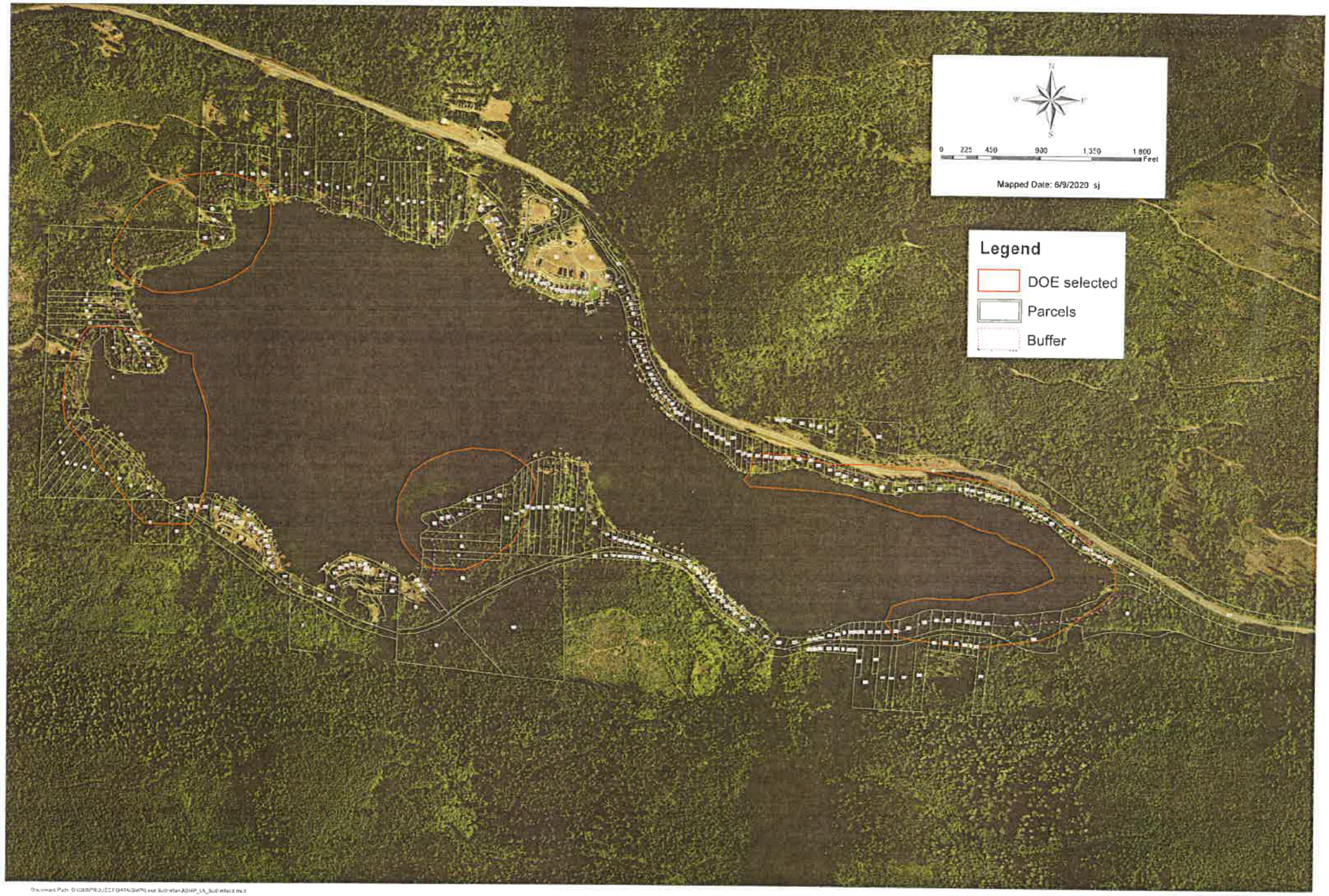
Any way to highlight Parcels That Have NOT Been Developed AT ALL ?

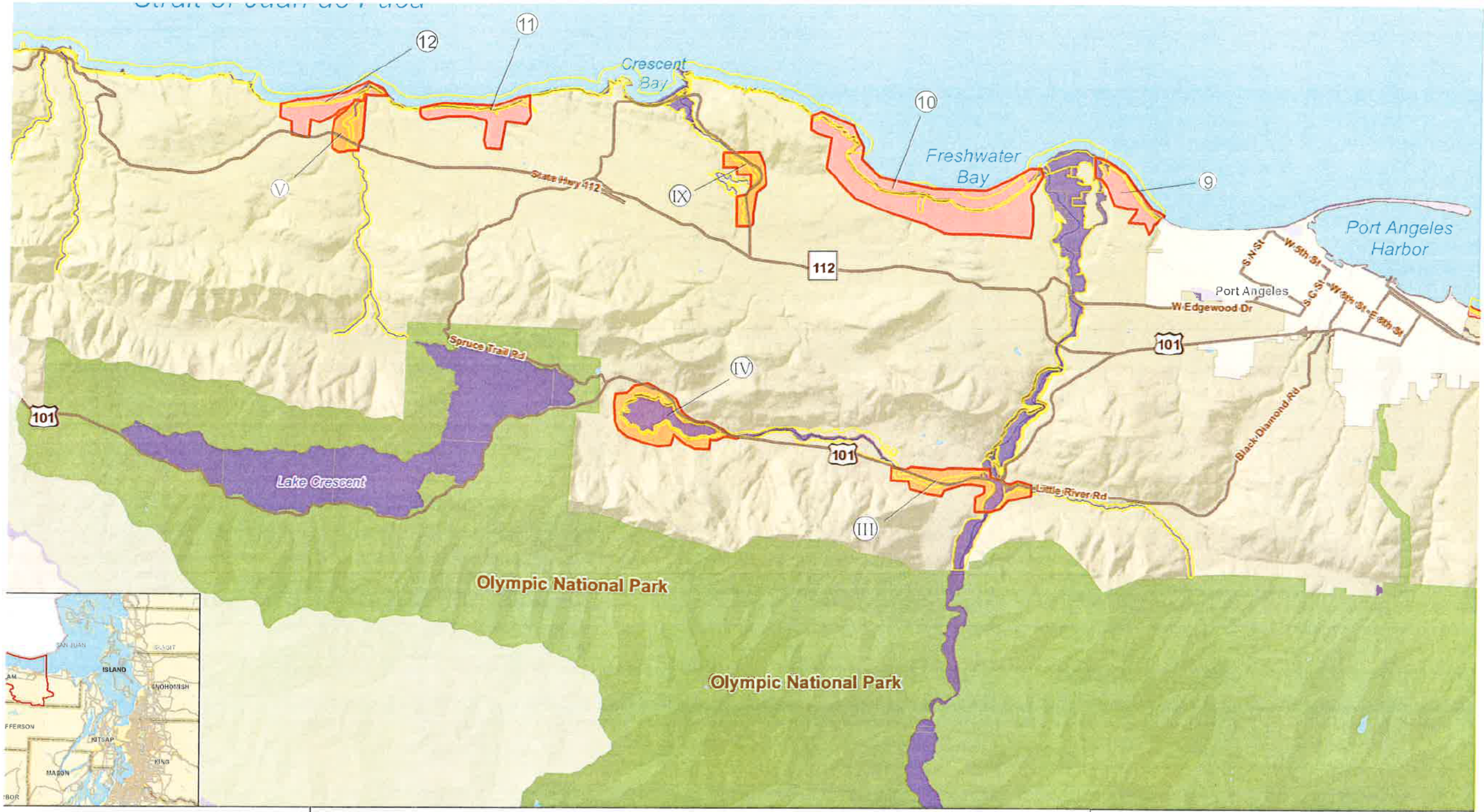
GIS MAP

LAKE SUTHERLAND Large MAP/Parcels on Shoreline

Parcels ON Shoreline with measurement from water shoreline to back end of property 50ft /100ft /150ft 75ft

Lake Sutherland - 100 ft Buffer





COUNTY
egion - Shoreline Master

Legend

NNL Analysis Areas
- Freshwater
- Marine

SMA Streams
Major Roads
Reservation Lands

Numerical: Marine AA
⑧ Morse Creek to Port Angeles

Roman: Freshwater AA
Ⅲ Morse Creek to Port Angeles

0 1 2 4 Miles

NOTE: Inventory includes only portions of WRIAs 17, 18, and 19 under county jurisdiction. Federal Land and

Coordinate
1983 (Fl) V

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018. Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
2.	**1.5 SMP Goals**	5. To accommodate and give ~~priority~~ preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
3.	**2.3 Aquatic Designation**	3. Management Policies i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised), and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of ORMA. The applicability of this provision needs to be clarified to include both shoreline development and activities considered as "new use & development" by the MSP to ensure proper implementation. Ecology requires text revisions for clarity and for improved consistency with the 2018 MSP, and for internal consistency. See also related edits to 1.4 above and 5.6 below.

<table>
<tr>
<td>4.</td>
<td>3.6.2 Parking - Regulations</td>
<td>2. Parking as a primary use shall be prohibited in all shoreline designations,~~except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~

4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.</td>
<td>2. Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2.

4. Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy.

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10.

<table>
<tr><th>Use/Development/ Modification</th><th>Aquatic – Straits[3]</th><th>Aquatic – Pacific Ocean[1]</th><th>Marine Waterfront</th><th>Shoreline Residential - Intensive</th><th>Shoreline Residential - Conservancy</th><th>Resource Conservancy</th><th>Natural</th></tr>
<tr><td>Parking: (see Section 3.6)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>As a primary use</td><td>X</td><td>X</td><td>X/C[11]</td><td>X</td><td>X</td><td>X</td><td>X</td></tr>
<tr><td>Accessory to a permitted use</td><td>X</td><td>X</td><td>P</td><td>P</td><td>C</td><td>C</td><td>X</td></tr>
<tr><td>Public disabled parking</td><td>X</td><td>X</td><td>P</td><td>P</td><td>P</td><td>C</td><td>C</td></tr>
</table>
</td>
</tr>
<tr>
<td>5.</td>
<td>4.2.4 Regulations – Piers, Docks, Floats, Non-residential</td>
<td>1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:
a. The dock/pier/float is required to accommodate a water-dependent use or public access; and
b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.</td>
<td>WAC 173-26-231(3.b) Piers and docks. New piers and docks shall be allowed only for water-dependent uses or public access.</td>
</tr>
<tr>
<td>6.</td>
<td>5.2.2 Clearing, Grading, Filling –</td>
<td>Regulations
2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, and carried out in a manner that:
a. Minimizes land disturbance to the minimum necessary for the intended development; and
b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and
c. Includes plans to revegetate or otherwise stabilize areas of exposed soil</td>
<td>WAC 173-26-231(3.c) Fill. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.</td>
</tr>
</table>

		following construction; and d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place. ;and g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.	
7.	**5.3.2 Public Access – Regulations**	2. Multi-family residential use and ssubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: …	**WAC 173-26-241(3.j.A):** New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter
8.	**5.6 Ocean Management**	5.6 Ocean Management …	The SMP includes a vision statement and management policies regarding the Marine Spatial Plan but also needs provisions to implement the MSP. Add a new section for consistency with **WAC 173-26-360** and ORMA. The SMP needs to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses. Ecology is currently finalizing guidance on approaches to incorporating ORMA and MSP requirements into SMPs and will make this available to the County as soon as it's ready.
9.	**6.3 General Shoreline Buffer & Vegetation Requirements**	**6.** Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. … **Table 6-1 Shoreline Buffer Widths**	Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35' buffer at Lake Sutherland. Ecology has concern that the uniform 35' buffer on Lake Sutherland is not fully supported by the record for the entire lake shoreline. Parcels with existing residential development that propose enlargement would be subject to Chapter 5.1 standards. An additional concern is whether it's appropriate for all

		<table><tr><th rowspan="2">Shoreline Environment Designation</th><th colspan="3">Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark–OHWM)</th></tr><tr><th>Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line</th><th>Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line</th><th>Major New Development, including all Land Divisions</th></tr><tr><td>Marine Waterfront</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Intensive</td><td>50 feet</td><td>75 feet</td><td>100 feet</td></tr><tr><td>Shoreline Residential - Conservancy</td><td>100 feet</td><td>125 feet</td><td>150 feet</td></tr><tr><td>Resource Conservancy</td><td>150 feet</td><td>150 feet</td><td>150 feet</td></tr><tr><td>Natural</td><td>175 feet</td><td>175 feet</td><td>175 feet</td></tr></table> [1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply. Footnote 2. Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.	shorelines of the lake to be designated Shoreline Residential-Intensive when Shoreline Residential-Conservancy may be more appropriate in some locations, based on SMP 2.6 and 2.7 designation criteria and current conditions. Further discussion with the County regarding changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 6.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15. See also Periodic Checklist #2017.g Nonconforming Uses & Development.
10.	7.6 Regulations - Wetland Protection Standards	~~1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:~~ ~~a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact.~~ ~~b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:~~ ~~i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and~~ ~~ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.~~ ~~c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation~~	As presented, Regulation #1.a – g allow impacts based on wetland category and are not consistent with WAC 173-26-221 Use of scientific and technical information, WAC 173-26-201(2)(c) Protection of ecological functions of the shorelines, and WAC 173-26-221(2.c.i.C) Alterations to wetlands. Wetlands within the shoreline jurisdiction contribute to the shoreline ecological function, as such all wetland (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size. All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision. Even in situations where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions. Ecology requires revision to delete the proposed Regulation #1.a – g and

		~~for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~ ~~d. The use or development is specifically allowed by this Program.~~ ~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~ ~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~ ~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~ The following shoreline use and development activities in or near regulated wetlands shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function: a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater; c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table; d. The driving of pilings; e. The placing of obstructions; f. The construction, reconstruction, demolition, or expansion of any structure; g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or i. Activities reducing the functions of buffers.	replace with inserted text consistent with WAC 173-26-221(2.c.i.A).
11.	**7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas**	**1. Designation:** Class I Terrestrial Habitat Conservation Areas shall include the following: a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens. ~~b. Critical saltwater habitats.~~	As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c). Ecology required revision to correct this error.

12.	10.1 Administrative Authority and Responsibility	1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: ... ... d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, including formal written interpretations in consultation with Ecology per WAC 173-26-140;	**WAC 173-26-140:** As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.
13.	10.2.9 Permit Revisions	3. "Within the scope and intent of the original permit" means all of the following: a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less; ...	This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent. **WAC 173-27-100(2):** "Within the scope and intent of the original permit" means all of the following: (a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; ...
14.	11.A	**4. Accessory use** means any legally established use ~~or structure which is necessary for the full use and enjoyment of the primary use of the property,~~ that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use. **Appurtenance** means a structure that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield, and grading.	Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance. Appurtenance is not defined but used in the SMP at: **4.6.5(2.c) New/Expanded Stabilization** that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)' Revision required for internal consistency and consistency with WAC 173-27-040(2.g).
15.	11.F	**121. Fill** means the addition of ~~solid or semi-solid material such as~~ soil, sand, rock, gravel, sediment, ~~wood chips, mining overburden,~~ earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.

16.	**11.G**	**144. Grading** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including stripping, cutting, filling, or stockpiling earth to create new grade.	**WAC 173-26-020(22): "Grading"** means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
17.	**11.H**	**158. Height** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~**building** means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~	**WAC 173-27-030(9): "Height"** is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
18.	**11.P**	**230. Parties of record** means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~	**WAC 173-27-030(12): "Party of record"** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;
19.	**11.R**	**266. Recreational development** means ~~development that include~~ commercial and public facilities designed and used to provide recreational opportunities to the public. ~~but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~ **267. Recreational use** means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.	**WAC 173-26-241(3.i): Recreational development** includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Ecology requires revision for consistency with WAC and RCW 90.58.020(7).

20.	11.R	**270. Residential development** means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.	SMP does not contain a definition for 'dwelling unit'. **WAC 173-26-241(3.j): Residential development** - Single-family residences ... Residential development also includes multifamily development and the creation of new residential lots through land division. Ecology requires revision for internal consistency and consistency with WAC.
21.	11.S	**307. Shorelines of statewide significance** with respect to Clallam County are identified as follows: a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands. ~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~ c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets. d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide. e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more. f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.	#307.b does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County. **RCW 90.58.030(2.f):** (ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows: (A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay Ecology requires revision to correct this error.
22.	11.S	**313. Single-family residence** means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). ~~Accessory uses~~ Appurtenances include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	**WAC 173-27-040(2.g): "Single-family residence"** means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

			Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.
23.	11.W	**351. Water-dependent use** means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a ~~preferred~~ priority use of shorelines of the state (RCW 90.58.020).	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a *priority* when pollution and damage are avoided. This priority is separate, and different from, the required order of use *preference* established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
24.	Missing	**Exhibit C - List of SMP Waterbodies**...	WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. Typically the list will include all waterbodies covered by the SMP, freshwater and marine. Ecology requires revisions to add this list to the SMP, proposed as a new Exhibit C. The Table of Contents would also need revision to reflect this change. See also Periodic Review Checklist #2007.b This item also identified by S. Gray Feb '19 email re: PR items.

Staff Discussion Draft

The following changes are recommended to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions, ~~strikethrough~~ = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	**Cover Page**	Note: This Clallam County Shoreline Master Program (SMP) ~~is intended to~~ update<u>s</u> and replace<u>s</u>: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has <u>completed</u> the process ~~of~~ <u>for a comprehensive</u> update ~~ing~~ <u>and periodic review of</u> the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~ <u>All amendments</u> to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review~~. ...	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
CHAPTER 1 INTRODUCTION & OVERVIEW			
2.	**General**	...the <u>most current, accurate, complete, available and applicable</u> ~~best available~~ science...	**Global Change** - 'Best available science' (BAS) is a term/convention derived from the Growth Management Act (GMA). Under SMA, WAC 173-26-201(2.a) requires use of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern". Ecology recommends the County consider scrubbing the document to replace "best available" with the SMA terminology (i.e. "most current, accurate, complete available information"), including the following locations: Chapter 1.2; 1.8(3); 1.12(2); 2.2(3); 3.2.4(14); 7.14(10.a); and 10.3.2(2).
3.	**1.1 Background Information**	Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally <u>approve</u> ~~adopt~~ the SMP on <u>October 30, 2018</u> ~~(Insert Date of Adoption). The final SMP adopted by the BOCC will be submitted to~~ <u>After</u> the Department of Ecology ~~for~~ state review <u>and approval, the BOCC adopted the final SMP by ordinance</u> (Ordinance No. [[insert ###-###]]) ~~and subject to additional public review~~. <u>This SMP is effective as of *[[insert date upon ECY final action]]*.</u>	As written, this language is out of sync for the final status of the SMP. Ecology recommends text revisions to update wording for the final approved SMP.
4.	**1.4 SMP Update Vision**	Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments~~.~~, <u>including in Washington State. In August of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan</u>	As related to the Ocean Resources Management Act (ORMA) requirements of WAC 173-26-360, the collaborative work of the State Ocean Caucus and Washington Coastal Marine Advisory Council (WCMAC) has continued since earlier draft SMP language was written. The *Marine Spatial Plan for Washington's Pacific Coast* was finalized in June 2018.

		was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives.	Ecology requires text revisions to better reflect the final MSP and ongoing WCMAC efforts for consistency with WAC 173-26-360.
5.	1.5 Shoreline Master Program Goals	10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.	WAC 173-26-241(3.d) gives first preference to water-dependent commercial use over non-water dependent commercial use, and secondly to other water-oriented commercial use over non-water oriented commercial use. As written, this goal only mentions water-related commercial and industrial use, omitting the more preferred water-dependent uses. Ecology recommends revision to improve accuracy and clarity.
6.	1.7 Exceptions to Applicability	1. This Program shall not apply to: a. lands held in trust by the United States for Indian Nations, Tribes, or individuals; b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971. 2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process,	WAC 173-27-044 and -045 identify limited activities that are not subject to local SMP review and permitting or to the SMA (respectively), as different and separate from the activities exempted from substantial development permit requirements per -040. These exceptions are in effect regardless of inclusion in the SMP, but are helpful to note for implementation. Ecology recommends revision to add language that specifically identifies these exceptions to aid both applicants and practitioners. See also Periodic Review Checklist #2017.c This item also identified by S. Gray Feb '19 email re: PR items.

		pursuant to chapter 80.50 RCW.	
7.	**1.10 Authority**	3. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure: a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC. b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable. c. That the Program reflects any changes in local circumstance, new information or improved data. 4. The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.	WAC 173-26-090 describes the minimum scope of review, and requires revision as needed, for three categories including 'changing local circumstance, new information or improved data' and the two presented as written. Ecology recommends text revisions to add the third required category for clarity.
CHAPTER 2 SHORELINE ENVIRONMENT DESIGNATIONS			
8.	**2. Shoreline Environment Designations**	2.1 Basis of the Designations ... 4. Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential – Conservancy, Shoreline Residential – Intensive, or Marine Waterfront. 2.4 Natural Designation; 1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark...	**Global Change** - This statement about Figure 2-2 photographs is repeated for each SED at §2.4 – 2.8. Photos of example shoreline reaches do not establish designation criteria; this text is better located elsewhere, stated once as a courtesy for readers. Ecology recommends text revisions to minimize repetition, shown here for 2.4 Natural, and also located at: 2.5 Resource Conservancy Designation; 2.6 Shoreline Residential – Conservancy Designation; 2.7 Shoreline Residential – Intensive Designation; and 2.8 Marine Waterfront Designation And we suggest moving the deleted text to SMP 2.1 as a new #4.
9.	**2.4 Natural Designation**	1. Criteria: ...The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics: ...	Ecology recommends text revisions for clarity, for better consistency with WAC 173-26-211(5.a.iii), and for internal consistency with the Management Policies of 2.4(3).

10.	**2.5 Resource Conservancy**	**1. Criteria:** ... The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located outside a UGA, within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Clallam County SMP October 2018 2-7 Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics: a. Typically associated with large, contiguous blocks of forest lands and natural resource areas; b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments; c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices; d. Minimal constraints to overbank flooding and/or channel migration; or e. Forest fragmentation or conversion of forest cover to other land cover types is minimal. f. High recreational value or unique historic or cultural resources. g. LAMIRDs with low-intensity water-dependent uses. **2. Purpose:** The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or low-intensity outdoor recreational use~~,~~ while protecting existing ecological functions and processes.	This 'locally tailored' SED appears to be a primarily timber/forest practices-focused version of the WAC's Rural Conservancy. There is some internal inconsistency with another SED and, as written, some of the aspects addressed by the WAC version are lacking here (i.e. low intensity/density, historical/cultural) but not covered by any other SED. **Ch 11 Definition 109. Low intensity land use** means a land use that has limited impact upon the land, resources an adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts. **1. Criteria** – The Shoreline Residential – Conservancy Criteria include areas inside UGAs so it seems this Resource Conservancy would be the counterpart for locations outside UGAs. The Management Policies at 2.5(3) below reflect the WAC language so the Criteria need to match for consistency: **a.** Natural resource areas are different than natural areas; **b.** Low density/intensity, water-oriented uses **f.** Recreational , historic, cultural **g.** Low intensity water-dependent uses in LAMIRDs Ecology recommends text revisions for clarity and better consistency with WAC 173-26-211(5.b), and internal consistency.
CHAPTER 3 POLICIES & REGULATIONS FOR SPECIFIC SHORELINE USES & DEVELOPMENTS			
11.	**3.2.1 Aquaculture - Policies**	8. The County recognizes that potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and the technology associated with some forms of existing aquaculture is still in its formative stages, and that these factors necessitate some latitude in the development of this use and its potential impacts. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.i.B) by adding context for why experimental aquaculture is allowed.

12.	**3.2.2 Aquaculture Regulations - General**	15. Where aquaculture use and development are authorized to use ~~public~~ county facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.	County proposed to accept the requested change, and added another suggested revision, to address issues raised by Taylor Shellfish comments in the Response to Comments (R2C) Item #49. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
13.	**3.2.2 Aquaculture Regulations - General**	18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.	County proposed to accept the requested change and suggested revisions to address issues raised by Taylor Shellfish comments in R2C Item #50. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
14.	**3.2.5 Aquaculture – Application Requirements**	5. An application for commercial geoduck aquaculture shall include: ... n. Whether the site contains existing public access to publicly-owned lands and any recommendations from WDNR or other landowning agencies regarding protection of the existing public access; and ...	Ecology recommends text revisions for improved consistency with WAC 173-26-241(3.b.iv.L.XII).
CHAPTER 7 CRITICAL AREAS WITHIN SHORELINE JURISDICTION			
15.	**7.3 General Critical Areas Regulations**	8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program: a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers. ...	For internal consistency this list should also include Terrestrial Habitat Conservation Areas.
16.	**7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards**	**2.** New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures. **3.** New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse	Overall, Aquatic HCAs are designated & classified at 7.7(1) to include Type S, F, Np & Ns waters, plus TSA aquatic habitat and Critical FW & Saltwater habitats. By only using the Typed waters terms in Regulations #2, 3, and 4 they would not apply to the other classes of Aquatic HCAs. Ecology recommends revision to use the more inclusive term Aquatic HCAs.

		impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. 4. The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to: ...	
17.	7.14 Regulations – Geologically Hazardous Areas Protection Standards	**10. Channel Migration Zone Protection Standards:** ... **b. CMZ Checklist and Review.** Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report: ... ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public; iii. Review whether any significant channel movement has occurred between available County aerial ~~orthophoto data layers since Year 2000~~ photo series spanning at least 50 years where available; ... **c. CMZ Assessment Report.** If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following: ... ... ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least 50 years where available; and other available information. ...	County suggested revisions to address issues raised by Futurewise comments in R2C Item #100. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
18.	8.3 Regulations – General Mitigation Requirements	**3.** The Administrator shall require compensatory mitigation for development proposals that: **a.** Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or **b.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of	County suggested revisions to address issues raised by Futurewise comments in R2C Item #103. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.

		shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or **c.** Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.	
19.	**10.2.5 Exemptions from SSDP**	**11.** No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d)~~.~~ , but after the fact permitting and/or removal of temporary structures may be required once the emergency situation is over.	**WAC 173-27-040(2.d):** Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency; Ecology recommends revision for clarity & to aid the reader during implementation
CHAPTER 11 DEFINITIONS			
20.	**11**	Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90.58) or implementing rules (WAC 173-18, -20, -22, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute/rule, the RCW and WAC definitions shall prevail.	Because many of the definitions provided at SMP 11 are comparable to but not the exact wording of the RCW/WAC version, Ecology recommends adding text to provide context and clarity.
21.	**11.A**	16. **Agricultural land** means those specific land areas on which agriculture activities are conducted ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.~~ 17. **Agricultural products** means to includes, but is not limited to, horticultural, viticultural, … … poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~	As written, the added text is not part of the RCW/WAC definitions, and is duplicative of other text at SMP 3.1.2 Agriculture: • Regulation #4 addresses agriculture existing prior to the adoption date of the Program; and • Regulation #7 addresses upland finfish aquaculture. Ecology recommends text revisions for improved consistency with RCW 90.58.065.

22.	11.A	**25. Aquatic Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC ~~395~~ 365 ~~-~~190-130(2~~1~~) that occur in the water.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.
23.	11.C	**81. Critical freshwater habitats** includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(3~~129~~), have a primary association.	Incorrect WAC citation, should be -020(31)
24.	11.D	**89. Development** or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.	See also Periodic Review Checklist #2017.b This item also identified by S Gray Feb '19 email re: PR items
25.	11.F	**132. Floodway** means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.	**RCW 90.58.030(2.b): "Floodway" means the area, as identified in a master program, that** either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state; Ecology recommends revision for consistency with SMA. See also Periodic Review Checklist #2007.a
26.	11.T	**331. Terrestrial Habitat Conservation Areas** means the subset of fish and wildlife habitat conservation areas listed in WAC 365 ~~395~~ 190-130 that occur on land.	Ecology recommends text revisions for accuracy and consistency with WAC 365-190-130.

27.	**Exhibit A. Shoreline Environment Designation (SED) Maps**	**Map 2** - Change the reach of Sequim Bay owned by USFWS from Shoreline Residential-Conservancy to Natural.	County suggested revisions to address issues raised by USFWS comments in R2C Item #117. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
28.	**Exhibit A. SED Maps**	**Map 2 –** Depict USFWS lands similar to other publicly-owned parcels; inquire with USFWS what how this block of USFWS owned land should be referenced on the map.	County suggested revisions to address issues raised by USFWS comments in R2C Item #118. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
29.	**Exhibit A. SED Maps**	**Map 7 –** Evaluate potential options to better distinguish between separate but similar blue lines depicting shorelines and non-SMP streams.	County suggested revisions to address issues raised by USFWS comments in R2C Item #119. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
30.	**Exhibit A. SED Maps**	**Map 7 -** Consider rectifying the green Natural SED boundaries for Dungeness National Wildlife Refuge where the outline of the spit and sand areas shown are based on the 2011 aerial photo. However, the spit is dynamic and the boundary of the sand spit will continue to change over-time.	County suggested revisions to address issues raised by USFWS comments in R2C Item #120. The County's proposed revision is not necessary for consistency with SMA, but is acceptable. In consultation with County staff, Ecology supports the County's revisions.
31.	**Exhibit B. Shoreline Checklist & Statement of Exemption Form**		This Exhibit B checklist/exemption form is referenced at three locations in the SMP: **8. Mitigation & NNL** Note: … The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met. **8.2 Policies** 4. The County should use a ~~the~~ checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales. **10.2.5 Exemptions from SSDP:** **#9.** All statements of exemption shall be in writing ~~on forms attached to this Program (Exhibit B).~~ As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

Staff discussion draft

			Will the County final-adopt/codify the user Notes at each Chapter beginning? Does the County intent to final adopt/codify the checklist/exemption form itself? Ecology recommends removing this form from the SMP to use as a separate companion document/application form so that any future edits to the form do not trigger a formal SMP amendment. Also consider renaming the form for brevity, clarity, and to avoid confusion with two existing submittal Checklist forms required by Ecology.

Staff Discussion Draft

1d
7/20/21

PROCLAMATION

RECOGNIZING ALLEN SILL'S LIFETIME OF SERVICE ON HIS 100TH BIRTHDAY

WHEREAS, the Clallam County Commissioners honor all military veterans who have served our Nation, and

WHEREAS, the Veterans of Foreign Wars Post 6787 in Carlsborg, WA is honoring World War II veteran Allen Sill on the occasion of his 100th Birthday, and

WHEREAS, Allen Sill joined the Naval Reserves at the age of 17, and

WHEREAS, Allen's Naval unit was activated in 1941 and assigned to sea duty in the Pacific, and

WHEREAS, Allen was a signalman whose ship was assigned to carry provisions between San Francisco and Pearl Harbor, and

WHEREAS, Allen attained the rank of Quartermaster and was subsequently assigned duty on the East Coast serving on a wooden, 110 foot subchaser designed to provide escort and protection to ships sailing close to American shores, and

WHEREAS, Allen was then transferred to Newport, Rhode Island and assigned the vital task of maintaining and updating the Navy's repository of nautical and navigational charts, and

WHEREAS, Allen was promoted to Chief Quartermaster prior to the end of his service on September 13, 1945, and

WHEREAS, Allen went on to serve the public through a 33 year career in law enforcement, culminating in 21 years as Chief of Police in West Covina, California, and

WHEREAS, Allen served our Country for many years with distinction, devotion, courage and patriotism,

NOW, THEREFORE BE IT PROCLAIMED that the Board of Clallam County Commissioners recognize Allen Sill for his lifetime of service to others and extend our best wishes on the occasion of his 100th Birthday on August 2, 2021.

Signed this twentieth day of July 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____

Mark Ozias, Chair

_____

Randy Johnson

_____

Bill Peach

H1
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Auditor

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date:** **July 20, 2021**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☒ Final Ordinance ☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
As a result of ESSHB 1277 – Eviction Prevention – Recorded Document Surcharge, passed during the 2021 Legislative Session, effective July 25, 2021, recording fees will increase on most recorded documents by $100.00.

The funds collected will be deposited into a state fund.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

The Auditor requests the Board to approve this Ordinance amending Clallam County Code, Chapter 5.100 Consolidated Fee Schedule - Auditor's Office Services Fee Schedule 510-A.

County Official signature & print name: Sandra L. Williams - Sandra L. Williams Chief Deputy

Name of Employee/Stakeholder attending meeting: Auditors Office

Relevant Departments: Auditors Office

Date submitted: June 21, 2021

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Agenda Item Summary DATE NEEDS ENTERED
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Ordinance _____

Amending Clallam County Code Chapter 5.100 Consolidated Fee Schedule –
Auditor's Office Services Fee Schedule 510-A

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section 5.100.510, Fees for the Auditor's Office Services Fee Schedule 510-A are amended to read as follow:

See attached Auditor's Office Services Fee Schedule 510-A.

Section 2. Effective Date.

This ordinance shall become effective on the date upon which the Board of County Commissioners takes legislative action to comply with the requirements of ESSHB 1277, which was passed during the 2021 Legislative Session.

ADOPTED this twentieth day of July 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

ATTEST:

_____
Loni Gores, Clerk of the Board

_____
Bill Peach

DRAFT

AUDITOR'S FEE SCHEDULE 510-A EFFECTIVE JULY ~~28~~25, ~~2019~~2021		
RECORDING	FEE	REFERENCE
Standard Document State, County and City Liens and Releases	$~~103.50~~203.50 for first page; $1 for each additional page $39 for first page; $1 for each additional page	RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178
Deed of Trust	$~~104.50~~204.50 for first page; $1 for each additional page	RCW 36.22.181 RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178
Birth/Death Certificate Marriage Dissolution	$39 for first page; $1 for each additional page	RCW 36.22.181 RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178
Assignment of Deed of Trust, Resignation and Appointment of Successor Trustee, Appointment of Trustee, and Substitution of Trustee	$18 for first page; $1 for each additional page	RCW 36.22.170 RCW 36.18.010 RCW 36.22.175
Short Plat, Binding Site Plan, Condos, Large Lot Subdivision Map	$~~187.50~~287.50	RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178 RCW 58.24.070
Survey	$~~187.50~~287.50 for first page; $5 for each additional page	RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178 RCW 58.24.070 RCW 58.09.100
Process Server Registration	$10	RCW 36.22.170 RCW 36.22 RCW 36.18.010 RCW 36.22.175 RCW 36.22.178 RCW 36.22.210

AUDITOR'S FEE SCHEDULE 510-A EFFECTIVE JULY ~~28~~25, ~~2019~~2021		
MISCELLANEOUS CHARGES	FEE	REFERENCE
Records Search for Recorded Document(s)	$8/hour; 1 hour minimum	RCW 36.18.010
Administration of Oath, Taking of Affidavit (with or without seal)	$2	RCW 36.18.010
Nonstandard Document	$50+ normal recording fees	RCW 36.18.010
Certified Copy of Recorded Documents	$3 for first page; $1 for each additional page	RCW 36.18.010
Non-certified Copy of Recorded Document*	$1 per page	RCW 36.18.010
Maps	$5 per page	RCW 36.18.050
UCC Filings (National Form Accepted) Terminations	$~~103.50~~203.50 for first page; $1 for each additional page $~~103.50~~203.50	
Employment Security Documents	$36 for first page; $1 for each additional page	
Military Discharge Papers (DD-214) Request for Exemption from Public Disclosure	$0 $7	
Passport	As posted	
Multiple Transactions	$~~103.50~~203.50/first, $~~103.50~~203.50/additional; $1/each additional page	
LICENSES	FEE	REFERENCE
Marriage License	$62	RCW 36.22.170 RCW 36.18.010 RCW 36.22.175 RCW 26.12.220 RCW 26.04.160
Process Server	$10 annually	
Pawnbroker	$250 annually	
Junk Dealers – Secondhand Dealers	$100 annually	
Massage Parlor/Individual Operator	$100 annually	
Dance Halls Single dance	$150 annually $25 annually	

* Copy means photo or electronic

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Finance H2
7-20-21

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date:** **7/20/2021** PUBLIC HEA

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other Monthly Review

Documents exempt from public disclosure attached: ☐

JUNE 2021 MID-YEAR REVIEW OF FINANCIAL RESULTS AND REVISED PROJECTION FOR 2021—EXECUTIVE SUMMARY:

June 2021 YTD General Fund Results

As required under Section 9.50 of our County's Home Rule Charter, the June YTD General Fund Financial Review compared to the same period in 2020 is attached along with comparison to the original budget for 2021 and a revised annual projection for 2021.

YTD June 2021 revenue totaled $22,503k as compared to $20,785k in 2020, representing an increase of $1,718k. Excluding YTD COVID related reimbursements from AOC CARES & FEMA of $606k, YTD revenues totaled $21,897k, an increase of $1,112k from prior year. YTD expenditures in June were $21,363k (which includes $747k of COVID-related costs) as compared to $22,817k in 2020 (which includes $307k of COVID-related costs) for a decrease of $1,454k. Excluding COVID-related revenues/expenditures, the General Fund generated an operating surplus of $1,281k, as compared to a deficit of ($1,725k) in June 2020, an improvement of $3,006k. Including COVID-related activity, the General Fund generated an operating surplus for YTD June 2021 of $1,140k. The General Fund finished June with an ending Fund Balance reserve of $15,664k, or $2,453k higher than prior year.

Please refer to the attached schedule that provides further detail of the major factors that make up these changes and performance to budget. Revenues overall (excluding COVID reimbursements) were at 53.9% of the 2021 budget for June YTD, ahead of last year's 48.5%. All revenue categories with the exception of Charges for Goods & Services, Timber Revenues and Transfers In were up year-over-year in June and were pacing at or above 2020 relative to the annual budget. Goods & Services are down compared to last year due to timing, lower trending DOC jail inmate fees, and the higher amount of election services revenues received last year. Timber revenue is pacing behind last year

due to timing of payments from DNR relating to weather-related delays in harvest areas earlier this year. Transfers In were down relative to last year due to timing of grant reimbursement-funded transfers from the Lower Dungeness project. Tax revenue continued to pace well ahead of budget (58.5% vs last year's 50.8%) driven primarily due to continued strong retail sales tax growth YTD of 30%, as compared to flat to prior year as assumed in the first half of the 2021 budget due to COVID-related economic concerns. Retail sales tax for the month of June was up 61% from a year ago, due to the 10% drop in retail sales tax experienced last June when the full impact of the COVID economic shutdown was still being felt. Property tax revenue YTD was also pacing ahead of budget relative to prior year (59.8% vs 57.4%). Miscellaneous revenues continued to pace significantly ahead in June vs prior year, mainly due to a significant increase in camping fee reservations, as offset by declining interest income. Licensing & Permits were up 29% to prior year, driven by stronger than expected building permit revenue which are up 40% to last year. Fines & Penalties are also pacing well ahead of last year (60.7% vs 46.0% last year). Through June 2021 YTD, the County's general fund had received $134k of FEMA reimbursements of COVID-19 related expenditures incurred in 2020, and $472k of AOC CARES reimbursements related to the JAVs courtroom technology project.

Turning to expenditures, YTD expenditures (excluding COVID-related) totaled $20,616k, a decrease of $1,894k over prior year and were pacing at 46.9% of budget, below last year's 49%. This decrease was driven mainly by the $844k decrease in non-COVID Transfers Out related to lower transfers made to the facilities and IT capital project funds compared to last year. The remainder of the underspend was principally in Services (down $1,248k) caused principally by a change in accounting for indirect charges earned by the General Fund that took place at the end of 2020 ($912k of the decrease), as well as decreases in travel, postage, repairs and maintenance costs, and professional services, as offset by increases in other areas. All other expenditure categories were at or below last year as a % of the annual budget with the exception of COVID-related Capital and Transfers Out which were up mainly due to timing differences.

2021 PROJECTION—GENERAL FUND

Based on continued higher than expected performance across several general fund revenue streams including sales tax, building-related licensing and permits and fines & penalties, projected results for 2021 for these revenue streams have been revised upward. Offsetting this was elimination of approximately $203k of Goods & Services revenue and $115k of Misc Revenue relating to the cancellation of the County Fair, as partially offset by some reductions in fair-related costs. Transfers In and Transfers Out were also adjusted upward by $300k to reflect additional funding needed in 2021 for the next phase of the Dungeness Off Channel Reservoir, which is expected to be reimbursed from grants. Finally, the estimated net impact of the new collective bargaining agreements beyond what was already contemplated in the 2021 budget for the 2nd half of the year, as offset by reduced DRS pension contribution rates that take effect in July 2021 have been factored into our payroll and benefits cost projections.

REVENUES--Overall revenues are now projected to total $43,985k, an increase of $2,862k over the 2021 budget. This is reflective of several factors. First, Tax revenue is projected to outperform budget by $1,944k (an increase of $285k over our last forecast) due to the strong YTD June sales tax growth of 30%, and the resulting revision of growth estimates expected for the remainder of the year based on this better than expected performance discussed in our prior month's report. Sales tax growth in 2021 is now projected to grow 16% over prior year, as compared to a -3.1% decrease budgeted and 14.1% growth reflected in our last forecast. Year-over-year sales tax growth is

expected to continue at low double digit rates for the 3rd quarter (10% average growth assumed), and then leveling off to 5% growth in the 4th quarter as year-over-year comparables become more challenging. In the event the level of growth seen thus far this year (+30%) in sales taxes continues into the 2nd half of the year, we could potentially still outperform our current Tax revenue forecast by an additional $500-$600k. With the exception of reducing my estimate for Timber Excise Tax by approximately $100k given how much softer we finished 2020 relative to budget, I have left my other tax assumptions relating to property tax and excise taxes for the balance of 2021 unchanged from the budget at this time.

Licenses & Permits are projected to outperform budget by 12.5% due to continued strong building permit trends where YTD June saw growth of 40%. Misc Revenue is projected to exceed budget by 5.3% due to stronger campground revenues and increases in other areas. COVID-related Intergovernmental Revenues are projected to exceed budget by $411k due to the unbudgeted spillover of FEMA reimbursements of eligible COVID-related costs from 2020 to 2021, coupled with additional FEMA funds to be received related to a recent Presidential order under which FEMA will be covering 100% of eligible COVID costs incurred, rather than the 75% originally covered. In addition, FEMA/American Rescue Plan reimbursement revenue has been added to reflect the current pacing of COVID-related expenses that are being incurred by the County's general fund that are projected to continue through the end of the 3rd quarter.

Goods & Services are now forecasted to miss budget by -4.2% based on concerns that our DOC inmate revenues and other services revenue impacted by COVID June will not be fully realizable, $203k in lost fair-related revenues due to the fair's cancellation, as partly offset by projected budget outperformance in building plan review revenue. Fines & Penalties are projected to exceed budget by 5.5% based on trend, as adjusted for further restrictions being placed on indigent traffic fines based on recent case law rulings. Transfers In are projected to be $300k higher than budget due to additional grant-reimbursements of costs related to next phase of the Dungeness Off Channel Reservoir (which is offset by a corresponding increase in Transfers Out). All other revenue categories are projected to meet or marginally outperform budget based on June YTD pacing.

EXPENDITURES-- I am projecting general fund expenditures (including CARES/FEMA-funded COVID costs) to total $43,050k, or $1,600k lower than budget. Of this variance, approximately $1,851k is related to projected underspend in the area of payroll and benefits based on the multi-year trend where due to turnover, retirements, delays in filling open positions, and other dark-time, we have historically underspent our budgeted payroll costs by 3-4% annually, or between $1.2 and $1.4 million. Some additional payroll and benefits savings were captured from the partial hiring freeze that was in effect during much of the 1st quarter of 2021. Also reflected in the projections is approximate benefit savings of $250k related to DRS reduced pension contribution rates for the 2nd half of 2021, as mostly offset by increased payroll/benefit costs resulting from the new collective bargaining agreements that take effect in July 2021.

Based on trends, non-COVID Supplies and Services are projected to come in $114k and $70k below budget, respectively, mainly as a result of trend-based savings and expected underspend in services costs related to the multi-homicide cases where many of these cases were pled-out in late 2020/early 2021 after the 2021 budget was finalized. Transfers Out-COVID was reduced by $80k from budget due to the extension of the County's local health CARES grant into 2021 which will provide funding for HHS COVID-related costs, including the operation of the isolation shelter through June 2021, relieving the General Fund of that budgeted commitment of $450k, as offset by the addition of $370k relating

to funding of the Serenity House bathroom expansion project which may or may not be reimbursed depending on whether Serenity House is able to secure grant funding. Non-COVID Transfers Out are projected to exceed budget by $300k due to additional working capital funding needed for the next phase of the Dungeness Off Channel Reservoir. Finally, $231k of COVID-related costs were added to our 2021 projections based on the level of COVID-related costs currently being incurred YTD that are assumed to continue at least through the end of the 3rd quarter of 2021.

Please note that similar to revenues, we have not adjusted our forecast for 2021 for any planned usage of funds to be provided to the County under ARPA in the General Fund with the assumption that most ARPA funded costs will be accounted for in the ARPA special revenue fund. In addition, the potential financial impact of the recent Superior Court Blake decision has not been factored into our projections pending further analysis and clarification from the State as to what share of the potential legal financial obligations paid to the County impacted by this decision will be borne by the County.

NET DEFICIT OF REVENUES TO EXPENDITURES--Based on these revenue and expenditure assumptions, I am projecting a General Fund operating surplus (excluding CARES/COVID related revenues/costs) of $831k for 2021, which is $4,202k better than our 2021 budgeted deficit of ($3,371k). When including a COVID-related surplus of $104k, our overall general fund surplus for 2021 is expected to total $935k, as compared to a budgeted deficit of ($3,527k).

PROJECTED ENDING FUND BALANCE--$15,459k, or 36.6% of forecasted non-COVID expenditures, as compared to $10,997k budgeted based on final 2020 results.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

This is an informational presentation that by itself has no specific budgetary impact.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

County Official signature & print name: _____Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane_____

Relevant Departments: _____Finance_____

Date submitted:

July 13, 2021

Clallam County General Fund Results
June 2021

June 2021 YTD Revenue totaled $22,503k as compared to $20,785k in 2020, representing an increase of $1,718k. June 2021 YTD Revenues came in at 54.7% of our annual revenue budget, as compared to 48.5% in 2020. If one excludes CARES/FEMA reimbursements, revenue was at 53.9% of budget, and increased $1,112k from prior year. All categories with the exception of Charges for Goods & Services, Timber Revenues and Transfers In were up year-over-year in June, and all were at or above their pacings to the annual budget compared to last year, with the exception of Timber Revenues (down 38.8% to budget) mainly due to timing of DNR payments, Goods & Services (down -1.6% mainly due to timing of election services revenues rec'd last year) and Transfers In from the Lower Dungeness project (down 38.8% to budget due to timing of grant reimbursements). Taxes YTD continue to pace well ahead compared to last year, driven mainly by much stronger sales taxes which were up 30.7% compared to last year (as compared to being flat as assumed in the 2021 budget thru YTD June), with the month of June up 61.2% due to the severe impact of COVID on last year's June results. Misc Revenues in June continued to pace significantly ahead relative to budget vs last year (60.4% vs 38.8%) due mainly to a significant increase in camping fee reservations YTD relative last year, as offset by declining interest income. Licensing & Permits also were up for June YTD (at 56% of budget vs 39% in prior year), mainly as a result of stronger than expected building permit revenue which are up 40% to prior year. Fines & Penalties are also pacing ahead of budget compared to prior year by 14.7% due to COVID's impact last year. Thru YTD June, the General Fund had received FEMA reimbursement funds of certain of its 2020 COVID costs of $134k, the payment of which was expected to be received in 2020 and therefore was not budgeted in 2021. In addition, $472k of the budgeted $529k AOC CARES grant reimbursement of costs incurred relating mainly to the JAVS courtroom technology project have been received.

Expenditures for YTD June 2021 totaled $21,363k (including $747k of COVID related costs) as compared to $22,817k (including $307k of COVID costs) in 2020 for a decrease of $1,454k. Expenditures (excluding COVID) for June 2021 YTD came in at 46.9% of our annual budget, pacing below last year's of 49%. The year-over-year decrease in expenditures was partly due to a $329k decrease in Transfers due to a $867k drop in transfers to the County's capital projects funds vs last year as offset by higher transfers in 2021 relating to COVID-funding support to HHS for COVID staff and the support of the Serenity House shelter project, the Law Library, as well as Bullman Beach. Non-COVID Services category also decreased $1,248k due to a change from prior year in how indirect charges by the General Fund are accounted for ($912k of the decrease), timing differences relating to our replenishment of our postage costs, lower travel costs, lower repairs & maintenance, lower professional services, as partly offset by increases in other areas. All expenditure categories were pacing at or below their pacings to budget in comparison with prior year, with the exception of COVID-related Capital and Transfers Out due to timing.

For June 2021 YTD, the General Fund generated an operating surplus between revenue and expenditures (excluding COVID/CAREs) of $1,281k, a $3,006k improvement from last year's operating deficit. After including COVID-related net revenue to expenditure deficit YTD of ($141k), the General Fund generated an operating surplus of $1,140k for June 2021 YTD. The General Fund finished June 2021 with an ending fund balance reserve of $15,664k, or $2,453k higher than prior year.

Turning to the forecast, General Fund total revenues are projected to total $43,985k, an increase of $2,862k over the 2021 budget. The main contributors include higher projected Tax revenue of $1,944k due mainly to the much stronger than budgeted sales tax revenues incurred YTD and projected for the remainder of the year, and $411k in higher CARES/FEMA reimbursement revenue projected to be received relating primarily to the unbudgeted carryover of FEMA reimbursements for COVID expenditures incurred by the General Fund and projected reimbursements of 2021 COVID-related FEMA reimbursable expenditures based on current spending levels that are assumed to continue through September 2021. Licenses & Permits are projected to outperform budget by 12.5% due to strong building permit trends, Intergovernmental is projected to beat budget by 4.1% due to higher COVID-related grant reimbursements and slightly higher PILT revenues, and Misc Revenue is projected to beat budget by 5.3% driven by stronger campground revenues and other misc revenues, as offset by loss of Fair-related revenues. Charges for Goods & Services are projected to miss budget by -4.2% based on our lower trending DOC inmate revenues impacted by COVID, and the loss of approx $203k of Fair-related revenues due to its cancellation, as partly offset by stronger growth from building plan reviews. Fines & Penalties are expected to exceed budget by 5.5% based on trend. Transfers In are projected to be $300k higher than budget due to additional grant-reimbursed costs related to the Dungeness Off Channel Reservoir. All other revenue categories are projected to be relatively inline with budget expectations. 2021 Expenditures are projected to total $43,050k, underspending to budget by $1,600k. Payroll and Benefits costs are expected to come in approx $1,851k below budget, mainly due to historic underspend to our personnel budgets due to unbudgeted darktime, savings from the extension of a partial hiring freeze during part of the first quarter of 2021, and benefit savings related to lower DRS pension rates for the 2nd half of 2021, as partially offset by increased payroll/benefit costs resulting from the new collective bargaining agreements taking effect in July 2021. COVID-related costs for 2021 are now projected to be $151k higher than budget due a $450k reduction in Transfers Out due to the extension of the WA Department of Health CARES grant to 2021 which will be available to fund the operation of the HHS isolation shelter that originally was budgeted to be funded by a $450k transfer from the General Fund, as offset by the addition of $370k Transfer Out to HHS to fund the Serenity House bathroom addition project, and the addition of approximately $231k of COVID related costs based on current YTD spending levels continuing to be incurred by the County during the pandemic that are projected to continue through the end of the 3rd quarter of 2021. Supplies are projected to come in $114k below budget due to trending savings. Transfers Out are expected to exceed budget by $300k due to additional working capital funding needed for the next phase of the Dungeness Reservoir project, which will be reimbursed through grants. For 2021, the General Fund is now projected to generate an operating surplus of $935k, which is $4,462k better than budgeted, leaving an estimated ending fund balance of $15,459k or 36.6% of total non-COVID expenditures. It is important to note that our projections have not been adjusted for the potential impact of the Superior Court Blake Decision pending further analysis and clarification from the State as to what share of the financial impact of this decision will be borne by the County.

Clallam County General Fund Results
June 2021

June 2021 YTD--vs Annual Budget (rounded to thousands)

	2021 YTD Actual	2021 Budget	Budget Remaining	2021 % of Annual Budget Achieved YTD	2020 % of Annual Budget Achieved YTD
REVENUES:					
Taxes	12,221	20,884	8,663	58.5%	50.8%
Licenses & Permits	583	1,050	467	55.5%	39.2%
Intergovernmental Revenues	3,312	5,329	2,017	62.1%	58.5%
Charges for Goods & Services	3,456	7,845	4,390	44.0%	45.6%
Fines & Penalties	552	908	357	60.7%	46.0%
Misc Revenue (Interest Inc, Camping Fees, etc)	1,233	2,040	807	60.4%	38.8%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	55	72	17	75.8%	20.4%
Other Financing Sources (Timber Sales, other)	216	625	409	34.5%	73.3%
Transfers In	270	1,840	1,570	14.7%	21.8%
Total Revenue--Excluding CARES/FEMA	**21,897**	**40,594**	**18,697**	**53.9%**	**48.5%**
Total Revenue--CARES/FEMA	**606**	**529**	**-77**	114.6%	--
Total Revenue	**22,503**	**41,123**	**18,620**	**54.7%**	**48.5%**

	2021 YTD Actual	2021 Budget	Budget Remaining	2021 % of Annual Budget Achieved YTD	2020 % of Annual Budget Achieved YTD
EXPENDITURES:					
Payroll	10,363	22,537	12,175	46.0%	46.5%
Payroll--COVID	9	0	-9	--	--
Benefits	4,323	9,544	5,221	45.3%	46.0%
Benefits--COVID	1	0	-1	--	--
Supplies	472	1,242	770	38.0%	37.5%
Supplies--COVID	31	0	-31	--	--
Services	3,027	6,523	3,496	46.4%	49.4%
Services--COVID	129	0	-129	--	--
Capital	32	95	63	34.0%	55.8%
Capital--COVID	63	90	27	69.8%	--
Transfer Out --COVID	515	595	80	86.6%	--
Transfers Out	1,162	2,783	1,621	41.8%	57.5%
Payment to Risk Pool	1,237	1,241	4	99.7%	100.0%
Total Expenditures--excluding COVID	**20,616**	**43,965**	**23,349**	**46.9%**	**49.0%**
Total Expenditures--COVID	**747**	**685**	**-63**	**109.2%**	**--**
Total Expenditures	**21,363**	**44,650**	**23,286**	**47.8%**	**49.7%**
Net Operating Surplus (Deficit)--Excluding COVID	**1,281**	**-3,371**			
Net Operating Surplus (Deficit)--COVID	**-141**	**-156**			
Net Operating Surplus (Deficit)	**1,140**	**-3,527**			
Fund Balance	**15,664**	**10,997**	**4,666**		

Clallam County General Fund Results
June 2021

June 2021 YTD--vs Prior Year YTD (rounded to thousands)

	2021 YTD Actual	2020 YTD Actual	Variance--$
REVENUES:			
Taxes	12,221	10,529	1,692
Licenses & Permits	583	451	132
Intergovernmental Revenues	3,312	3,093	219
Charges for Goods & Services	3,456	4,422	-966
Fines & Penalties	552	446	106
Misc Revenue (Interest Inc, Camping Fees, etc)	1,233	999	234
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	55	14	40
Other Financing Sources (Timber Sales, other)	216	441	-225
Transfers In	270	390	-120
Total Revenue--Excluding CARES/FEMA	**21,897**	**20,785**	**1,112**
Total Revenue--CARES/FEMA	**606**	**0**	**606**
Total Revenue	**22,503**	**20,785**	**1,718**
EXPENDITURES:			
Payroll	10,363	10,146	216
Payroll--COVID	9	134	-125
Benefits	4,323	4,182	141
Benefits--COVID	1	12	-11
Supplies	472	514	-42
Supplies--COVID	31	103	-72
Services	3,027	4,276	-1,248
Services--COVID	129	58	71
Capital	32	156	-124
Capital--COVID	63	0	62
Transfer Out --COVID	515	0	515
Transfers Out	1,162	2,006	-844
Payment to Risk Pool	1,237	1,229	8
Total Expenditures--excluding COVID	**20,616**	**22,510**	**-1,894**
Total Expenditures--COVID	**747**	**307**	**440**
Total Expenditures	**21,363**	**22,817**	**-1,454**
Net Operating Surplus (Deficit)--Excluding COVID	**1,281**	**-1,725**	**3,006**
Net Operating Surplus (Deficit)--COVID	**-141**	**-307**	**166**
Net Operating Surplus (Deficit)	**1,140**	**-2,032**	**3,172**
Fund Balance	**15,664**	**13,211**	**2,453**

Clallam County General Fund Results
June 2021

Major Revenue Differences between YTD 2021 and 2020 (rounded to thousands)

Juvenile Justice sales tax	176
Property tax	411
Sales taxes (other than Juvenile Justice)	1,048
Intergovernmental--PILT, Criminal Justice, Other Excise Taxes	89
Intergovernmental--Grants	130
Intergovernmental--CARES/FEMA	606
Investment & Delinquent tax interest	-131
Increase in Parks' Camping Revenues	363
Timber revenue	-203
Goods & Services--Interagency Services--Court Consolidation pymt timing, Roads & Other Policing Agreements timing/reduction, State Dpt Corrections (down $123k due to lower inmate capacity during COVID)	-50
Goods & Services--Indirects (due to reclassification of indirects from revenue to negative services expenditure to reflect proper accounting)	-963
Goods & Services--Building Plan Check Revenues	148
Fines and Penalties	106
Goods & Services Election Services Revenue--2020 Presidential Year, spill over 2019 November election reimbursement into 2020	-348
Licensing & Permits--Building Permits	125
Everything else (rounded to thousands)	212 **
Total Revenue Increase/(Decrease) over Prior Year	**1,718**

** The 'everything else' number of +$224k relates mainly to $128k in higher Auditor DOL and legal document filing fees, higher Treasurer excise admin fees (+$34k), higher HHS Environmental Health On Site program fees (+$73k), and increases in other areas, as offset by lower Transfers In relating the Lower Dungeness project ($120k).

Major Expense Differences between YTD 2021 and YTD 2020 (rounded to thousands)

Payroll/Benefits--prior year estimated impact of retirements and newly elected officials that led to conversion of payouts of accrued leave balances or partial conversion of leave balances to VEBA payments.	33
Payroll--changes due to personnel, step/COLA increases, and other non-retirement factors	185
Benefits--due to changes in benefit costs following collective bargaining increases in July 2020/Jan 2021, as offset by personnel changes	139
Services (decrease mainly due to reclassification of indirect charges as a reduction of services expenditures rather than as revenue in 2020 ($912k); lower postage due to timing of replenishment ($30k), lower travel costs ($22k), lower repairs & maintenance ($257k), lower professional services ($137k), as offset by overall increases in other areas.	-1,248
Risk Management Assessment for Insurance Pool	8
Transfers (mainly due to Bullman Beach transfer $75k, $20k transfer to Law Library, and $98k higher transfer to Flood Control, as offset by $131k lower transfer to Lower Dungeness Floodplain Project, $30k lower Transfers to Dungeness Reservoir project, and $867k lower PFF & IT capital transfers vs 2020)	-844

Clallam County General Fund Results
June 2021

COVID Related Costs (mainly internal COVID-response costs (PPE, IT costs, COVID-dedicated staff additions, facilities cleaning personnel, and transfer to HHS to fund COVID related costs and $370k HHS Serenity House Bathroom Project Transfer,)	747
Net Other Expenditure Changes (lower supplies ($42k), and capital outlays ($124k) and other decreases)	-473
Total Expenditure Increase/(Decrease) over Prior Year	**-1,454**

June 2021 Full Year Projection vs Annual Budget (rounded to thousands)

	2021 Projected	2021 Budget	Over/(Under) Budget
REVENUES:			
Taxes	22,828	20,884	1,944
Licenses & Permits	1,182	1,050	132
Intergovernmental Revenues	5,549	5,329	220
Charges for Goods & Services	7,517	7,845	-328
Fines & Penalties	958	908	50
Misc Revenue (Interest Inc, Camping Fees, etc)	2,148	2,040	108
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	98	72	26
Other Financing Sources (Timber Sales, other)	625	625	0
Transfers In	2,140	1,840	300
Intergovernmental--CARES/FEMA Reimbursements	940	529	411
Total Revenue--Excluding CARES/FEMA	**43,045**	**40,594**	**2,451**
Total Revenue--CARES/FEMA	**940**	**529**	**411**
Total Revenue	**43,985**	**41,123**	**2,862**
EXPENDITURES:			
Payroll	21,394	22,537	-1,143
Payroll--COVID	11	0	11
Benefits	8,824	9,544	-720
Benefits--COVID	1	0	1
Supplies	1,128	1,242	-114
Supplies--COVID	44	0	44
Services	6,453	6,523	-70
Services--COVID	175	0	175
Capital	95	95	0
Capital--COVID	90	90	0
Transfer Out --CARES	515	595	-80
Transfers Out	3,083	2,783	300
Payment to Risk Pool	1,237	1,241	-4
Total Expenditures--excluding COVID	**42,214**	**43,965**	**-1,751**
Total Expenditures--COVID	**836**	**685**	**151**
Total Expenditures	**43,050**	**44,650**	**-1,600**

2a
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Juvenile Services

WORK SESSION ☒ **Meeting Date: 07/12/2021**

REGULAR AGENDA ☒ **Meeting Date: 07/20/2021**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☒ Contract/Agreement/MOU #851.21.004

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☐ Other Discussion only

Documents exempt from public disclosure attached: ☐

Executive summary:
Contract agreement between Department of Commerce and Clallam County Juvenile & Family Services to provide funding for placement of youth in our Secure Residential Crisis Center (SCRC) and additional funding for Ancillary Therapeutic Services (ATS).

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

No budgetary impact at this time.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Review and sign.

County Official signature & print name: Jody Jacobsen Jody Jacobsen

Name of Employee/Stakeholder attending meeting: _____

Relevant Departments: _____

Date submitted: 07/06/2021

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* Work Session/Reg Meeting - Submit 2 single sided/not stapled copies + 2 AIS and 3 originals (stapled) + AIS
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext. 2256

#851.21.004

Washington State Department of Commerce

Grant Agreement with

Clallam County Juvenile and Family Services

through

Community Services and Housing Division
Housing Assistance Unit
Office of Homeless Youth

For

Office of Homeless Youth Core Programs

Start date: July 1, 2021

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FACE SHEET

Contract Number: 22-46302-104

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
OHY Core Programs

1. Grantee	2. Grantee Doing Business As (optional)
Clallam County Juvenile and Family Services 1912 W. 18th Street Port Angeles, WA 98363	

3. Grantee Representative	4. COMMERCE Representative	
Cindy Hanson Administrative Specialist (360) 565-2646 chanson@co.clallam.wa.us	Cole Ketcherside Program Manager 360-725-5056 Fax (360) 586-5880 cole.ketcherside@commerce.wa.gov	P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525

5. Grant Amount	6. Funding Source	7. Start Date	8. End Date
$508,954	Federal: ☐ State: ☒ Other: ☐ N/A: ☐	July 1, 2021	June 30, 2023

9. Federal Funds (as applicable)	Federal Agency:	CFDA Number
N/A	N/A	N/A

10. Tax ID #	11. SWV #	12. UBI #	13. DUNS #
N/A	SWV0000200-36	054-004-559	N/A

14. Grant Purpose

The purpose of this grant is to provide safety and stability to unaccompanied youth and young adults experiencing homelessness and housing instability in WA State by providing a continuum of outreach, shelter, housing, and associated services as specified in the contract Scope of Work.

COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget, Attachment "C" - Program Guidelines (as they may be revised from time to time), and Attachment "D" - Grant Application.

FOR GRANTEE	FOR COMMERCE
_____ Signature	_____ Diane Klontz, Assistant Director Community Services and Housing Division
_____ Print Name and Title	_____ Date
_____ Date	**APPROVED AS TO FORM ONLY** **BY ASSISTANT ATTORNEY GENERAL** **APPROVAL ON FILE**

Last revision 10/13/2020

Approved as to form only by:

Elizabeth Stanley
Civil Deputy Prosecuting Attorney
Clallam County

SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their grant information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

2. COMPENSATION

COMMERCE shall pay an amount not to exceed the amount shown on the Grant Face Sheet (Box 5) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based in accordance with Attachment B – Budget.

3. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly. Exceptions to the single billing per month can be made by Commerce on a case-by-case basis.

All invoices shall include a Monthly Voucher Detail and any other reports required by Commerce. The invoice shall include the Grant Number.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrants/subcontracts.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report or completion of the project, etc.

4. SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subcontractors and the portion of Grant funds expended for work performed by subcontractors, including but not necessarily limited to

minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

5. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee/subcontractor, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Local Government Grantees that Participate in a Self-Insurance Program

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Grantee shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Grantee shall provide annually to COMMERCE a summary of coverages and a letter of self-insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Agreement.

6. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions

SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

- Attachment A – Scope of Work
- Attachment B – Budget
- Program Guidelines, as revised
- Grant application

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Department of Commerce.

C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.

E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

F. "State" shall mean the state of Washington.

G. "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee/subcontractor" refers to any tier.

H. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.

I. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorney's fees and costs.

9. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;

2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and

3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

10. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMERCE may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the Commerce program

administering this Grant, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the contract by the Grantee. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

11. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

12. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

13. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the GRANTEE has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

14. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

15. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

The Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any subgrantee's/subcontractor's performance or failure to perform the Grant. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

16. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Grant. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

17. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

18. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

19. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

20. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

21. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further grants with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

22. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;

B. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:

(i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise services determines that the Grantee is not in compliance with this provision.

23. POLITICAL ACTIVITIES

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

24. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

25. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

26. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

27. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

28. RIGHT OF INSPECTION

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

29. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

30. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

31. SITE SECURITY

While on COMMERCE premises, Grantee, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

32. SUBGRANTING/SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

33. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

34. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

35. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

36. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

37. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

A. Stop work under the Grant on the date, and to the extent specified, in the notice;

B. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

38. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the

Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.

B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant

All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subgrantees/Subcontractors.

39. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work

A. Grantee agrees to operate the following programs as specified in the grant application and OHY guidelines
   - The Street Outreach Services (SOS) grant provides services and resources either directly or through referral to street youth (ages 12 to 17) and unaccompanied young adults (ages 18-24) as defined by RCW 43.330.702

   - Ancillary Therapeutic Services (ATS) funding provides behavioral health services to eligible youth in crisis within HOPE, CRC, and licensed overnight youth shelters.

B. Grantee shall comply with all the administrative requirements, policies and procedures, required trainings, and program implementation requirements specified in the applicable OHY program guidelines for each of the programs funded through this grant.

C. Grantee shall submit Monthly Voucher Details with each invoice and any other report that Commerce may develop as specified in the applicable OHY program guidelines.

D. Grantee must enter data in HMIS in accordance with any applicable HMIS user agreements, and as specified by Commerce in the applicable OHY program guidelines.

Budget

Budget Category	FY 22 Amount	FY 23 Amount
Admin	$38,172	$38,172
Program Operations	$216,305	$216,305
Facilities	$0	$0
Total	$254,477	$254,477

Total Grant Amount: $508,954

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

25
7/20/21

Department: BOCC

WORK SESSION ☒ **Meeting Date: 7/12/2021**

REGULAR AGENDA ☒ **Meeting Date: 7/20/2021**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 291.21.002
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

This is our 2021 Memorandum of Agreement between Clallam County and the Clallam Conservation District to provide renewable resource conservation planning and implementation, in the amount of $125,000.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Funding for this contract is included in the 2021 Budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Please review and sign.

County Official signature & print name: Debi Cook DCook

Name of Employee/Stakeholder attending meeting: Randy Johnson

Relevant Departments: BOCC

Date submitted: 7/02/2021

MEMORANDUM OF AGREEMENT
Between
CLALLAM COUNTY
and
CLALLAM CONSERVATION DISTRICT

This Memorandum of Agreement is between Clallam County (herein referred to as "the County"), and the Clallam Conservation District (herein referred to as "District"), for the purpose of providing operational funds to the District to implement ongoing renewable resource conservation activities in Clallam County in order to support and enhance the environmental and economic sustainability of the county and its citizens. It is mutually agreed that:

The County's Responsibilities:
The County shall provide to the District $125,000 for the calendar year 2021. This funding is for purpose of implementing the District's program for renewable resource conservation as outlined in the Clallam Conservation District's 2021 plan and budget. It is contemplated that an equal amount of funding will be provided yearly for the years 2022 through 2024 providing the Conservation District's next five year plan meets similar goals and objectives.

The District's Responsibilities:
The District shall use the County funds to supplement grant funding in order to implement its renewable resource conservation programs, including:

- Preparing, assisting with, and supporting grant proposals and outreach efforts for priority projects including, but not limited to:
  1. The Dungeness Off-Channel Reservoir.
  2. Aquafer recharge.
  3. Conservation of farmland through easements, purchase of development rights and other alternative means.
  4. Provide financial assistance to home owners with failing septic systems.
  5. Maintain successful programs such as sustainable landscaping, native plant sales and irrigation efficiency grants.
- District administrative functions and expenses, including basic overhead expenses, such as office rent, utilities, insurance, audits, and state association dues.
- Board member and staff training and participation in state and regional conservation district programs.
- Preparing grant proposals, and when necessary, contributing required matching funds.

The District shall submit an annual progress report and give an annual presentation to the Board of Commissioners in June of each year. The report and presentation shall provide an accounting of the use of County funds and accomplishments during the previous year.

This agreement will cover the period from January 1, 2021 through December 31, 2021.

AGREED this _____ day of July 2021

CLALLAM CONSERVATION DISTRICT	CLALLAM COUNTY BOARD OF COMMISSIONERS
_____	_____
Christy Cox, Chair	Mark Ozias, Chair
ATTEST:	Approved as to form:
_____	_____
Loni Gores Clerk of the Board	for Mark Nichols Prosecuting Attorney

2C
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works/Road Dept.

WORK SESSION ☒ **Meeting Date: July 12, 2021**

REGULAR AGENDA ☒ **Meeting Date: July 20, 2021**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

- ☐ Call for Hearing
- ☒ Contract/Agreement/MOU - Contract #
- ☐ Resolution
- ☐ Proclamation
- ☐ Budget Item
- ☐ Draft Ordinance
- ☐ Final Ordinance
- ☐ Other Local Age

Documents exempt from public disclosure attached: ☐

Executive summary: In 2018, Clallam County applied for funding under the Federal Lands Access Program (FLAP) for improvements to County roads that provide access to the Dungeness National Wildlife Refuge (DNWR). Project improvements include: 1) relocating a portion of the Voice of America Road that serves as the main access for both the County Dungeness Recreation Area (DRA) and the DNWR away from the unstable marine bluff; (2) re-aligning the curve from Kitchen-Dick Road onto Lotzgesell Road near the DRA and DNWR entrance; (3) adding a dedicated left turn lane from Lotzgesell Road onto the Voice of America Road at the DRA and DNWR entrance; and (4) shoulder widening.

Our 2018 project application was previously selected for a FLAP award. The Washington Programming Decisions Committee (PDC) for Washington FLAP projects approved up to $1,729,438 for our project proposal for FLAP funding. The federal share for FLAP funds is 86.5%. The project was approved with an estimated 13.5% match as cash and in-kind services from Clallam County. Based on the "current project estimate" of $1,999,350 that included in our 2018 County FLAP application our local match would be $269,912. If additional project funds are needed, the County would be responsible to resource additional funds.

As typical of FLAP projects, it was initiated with the Western Federal Lands Highway Division (WFLHD) delivering the project. WFL has not been able to make any significant progress with the engineering phase for this project nor able to commit to a schedule to proceed with engineering work in the foreseeable future. Due to the identified safety improvements (e.g., moving road away from unstable bluff) associated with this project, the County Public Works/Road Department requested WFLHD consideration to transfer project delivery to Clallam County.

In late-April, the Public Works/Roads Department was notified by the Washington State Department of Transportation (WSDOT) that our request was approved to deliver and manage this project. The FLAP project funding will be now administered through WSDOT Local Programs. Attached are letters from WFLHD and WSDOT related to the FLAP funding and transfer of project delivery responsibility.

FLAP funding is programmed by project phase and federal fiscal year (FFY) based on federal funding availability. Currently, estimated FLAP project funds by phase are $166,613 in FFY 2021 for preliminary engineering and $1,562,826 for construction costs in FFY 2023. The actual year funds are obligated may change due to changes to the program and/or project schedule variance.

To obligate federal funding to be available for reimbursement of County project engineering costs, the County needs to obtain approval of a preliminary engineering authorization package from WSDOT. The preliminary engineering design package we need to submit to obligate federal funds requires County Commissioner approval of a project prospectus and local agency agreement (LAA).

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

The project is listed in the County's adopted Six-Year (2021-2026) Transportation Improvement Program (TIP). The Road Fund budget has adequate funds budgeted for any project work related to this project in 2021.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve the attached local agency agreement (LAA) and project prospectus to submit to WSDOT for authorization and obligation of federal funding for project preliminary engineering.

County Official signature & print name: Mary Peterson
Mary Peterson for Ross Tyler

Name of Employee/Stakeholder attending meeting: Steve Gray

Relevant Departments: Public Works/Roads

Date submitted: July 7, 2021

Washington State Department of Transportation

Local Agency Federal Aid Project Prospectus

	Prefix	Route	( )
Federal Aid Project Number			
Local Agency Project Number			(WSDOT Use Only)

Date	July 7, 2021
DUNS Number	075739235
Federal Employer Tax ID Number	91-60001298

Agency	CA Agency	Federal Program Title
Clallam County	☑ Yes ☐ No	☑ 20.205 ☐ Other

Project Title	Start Latitude N / End Latitude N	Start Longitude W / End Longitude W
Dungeness National Wildlife Refuge (DNWR) Access Improvements	48-7'41.87" / 48-8'28.17"	123-12'0.76` / 123-11'25.76"

Project Termini From-To	Nearest City Name	Project Zip Code (+4)
Kitchen-Dick/Lotzgesell Intersection Area to end of Voice of America Rd at DNWR	Sequim	98382-7365

Begin Mile Post	End Mile Post	Length of Project	Award Type
See above	See above	1.44	☑ Local ☐ Local Forces ☐ State ☐ Railroad

Route ID	Begin Mile Point	End Mile Point	City Number	County Number	County Name
				05	Clallam

WSDOT Region	Legislative District(s)	Congressional District(s)	Urban Area Number
Olympic Region	24	6	N/A

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date Month	Year
P.E.	192,616	26,003	166,613	10	2021
R/W					
Const.	1,806,734	243,909	1,562,825	06	2023
Total	1,999,350	269,912	1,729,438		

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width	Number of Lanes
20 to 30 feet	2

The project includes improvements to three County roads: Kitchen-Dick Rd., Lotzgesell Rd., and Voice of America Rd. with varying roadway widths and shoulders typically 2-ft or less.

Description of Proposed Work

The project relocates a portion of the Voice of America Rd. that serves as the main access for both the County Dungeness Recreation Area (DRA) and Dungeness National Wildlife Refuge (DNWR) away from marine bluff; re-aligns the curve from Kitchen-Dick Rd. onto Lotzgesell Rd. near the DRA/DNRW entrance; adds a dedicated left turn lane for access into the DRA/DNRW; and includes shoulder widening.

Local Agency Contact Person	Title	Phone
Steve Gray	Transportation Program Manager	360-417-2290

Mailing Address	City	State	Zip Code
223 East Fourth Street, Suite 6	Port Angeles	WA	98362-3000

Project Prospectus	By	Approving Authority	
	Title COUNTY ENGINEER		Date 7/7/2021

DOT Form 140-101
Revised 04/2015

Previous Editions Obsolete

Agency	Project Title	Date
Clallam County	Dungeness National Wildlife Refuge Access Improvements	July 7, 2021

Type of Proposed Work

Project Type (Check all that Apply)			Roadway Width	Number of Lanes
☐ New Construction	☐ Path / Trail	☐ 3-R	28 to 46	2
☐ Reconstruction	☐ Pedestrian / Facilities	☐ 2-R		
☐ Railroad	☐ Parking	☑ Other		
☐ Bridge				

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	☐ Urban ☑ Rural ☐ NHS ☐ Principal Arterial ☐ Minor Arterial ☐ Collector ☑ Major Collector ☐ Minor Collector ☐ Local Access	☐ Urban ☑ Rural ☐ NHS ☐ Principal Arterial ☐ Minor Arterial ☐ Collector ☐ Major Collector ☐ Minor Collector ☑ Local Access
Terrain	☑ Flat ☐ Roll ☐ Mountain	☐ Flat ☑ Roll ☐ Mountain
Posted Speed	35 mph	20 mph
Design Speed	35 mph	20 mph
Existing ADT	1649	1121
Design Year ADT	3298	2242
Design Year	2043	2043
Design Hourly Volume (DHV)	495	336

Performance of Work

Preliminary Engineering Will Be Performed By: Clallam County	Others: %	Agency: 100 %
Construction Will Be Performed By: Contractor to be determined	Contract: 100 %	Agency: %

Environmental Classification

☐ Class I - Environmental Impact Statement (EIS)
- ☐ Project Involves NEPA/SEPA Section 404 Interagency Agreement

☐ Class III - Environmental Assessment (EA)
- ☐ Project Involves NEPA/SEPA Section 404 Interagency Agreements

☑ Class II - Categorically Excluded (CE)
- ☑ Projects Requiring Documentation (Documented CE)

Environmental Considerations

The proposed project will reduce environmental impacts by: 1) relocating a portion of an existing access road within the County Dungeness Recreation Area (DRA) away from an unstable marine bluff; 2) replacing an abrupt 90-degree turn near the DRA and Dungeness National Wildlife Refuge (DNWR) access entrance to a much safer curved transition; 3) adding a dedicated left turn lane to improve intersection safety for access into the DRA/DNWR area; and 4) shoulder widening for bicycle and pedestrian safety improvements.

Agency	Project Title	Date
Clallam County	**Dungeness National Wildlife Refuge Access Improvements**	July 7, 2021

Right of Way

☑ No Right of Way Needed * All construction required by the contract can be accomplished within the exiting right of way.	☐ Right of Way Needed ☐ No Relocation	☐ Relocation Required

Utilities	Railroad
☐ No utility work required	☑ No railroad work required
☐ All utility work will be completed prior to the start of the construction contract	☐ All railroad work will be completed prior to the start of the construction contract
☑ All utility work will be completed in coordination with the construction contract	☐ All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

There are no major structures in the project area. Power, cable and telephone may need to be moved or placed underground in some areas. Part of a waterline in the Clallam County Dungeness Recreation Area may need to be relocated.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project? ☐ Yes ☑ No

Remarks

There is a private grass airstrip serving a residential development just west of the start of the project area. The privately-owned, Sequim Valley Airport (public use airport) is located approximately 2.25 miles to the south.

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency

Date

By _____

Mayor/Chairperson

101-21-013

ORIGINAL

Washington State Department of Transportation

Local Agency Agreement

Agency Clallam County

Address
223 East Fourth Street, Suite 6
Port Angeles, WA 98362-3000

CFDA No. 20.205
(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Dungeness National Wildlife Refuge (DNWR) Access Improvements Length 1.44

Termini Kitchen-Dick/Lotzgesell Rd. Intersection Area to end of Voice of America Road at the DNWR boundary.

Description of Work

The project relocates a portion of the Voice of America Road that serves as the main access for both the County Dungeness Recreation Area (DRA) and DNWR away from marine bluff; re-aligns the curve from Kitchen-Dick Rd. onto Lotzgesell Rd. near the DRA/DNRW entrance; adds a dedicated left turn lane for access into the DRA/DNRW; and includes shoulder widening.

Project Agreement End Date 08/31/25

Proposed Advertisement Date

Claiming Indirect Cost Rate
✓ Yes ☐ No

Type of Work		Estimate of Funding (1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency	187,616.00	25,328.00	162,288.00
86.5 %	b. Other			
Federal Aid Participation Ratio for PE	c. Other			
	d. State	5,000.00	675.00	4,325.00
	e. Total PE Cost Estimate (a+b+c+d)	192,616.00	26,003.00	166,613.00
Right of Way %	f. Agency			
	g. Other			
Federal Aid Participation Ratio for RW	h. Other			
	i. State			
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00
Construction %	k. Contract			
	l. Other			
	m. Other			
Federal Aid Participation Ratio for CN	n. Other			
	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00
	r. Total Project Cost Estimate (e+j+q)	192,616.00	26,003.00	166,613.00

Agency Official
By

Title

Washington State Department of Transportation
By Director, Local Program

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

$ at $ per month for months.

Local Force or Local Ad and Award

✓ Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on , , Resolution/Ordinance No.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

(4) The Secretary is notified by the Federal Highway Administration that the project is inactive.

(5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed $100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 27, 2021

Mr. Ross Tyler, PE
Public Works Director
Clallam County
223 East Fourth Street, Suite 6
Port Angeles, Washington 98362-3015

Dungeness National Wildlife Refuge (NWR)
Access Improvements
FFY 2021 Federal Lands Access Program (FLAP)
Federal Funding

Dear Mr. Tyler:

WSDOT is pleased to advise you that the above mentioned project was selected to receive funding through the FFY 2021 WA Federal Lands Access Program (FLAP). The FLAP funds were transferred to FHWA and administered through WSDOT Local Programs per the Local Agency Guidelines (LAG) manual. The federal funding is limited as shown below:

Dungeness NWR Access Improvements **$1,729,438**
FFY 2021 Available Funding: $166,613
Scope: To relocate 1440 feet of the Voice of America Road which is the main access road to the Dungeness National Wildlife Refuge and re-align curves on Kitchen-Dick and Lotzgesell Roads. It includes widening for bicycle/pedestrian safety and a dedicated left turn lane into the Refuge.
FLAP CFDA#: 20.224
NOTE: Federal share is 86.5 percent for federal eligible costs.

In order to meet state and federal requirements, the following are required:

- Project expenditures incurred before receiving notice from Local Programs of federal fund authorization are not eligible for reimbursement.
- Please refer to the Local Programs web page for detailed information, including: (http://www.wsdot.wa.gov/localprograms/)
  - ✓ Local Agency Guidelines (LAG) manual for the requirements regarding programming, authorization, reimbursement, etc.;
  - ✓ Projects utilizing federal funds must be included in your current Transportation Improvement Program (TIP) as a complete programmed project. Once your TIP amendment is approved, WSDOT will amend the Statewide Transportation Improvement Program (STIP);
  - ✓ Funding and billing forms;
  - ✓ Quarterly Project Reporting is required to be completed by the end of March, June, September, and December each year. To access the database you will need an account name and password. Your account name is **Clallam Co.** and your password is **ClaCo673**. The password is case sensitive.

Ross Tyler, PE
Public Works Director
Clallam County
Dungeness National Wildlife Refuge
Access Improvements
April 27, 2021

- If the project is not actively pursued, or becomes inactive (23 CFR 630), the project is at risk of being cancelled, funds repaid and reprogrammed.
- FHWA requires that all projects are ADA compliant upon completion or the federal funds must be repaid.

As a reminder, Local Programs requires all agencies to submit monthly progress billings to ensure timely reimbursement of eligible federal expenditures. Also, it is critical that your agency adhere to the project schedule previously provided, to ensure the delivery of the local federal program.

For assistance please contact Bryan Dias, your Region Local Programs Engineer, at 360.357.2631.

Sincerely,

Stephanie Tax

Stephanie Tax
Interim Director
Local Programs

ST:sas
cc: Bryan Dias, Olympic Region Local Programs Engineer

U.S. Department
of Transportation
Federal Highway Administration

Western Federal Lands Highway Division
610 E. Fifth Street
Vancouver, WA 98661
Phone 360-619-7700
Fax 360-619-7846

April 9, 2021

In Reply Refer To: HFL-17

Kyle McKeon
Interim Director, Local Programs-WSDOT
mckeonk@wsdot.wa.gov

Subject: Project Selection from the Federal Lands Access Program (FLAP)
Project Name: Dungeness NWR Access Improvements
Project ID: WA CLALLAM 2018(2)
Project Application: WA-FY18-11

Mr. McKeon:

Below is a summary of the programming information for the selected project, project funding requires and the next steps.

Scope: The scope of this project is to relocate 1440 feet of the Voice of America Road which is the main access road to the Dungeness National Wildlife Refuge and re-align curves on Kitchen-Dick and Lotzgesell Roads. It includes widening for bicycle/pedestrian safety and a dedicated left turn lane into the Refuge. The project improvement type is *Type 07 - 4R, Relocation.*

Project Changes: Proposed changes to the approved and programmed project require coordination with the Federal Highway Administration to determine whether PDC approval is required. Specific examples include:

- Any scope change from the initial programmed project, including design element changes;
- Schedule changes which will impact the fiscal year when funds are programmed;
- Any changes to the budget which impact the FLAP programmed amount or match;
- The type of match being supplied;
- Delivery agent changes.

Programmed Funding and Preliminary Schedule: The Washington PDC approved up to $1,729,438 for this proposal from the FLAP. This amount does not include the amount of match or other contributions. The federal share for these funds is 86.5%. This project was approved with an estimated 13.5% match as cash and in-kind services from Clallam County (County). If additional project funds are needed the County would be responsible to resource additional funds.

The following table shows these phases, the programmed funds by phase, and the fiscal year(s) when funds are preliminarily programmed based on availability of funding. The actual year funds are obligated may change due to changes to the program and/or project schedule variance.

Phase	Programmed Funds by Phase (Estimates)	Fiscal Year when Funds are Programmed
Preliminary Engineering (including NEPA, final design, Right-of-Way)	$166,613 of FLAP*	2021
Construction Engineering	$166,613 of FLAP	2023
Construction	$1,229,600 of FLAP	2023
Construction Contingency	$166,613 of FLAP	2023

*Note this project was initiated with Western Federal Lands Highway Division (WFLHD) delivering the project. FLAP funding has already been utilized by WFLHD as part of the total FLAP funding available with associated match required. The PE amount provided to Clallam County will be reduced by this amount.

Note that when the recipient is notified that funds are available, it is the responsibility of the recipient to request funding for obligation in the planned FY per the programming letter. This includes following WSDOT Local Programs procedures as applicable for local agency recipients.

This project has been added to the Office of Federal Lands Highway Transportation Improvement Program. It is the funding recipient/subrecipient's responsibility to coordinate this project's inclusion into the Metropolitan Planning Organization Transportation Improvement Program (if applicable) and the Washington Statewide Transportation Improvement Program.

The programmed funds by phase in the table above are based on the current project estimate. The FLAP funding may be adjusted between project phases based on need. If the estimated amount increases, the total programmed FLAP funds may not be sufficient to complete the project as programmed by the PDC. As necessary, additional funding needs to complete the project will be provided by the selectee to address any funding shortfall.

Right-of-Way and Utilities: This Project is planned to be constructed within the County right of way. No easements are anticipated, however if any are required the County will be responsible for acquiring these and following federal requirements. Telephone and power lines may be impacted. The County will be responsible for coordinating with utility companies.

Owner of Federal Lands to which the Project Provides Access: Dungeness National Wildlife Refuge, USFWS

Entity with maintenance responsibility of facility: Clallam County has maintenance responsibility of the facility.

PDC considerations: As proposed

Project Deliver Agent: Clallam County

Reporting: Enclosed with this letter in Attachment A is the project reporting template. As the selectee of FLAP funds, it is required that you submit this report **every 6 months** (January 15 and June 15) to the key staff listed below.

Key Staff:

Kyle McKeon, Manager, Engineering Services-WSDOT
kyle.mckeon@wsdot.wa.gov

Stephanie Tax, Manager, Program Management-WSDOT
stephanie.tax@wsdot.wa.gov

Anders Kosnett, USFWS, Regional Transportation Coordinator (Interim)
Alexander_Kosnett@FWS.gov

Ross Tyler, P.E. Director of Public Works/County Engineer
rtyler@co.clallam.wa.us

Rick Judd, Financial Manager, WA FHWA Division Office
rick.judd@dot.gov

Andrew Rasmussen, Program Manager, Western Federal Lands Highway Division
Andrew.Rasmussen@dot.gov

Funds from the FLAP for this project are not guaranteed. Funding is dependent on the availability of appropriations from Congress. Any programmed FLAP funds remaining after the project is complete must be returned to Western Federal Lands Highway Division (WFLHD) for competitive reprogramming through the PDC.

The next step is for the WFLHD Office to coordinate the transition of this project to the Washington Federal-aid Division Office, who will administer the project through their standard processes and procedures in conjunction with the WSDOT and Clallam County.

Sincerely,

Kristin Austin
WFLHD Planning Program & Environment Branch Chief

Enclosures:
Project Reporting Requirements
FLAP Application
Email Announcement

cc:
Anders Kosnett, USFWS, Regional Transportation Coordinator
Raju Mooney, FLH FLAP Program Manager
Joseph Taylor, FLH Stewardship & Oversight Coordinator
Ross Tyler, P.E. Director of Public Works/County Engineer
Stephanie Tax, Manager, Program Management-WSDOT
Rick Judd, Financial Manager, WA FHWA Division Office

2d
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Health and Human Services

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date:** 07/20/2021

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☐ **Resolution**
☐ **Draft Ordinance**
☒ Contract/Agreement/MOU - Contract #11322-21-LCSNW
☐ **Proclamation**
☐ **Final Ordinance**
☐ **Budget Item**
☐ **Other**

Documents exempt from public disclosure attached: ☐

Executive summary:
The attached Contract is between Clallam County Health and Human Services and Lutheran Community Services Northwest. The Healthy Families project offers support services that address the root causes of a family's homelessness to create permanent changes that lead to stable, self-sufficient residents with secure housing. The services engage a family holistically and comprehensively to resolve overall causes of crises. The in-house basic needs bank supports hygiene, food, clothing, and even education about health and wellness. This contract is effective July 1, 2021 through June 30, 2023 in the amount of $165,000.00.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Funds are in HHS budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Please approve and sign.

County Official signature & print name: Kevin LoPiccolo

Name of Employee/Stakeholder attending meeting: Jennifer Oppelt & Kevin LoPiccolo

Relevant Departments: Health and Human Services

Date submitted: 7/13/21

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into between CLALLAM COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Clallam County") and

Name: Lutheran Community Services Northwest
Address: 2634 S. Francis Street
Port Angeles, WA 98362
Phone Nº: 360-452-5437

(hereinafter called "Contractor").

This Agreement is comprised of:

☒ Attachment A - Scope of Work

☒ Attachment B – Compensation

☒ Attachment C - General Conditions

☒ Attachment D - Special Terms and Conditions

☐ Attachment E (specify) –

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 1st day of July 2021 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 30th day of June 2023.

IN WITNESS WHEREOF, the parties have executed this Agreement on this day of July 2021.

CONTRACTOR

Dan Johnston Digitally signed by Dan Johnston DN: cn=Dan Johnston, o=Lutheran Community Services Northwest, ou, email=djohnston@lcsnw.org, c=US Date: 2021.07.12 09:48:43 -07'00'

Dan Johnston, Director of Legal Affairs

Print name: Dan Johnston

Title: Director of Legal Affairs

Date: July 12, 2021

ATTEST:

Loni Gores, Clerk of the Board

Originals: BOCC
Vendor
Initiating Department
Copies: 5

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CLALLAM COUNTY PROSECUTING ATTORNEY

SCOPE OF WORK

The **Healthy Families** project offers support services that address the root causes of a family's homelessness to create permanent changes that lead to stable, self-sufficient residents with secure housing. The services engage a family holistically and comprehensively to resolve overall causes of crises. Community partnerships allow Healthy Families to connect people and support their unique, individual needs. The in-house basic needs bank supports hygiene, food, clothing, and even education about health and wellness. Healthy Families is a locally known and trusted place for low-income people to find a hand-up when they need it most.

Funding for this contract covers:

- Project Manager position for fiscal years 2021-2022 and 2022-2023
- Project Assistant position for fiscal years 2021-2022 and 2022-2023
- Family Support Coordinator position for fiscal years 2021-2022 and 2022-2023
- Indirect will be charged at a maximum of 10% based on salaries
- Benefits for the Project Manager, Project Assistant and Family Support Coordinator positions for fiscal years 2021-2022 and 2022-2023
- Supplies/Printing for fiscal years 2021-2022 and 2022-2023
- Mileage for fiscal year 2021-2022
- Staff Training for fiscal years 2021-2022 and 2022-2023
- Occupancy (rent and utilities) for fiscal years 2021-2022 and 2022-2023
- Communications for fiscal years 2021-2022 and 2022-2023
- Technology for fiscal years 2021-2022 and 2022-2023
- Direct Client Assistance (food, hygiene, shelter, transportation, etc.) for fiscal years 2021-2022 and 2022-2023
- Community Outreach (communication efforts through social media, advertising, etc.) for fiscal years 2021-2022 and 2022-2023

Maximum consideration for this contract is **$165,000.00**.

All monthly billings will be submitted on the county provided invoice and accompanied with the required backup that supports all services being billed.

BUDGET/FEE SCHEDULE

July 1, 2021 – June 30, 2022

SERVICE	MAXIMUM REIMBURSED BY COUNTY
Project Manager	$8,000.00
Family Support Coordinator	$42,520.00
Indirect (max. 10%)	$5,052.00
Total Benefits	$14,912.00
Supplies/Printing	$500.00
Mileage	$1,500.00
Staff Training	$628.00
Occupancy	$2,000.00
Communications	$574.00
Technology	$1,714.00
Direct Client Assistance	$4,100.00
Community Outreach	$1,000.00
TOTAL	**$82,500.00**

July 1, 2022 – June 30, 2023

SERVICE	MAXIMUM REIMBURSED BY COUNTY
Project Manager	$8,642.00
Family Support Coordinator	$45,922.00
Indirect (max. 10%)	$5,456.00
Total Benefits	$16,980.00
Supplies/Printing	$558.00
Staff Training	$132.00
Occupancy	$2,000.00
Communications	$591.00
Technology	$219.00
Direct Client Assistance	$1,000.00
Community Outreach	$1,000.00
TOTAL	**$82,500.00**

Backup requires ID # or tracking that will enable us to match records to billings when county is onsite for monitoring visit(s). All consumers personal identifying information (e.g. name, birth date, address) will be removed prior to submitting billings (if applicable).

Funding will be provided during two separate funding periods as documented below. Each funding period will not exceed the designated funding amount for that period. No funding may be carried over to the succeeding period nor may future funding be accessed in a prior funding period.

Funds will not be moved between individual line items within the current funding period unless approved in writing by the county project manager. Requests to move funds between individual line items within the current funding period cannot exceed 10% of the total budget for that funding period. Funds will not be carried over to future funding cycles.

REPORTING:
Quarterly reporting is required per section 1. **REPORTING** in Attachment D - Special Terms and Conditions.

HMIS:
Contractors providing direct services to clients are required to enter client data into the Department of Commerce Homeless Management Information System (HMIS) for each client contact according to current guidelines.

MONITORING:
Over the duration of the contract, the County may make a minimum of one or more monitoring and/or evaluation visits to the Contractor for the purpose of fiscal and program review. During these visits the Contractor will make all records and evaluation data available as requested by monitoring/evaluation personnel, as well as associated staff. Evaluation visits may include interviews with relevant staff and may include observation of program activities. The Contractor will provide Release of Information forms for signature by monitoring/evaluation personnel to ensure that any access to confidential material is legally authorized.

CRIMINAL HISTORY BACKGROUND CHECK:

All employees and volunteers who have unsupervised access to children, adolescents, or vulnerable adults are required to have a background check. RCW 43.43 and WCA 388-805-200 (2) require criminal background checks when employing staff members, including volunteers and subcontractors, who have unsupervised access to children, adolescents, vulnerable adults and persons who have developmental disabilities.

COMPENSATION

1. ☒a. FIXED FEE FOR SERVICE: For services rendered, the County shall pay to the Contractor a fixed fee of one hundred sixty five thousand DOLLARS ($165,000.00) for the completed work set forth in Attachment A. Payments for completed tasks shall be made no more frequently than ☒ monthly; ☐ quarterly; ☐semi-annually; ☐annually; ☐ at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying the tasks completed up to the request for payment and the payment amount requested. In no event shall payment be sought in an amount which represents a percentage of the fee greater than the percentage of completed tasks.

OR

☐ **b. HOURLY RATES:** For services rendered, the County shall compensate the Contractor at the following hourly rates:

Name/Position ***Hourly Rate***

Payments for completed tasks shall be made no more frequently than ☐ monthly; ☐quarterly; ☐semi-annually;
☐ annually; ☐at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying: the name/position of the Contractor's employee if two or more are identified above; number of hours worked; completed tasks for which compensation is sought; estimated percentage of task completion; payment amount requested; other (specify) .

In no event shall Contractor be compensated in excess of DOLLARS ($) for the completed work set forth in Attachment "A."

2. AND

☒**a.** The compensation set forth herein includes, without limitation: labor, materials, equipment, travel, telephone, computer, copiers, and the like.

OR

☐ **b.** The County shall reimburse the Contractor for actual expenses incurred for travel, telephone, copiers, and computer. Reimbursement for airfare, mileage, meals and/or accommodations shall be at the same rate as that applicable to county employees traveling on county business.

OR

☐ **c.** Other (specify):

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

   The County shall compensate the Contractor through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Attachment B.

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm or entity without the express and prior written approval of the County Project Manager.

4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

   The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Clallam County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

   In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Clallam County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Clallam County for any payments made or required to be made by Clallam County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

   Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits that Clallam County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials that the County deems pertinent to the

Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Public Convenience. The County may terminate the contract in whole or in part upon thirty (30) days advance written notice whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.

12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:

(a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

(b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.

(c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.

13. Defense and Indemnity Agreement.

(a) The Contractor agrees to hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property (including loss of use thereof) or business (including economic loss), caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the Contractor's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

(b) With regard to any claim against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. It is clearly agreed and understood by the parties to the Contract that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties as is required by RCW 4.24.115, and that the provisions of this Section will be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work under the Contract.

(c) The Contractor's obligations under these provisions include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.

15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.

16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than ten (10) days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under

the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

18. (Section Deleted)

19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:

(a) That Contractor shall be notified promptly in writing by County of any notice of such claim.

(b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

20. Disputes:

(a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Administrator for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Clallam County within 15 days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

(b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

(c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic, analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.

22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.

23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager. For purposes of this Agreement, the County Project Manager is:

Name: Jennifer Oppelt

Title: Behavioral Health and Homelessness Program Coordinator

Address: 111 E 3rd St Port Angeles, WA 98362

Telephone: 360-417-2431

E-mail: joppelt@co.clallam.wa.us

Fax: 360-452-9605

In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.

26. No Third Party Beneficiaries. This agreement is intended for the benefit of only the County and Contractor. This agreement does not confer any benefits, rights, or privileges upon any third party.

27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as the

Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.

28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.

29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.

30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

    (a) Applicable federal, state, and local statutes, ordinances, and regulations;

    (b) Scope of Work (Attachment A) and Compensation (Attachment B);

    (c) Special Terms and Conditions (Attachment D); and

    (d) General Conditions (Attachment C).

32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.

35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 31-35 of these General Conditions shall survive any termination, expiration, or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.

36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

SPECIAL TERMS AND CONDITIONS

☒ 1. Reporting. The Contractor shall submit written progress reports to the County Project Manager as set forth below:

- ☐ With each request for payment.
- ☐ Monthly.
- ☒ Quarterly.
- ☐ Semi-annually.
- ☐ Annually.
- ☐ Project completion.
- ☐ Other (specify):

Progress reports shall include, at a minimum, the following: A short narrative summarizing project progress will be submitted.

Reports shall include any problems, delays or adverse conditions which will materially affect the Contractor's ability to meet project objectives or time schedules together with a statement of action taken or proposed to resolve the situation. Reports shall also include recommendations for changes to the Scope of Work, if any. Payments may be withheld if reports are not submitted within 30 days of due date. Reports are due **October 31, 2021; January 31, 2022; April 30, 2022; July 31, 2022; October 31, 2022; January 31, 2023; April 30, 2023** and **July 31, 2023.**

☒ 2. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

☒ COMMERCIAL GENERAL LIABILITY:		
Bodily injury, including death	$1,000,000	per occurrence
	$2,000,000	aggregate
Property damage	$1,000,000	per occurrence
	$2,000,000	aggregate
☒ ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail)	$2,000,000	per occurrence
☒ WORKERS COMPENSATION:	Statutory amount	

☐	AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles		
	Bodily injury, liability, including death	$	per occurrence
		$	aggregate
	Property damage liability	$	per occurrence
		$	aggregate
☒	BUSINESS AUTOMOBILE LIABILITY:	$1,000,000	per occurrence

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

Any such policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement shall be primary over any third party liability coverage provided to Clallam County by and through its membership in the Washington Counties Risk Pool or WCRP. The third party liability coverage provided by the WCRP to Clallam County shall be non-contributory with respect to any policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

Evidence of primary insurance coverage shall be submitted to the County Project Manager within 20 days of the execution of the Agreement.

If the proof of insurance or certificate of coverage indicating the County is an "additional insured" to a policy obtained by the Contractor in order to comply with this agreement refers to an endorsement (by number, abbreviation or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County within 30 days of the execution of this Agreement.

The coverage limits identified herein shall not limit the potential liability of the Contractor and the Contractor's duty to defend, indemnify, and hold harmless shall apply to any liability beyond the scope of insurance coverage.

☐ 3. Liquidated Damages. For delays in timely completion of the work to be done or missed milestones of the work in progress, the Contractor shall be assessed Dollars ($) per day as liquidated damages and not as a penalty because the County finds it impractical to calculate the actual cost of delays. Liquidated damages will not be assessed for any days for which an extension of time has been granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete the entire project.

☐ 4. Other (specify):.

39
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: DCD

WORK SESSION ☒ **Meeting Date: 6.14.2021**

REGULAR AGENDA ☒ **Meeting Date:** ~~6.22.2021~~ 7/20/21

Required originals approved and attached? ☒
Will be provided on: Thursday

Item summary:

- ☐ Call for Hearing
- ☐ Contract/Agreement/MOU - Contract #
- ☐ Resolution
- ☐ Proclamation
- ☐ Budget Item
- ☐ Draft Ordinance
- ☐ Final Ordinance
- ☒ Other: Call for bid

Documents exempt from public disclosure attached: ☐

Executive summary: Bid opening
Phase I of the Lower Dungeness Floodplain Restoration Project is ready to go to bid. The project will be constructed in two phases. Phase 1 of the project builds the setback levee and road realignment embankment. It includes installation of a new culvert in a tributary to Meadowbrook Creek, building a portion of the levee embankment, and building the relocated section of Towne Road.

The project is paid for with funding from Floodplains by Design and Puget Sound Acquisition and Restoration programs.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ **No monetary impact**

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
~~Please issue the call for bid.~~
Bid opening
County Official signature & print name: [signature]

Name of Employee/Stakeholder attending meeting: Cathy Lear

Relevant Departments: DCD, Public Works/Roads

Date submitted: 6.9.2021

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

3a
6/22/21

NOTICE OF INVITATION FOR BIDS

SEALED BIDS will be received by the Board of Clallam County Commissioners at 223 East Fourth Street, Room 150, Port Angeles, Washington until 10:00 a.m., Tuesday, **JULY 20TH, 2021,** at which time they will be publicly opened and read aloud for:

The work includes roadway excavation and embankment of the Lower Dungeness River Floodplain Restoration & Levee/Road Realignment – Phase 1 Earthwork.

Complete plans and specifications may be obtained from the Clallam County web site at www.clallam.net. Questions regarding this project may be directed to Dave Cline at 206.695.6885.

The sealed bids must be clearly marked on the outside of the envelope, **" LOWER DUNGENESS RIVER FLOODPLAIN RESTORATION & LEVEE/ROAD REALIGNMENT PROJECT– PHASE 1 EARTHWORK "**. Address bid proposal to: Board of Clallam County Commissioners, 223 E. 4th St., Ste. 4, Port Angeles, WA 98362 or hand-deliver to 223 E. 4th St., Room 150, Port Angeles, Washington. Bid documents delivered to other offices and received late by the Commissioners' Office will not be considered nor will bids received by facsimile or e-mail.

Clallam County will determine the lowest responsible bidder in accordance with the terms of Clallam County Code Section 3.12.070 and reserves the right to reject any and all bids and to waive informalities in the process or to accept the bid which in its estimation best serves the interests of Clallam County.

Clallam County in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

The attached contract plans, these contract provisions and the Standard Specifications for the above-described project are hereby

APPROVED THIS 22 DAY OF June, 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

L. Gores

Loni Gores, CMC, Clerk of the Board

CLERK OF THE BOARD CLALLAM COUNTY COMMISSIONERS PORT ANGELES, WA

Please Publish: Peninsula Daily News/Seattle Daily Journal - June 25, July 2, July 9, 2021
Please Bill: Clallam County Public Works

4.9
7/20/21

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: DCD

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date: 7-20-2021**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☒ Final Ordinance ☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
On October 30, 2018 the Board adopted Resolution 91 to approve an updated Clallam County Shoreline Master Program (SMP) for submittal to the Washington State Department of Ecology (Ecology) for state review and approval. Ecology responded March 29, 2021 with specific changes necessary to make the proposed SMP approvable. The Board held a Public Hearing on June 15, 2021 and continued the hearing until July 13, 2021. The Board must now take action to agree to the proposed changes or discuss alternative(s) to submit to Ecology for further review.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
none

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
The Board shall take action pursuant to RCW90.58.090(2)(e) to either agree to the proposed changes or submit an alternative proposal that Ecology will then review for consistency with the intent of the changes originally developed by Ecology.

County Official signature & print name: MaryEllen Winborn

Name of Employee/Stakeholder attending meeting: Donella Clark via phone

Relevant Departments: DCD

Date submitted: 7/13/21

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

RESOLUTION _____, 2021

ADOPTION OF FINDINGS FOR AN ORDINANCE APPROVING AN UPDATED CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. On October 30, 2018, the Clallam County Board of Commissioners adopted Resolution 91 to approve the updated Clallam County Shoreline Master Program (SMP) for submittal to the Washington State Department of Ecology (Ecology) for state review and approval.
2. The Washington Shoreline Management Act (SMA), RCW 90.58, requires the County to review and update the existing Clallam County SMP consistent with the SMA and state SMP guidelines under WAC 173-26.
3. Under the SMA, Clallam County and Ecology share joint authority and responsibility for the update and administration of the SMP. Updates to the SMP require approval by Ecology to be effective.
4. Ecology conducted their review of the Clallam County Shoreline Master Program, providing a public comment period from January 14 through February 28, 2019.
5. Comments from Ecology were received by Clallam County on March 29, 2021, identifying 27 required and 39 specific changes necessary to make the SMP approvable.
6. The Board of County Commissioners held a work session on May 17, 2021 to discuss the requested changes necessary and to call for a public hearing to solicit public input.
7. The Board of County Commissioners held a public hearing on June 15, 2021 to consider public comment in their final action. The Hearing was continued until July 13, 2021, where the Commissioners accepted public testimony at two hearings on that day.
8. The Board of County Commissioners took action on July 20, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. The Board of County Commissioners accept all of Ecology's changes, including 27 required changes and 39 recommended changes, as proposed, with the exception of an alternative proposal for SMP 1.1 Background Information rewording it for final adoption with no need for subsequent insertion or specific dates or ordinance number.

2. The Board of County Commissioners approve the Shoreline Master Program (SMP) and its Exhibits (Exhibits A: Shoreline Jurisdiction and Shoreline Environmental Designation Maps; and Exhibit B: List of Clallam County SMP Waterbodies) pursuant to RCW 90.58.090.

PASSED AND ADOPTED this _____ day of _____ 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

ATTEST:

_____
Loni Gores, Clerk of the Board

_____
Bill Peach

Ordinance _____

An ordinance amending Clallam County Code Title 35.01 Shoreline Management

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 35.01, Shoreline Management, is:

Hereby repealed in its entirety and replaced with the following:

Section 35.01, Shoreline Management, is created to read as follows:

CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP) ~~– OCTOBER 2018~~

__Note__: This Clallam County Shoreline Master Program (SMP)~~ is intended to~~ update__s__ and replace__s__: (1) the 1976 SMP (last amended 1992); and (2) Clallam County Code (CCC) Chapter 35.01 SMP administrative standards under Title 35 CCC, Shorelines. The County ~~is in~~ has completed the process ~~of~~ for a comprehensive ~~updating~~updating of the SMP for consistency with the Washington State Shoreline Management Act (SMA), RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27). The County and the Washington State Department of Ecology share joint authority and responsibility for the update and administration of the SMP (RCW 90.58.050). ~~Updates~~All amendments to the County's SMP require approval by Ecology to be effective. ~~Per RCW 90.58.090, this SMP will be submitted to Ecology for state review and approval and additional public review.~~

More information on the Clallam County's SMP Update process and supporting documents (e.g., shoreline inventory & characterization, shoreline restoration plan) is available at the Clallam County Department of Community Development, Clallam County Courthouse, 223 E. 4th St., Port Angeles, WA, and on the County's SMP Update web site at: http://www.clallam.net/LandUse/SMP.html

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Chapter 1 Introduction and Overview

The following is an overview of the Shoreline Master Program (Program or SMP) with background information on how it was developed, a brief explanation of its general format, and tips on procedures for using this document for a proposed shoreline development project.

1.1 Background Information

Clallam County updated its SMP to improve protection of the shoreline environments and ensure their continued use and enjoyment. The update is also required by the Shoreline Management Act of 1971 (Act or SMA; RCW 90.58) and Chapter 173-26 of the Washington Administrative Code (WAC 173-26). The latter is a set of rules commonly referred to as the SMP Guidelines. The Washington State Department of Ecology (Ecology) promulgated these rules as instructions to local governments for preparing SMPs. Ecology reviews all locally adopted SMPs to ensure they meet the policies and provisions of the Shoreline Management Act. Ultimately Ecology must approve Clallam County's SMP update before it can take effect[1].

The Clallam County SMP is a comprehensive use plan for shoreline areas that includes goals and policies consistent with state law (RCW 90.58.020); maps, diagrams and charts or other descriptive material and text; use and development regulations; and administrative procedures for the shoreline permitting process. The SMP is based on the SMP guidelines (WAC 173-26), but tailored to the specific conditions and needs of Clallam County.

The Shoreline Management Act prioritizes water-dependent shoreline uses, which are those uses that are particularly dependent upon the water to support their use. The Act has two other main policy objectives:

- Promote public access for a substantial number of people; and
- Protect shoreline natural resources and functions.

A major concept in the protection of ecological functions is "no net loss." According to the SMP Guidelines:

"*…Local master programs shall include regulations and mitigation standards ensuring that each permitted development* ***will not cause a net loss*** *of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Local master programs shall include regulations ensuring that exempt development in aggregate will not cause a net loss of ecological functions of the shoreline." (WAC 173-26-186 (8b))*

No net loss means that where environmental impacts will occur, efforts must be made to mitigate or off-set those impacts to maintain baseline environmental processes and functions.

[1] Consequences for failing to achieve Ecology approval in a timely manner could result in legal challenges or other adverse circumstances. Ultimately, the State could step in and update the SMP for the County.

There are many steps to the SMP update process (Figure 1-1). At the beginning of the process, the County prepared a Consistency Review to identify and consider which if any of the existing SMP policies or regulations needed to change. The results are presented in the *Consistency Review Report (July 2011).* The Consistency Review identified several areas where the SMP could be improved to be more consistent with current State requirements, to enhance clarity and readability, and/or to address likely future development scenarios.

Clallam County also conducted a series of public forums, interviews, and workshops to talk with citizens about their goals and visions for shoreline management. The results are documented in two reports: the *Vision Statement* (August 2011) for Water Resource Inventory Areas (WRIAs) 17, 18 and 19, and the *Visioning Forums and Interview Report* (June 2011) for WRIA 20. These reports reflect the shared history of local residents and their ideas and goals about how to accommodate change in the future. Tribal community perspectives about shoreline use are also summarized, based on interviews with Tribal staff and elected officials. Finally, the vision reports talk about Clallam County shorelines in the future as a gauge for designing policies and regulations that will provide a future that the community wants.

A key step to support development of the SMP is the preparation of a shoreline inventory and characterization report (ICR) on all freshwater and marine shorelines subject to this Program. Two ICRs were prepared to cover County shorelines: 1) *Clallam County ICR for Portions of Clallam County Draining to the Strait of Juan de Fuca (March 2012)* that includes shorelines located within Water Resource Inventory Areas (WRIA) 17, 18 and 19 that are part of the Puget Sound Basin; and 2) *Clallam County WRIA 20 ICR (May 2012)* covering shorelines that are part of watersheds that drain to the Pacific Ocean. The ICRs describe the shoreline conditions in terms of their characteristics, functions, and values, and were compiled to meet the requirements in RCW 90.58.100(1) and WAC 173.26.201(2). The ICRs considered plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by Tribes and private individuals, and by other organizations dealing with pertinent shorelines of the state. The data sources are identified in the ICRs.

The ICRs include a Geographic Information System (GIS) database. This GIS will link the inventory information to parcels and applicable goals, policies, and regulations, and it will be updated as additional data become available. The GIS database was also used to update the Shoreline Environment Designations (SEDs) that apply to each shoreline segment. The SEDs provide a system for managing shorelines with similar ecological characteristics and land use patterns in a similar manner.

The ICRs will be used to administer the SMP as they provide pertinent information on baseline ecological conditions that need to be protected and maintained over time. The County will rely on the ICRs as well as other scientifically valid pertinent plans, studies and analyses that describe the shoreline environment when making permitting decisions. The ICRs and other background documents were developed during the SMP update process, which included multiple steps (Figure 1-1).

Clallam County convened a SMP Update Committee that met 13 times from April 2011 to April 2013. The SMP Update Committee provided input and review in the development of two earlier Draft SMPs released in February 2012 and November 2012. The County held regional public information meetings between 2011 – 2013 at key points as well as made presentations to interested groups and organizations on the SMP update. Public comments were also received by mail and email on earlier SMP drafts.

In November 2014, county staff presented a revised Draft SMP (November 2014) to the Clallam County Planning Commission. The updated 2014 Draft SMP considered input from SMP Update Committee and comments received from Ecology and other agencies, organizations, and the public; state SMP Guidelines; and was reorganized with the intent to ease administration and ability of the public to locate standards that may be applicable to a shoreline use or development. The County conducted regional

public forums on the 2014 Draft SMP in Sequim, Port Angeles, Sekiu and Forks in January 2014. The forums were followed by Planning Commission regional public hearings within these same communities in February 2015.

The Planning Commission reviewed the 2014 Draft SMP and comments received at 19 regular-meetings held between March 2015 and April 2016. Based on these deliberations, a revised Draft SMP (June 2017) was presented by County staff to the Commission for their review. The revised 2017 Draft addressed Commission direction for revisions and areas for further evaluation and update to the 2014 Draft SMP. It also included recommended revisions by County staff to clarify intent, further consolidate and organize standards, address inconsistencies, and correct errors (e.g., code references).

The Planning Commission reviewed the revised June 2017 Draft SMP at 7 regular-meetings held between June and September 2017. At their September 20, 2017 regular-meeting the Commission forwarded recommendation to approve the June 2017 Draft SMP with revisions to the Board of Clallam County Commissioners (BOCC). The Draft SMP (dated September 2017) represented the recommendation of the Planning Commission to the BOCC to update and replace the 1976 SMP (as amended) and Title 35 CCC.

The County also prepared two other SMP supporting documents: (1) *Countywide Shoreline Restoration Plan (February 2016)*; and (2) *Final Cumulative Impacts Analysis and No Net Loss (CIA/NNL) Report (June 2017)*. The 2016 Shoreline Restoration Plan identifies restoration potential, establishes goals and priorities of restoration actions, and develops a strategy for implementation in accordance with WAC 173-26-201 (2) (f). Implementation and future updates of the shoreline restoration plan will help support Clallam County in achieving no net loss of shoreline ecological functions. The 2017 CIA/NNL Report provides an analysis of cumulative impacts of reasonably foreseeable future shoreline development and how the County will achieve no net loss of shoreline ecological functions through the adoption and implementation of the SMP in accordance with WAC 173-26-201(3)(d).

The BOCC held a public hearing on December 12, 2017 on the Draft SMP (September 2017) recommended by the Planning Commission. The hearing was preceded by four regional public forums in November 2017 and three BOCC work sessions. Following the public hearing, the BOCC held 16 work sessions to consider the Planning Commission recommendation and public comments received and took ~~final~~ action to locally approve ~~adopt~~ the SMP on October 30, 2018 (Resolution 91-2018). ~~The final SMP adopted by the BOCC was submitted to~~ After the Department of Ecology ~~for~~ state review and conditional approval, the BOCC adopted this document as the final SMP ~~and approval and subject to additional public review.~~ This SMP is effective 14 days after Ecology's notice of final action.

The SMP, supporting documents (e.g., shoreline inventory and characterization, shoreline restoration plan, CIA/NNL Report) and other related information are available for viewing on the County's SMP Update website at: http://www.clallam.net/LandUse/SMP.html

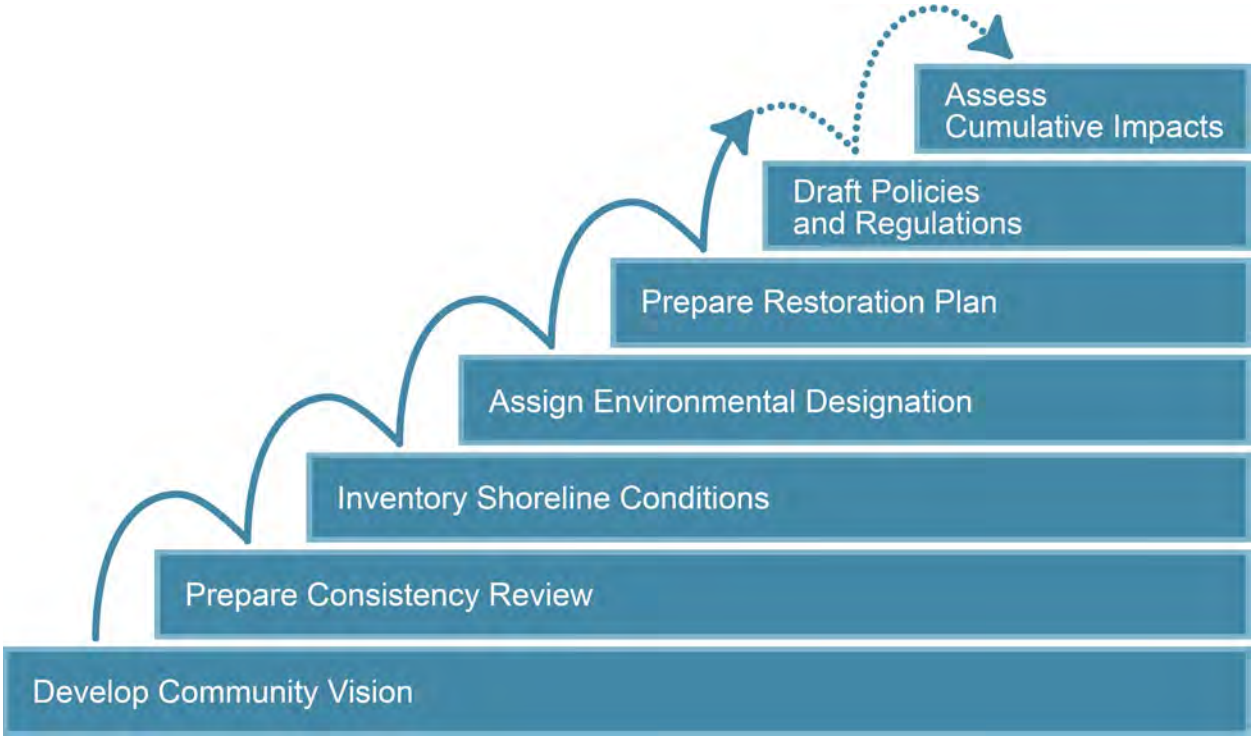


Figure 1-1. The Steps to the Shoreline Master Program Update Process

1.2 Program Content and Format

The Clallam County SMP includes goals, policies, and regulations for shoreline management. The goals, policies, and regulations provide direction to County planning staff and to shoreline users and developers on how to implement the state Shoreline Management Act (RCW 90.58) and its implementing rules in Washington Administrative Code (WAC) 173-26 at the local level. The SMP is intended to protect shoreline resources while allowing appropriate use and development of shoreline areas. The SMP is organized as separate chapters, which collectively will become Title 35 of the Clallam County Code (replacing the existing Title 35). Here is what each chapter of the SMP contains:

Chapter 1 contains a preamble and describes general goals of the SMP, which are largely based on the principals of the Shoreline Management Act and the feedback collected during the community visioning process. Chapter 1 explains the types of shoreline use and development activities over which the Program has jurisdiction and the Program's relationship to other land use plans, programs, and regulations.

Chapter 2 describes the shoreline environment designations that apply to each segment (or reach) of the shoreline. The designations reflect the ecological conditions, existing land use patterns, zoning, the types of health and safety hazards that are present (flooding or landslides, for example), geology, and other characteristics. The environment designations provide a framework for tailoring shoreline policies and regulations to different shoreline segments based on their characteristics. There are five different upland environment designations in Clallam County that apply to the shorelands, plus one additional designation that applies to the aquatic area (below the ordinary high water mark). Chapter 2 contains tables that describe the uses allowed within the various environment designations.

Policies and regulations that apply to specific shoreline uses and developments, including residential development, are listed in **Chapter 3**. The policies and regulations that apply to each shoreline development may vary depending on the shoreline environment designation assigned to that parcel. A

single development proposal may involve multiple uses and therefore may be subject to more than one set of policies and regulations. An example is a residential use that also involves construction of a private dock.

Policies are aspirational statements that are meant to be general or broad in scope. Policies are typically phrased using the word "should." Regulations flow from the policies and define the conditions under which shoreline development or use is allowed or not allowed. Policies give context to the regulations and aid in their interpretation. Here is an example:

> **Policy**: *The County should take active measures to preserve unarmored shorelines and prevent the future proliferation of bulkheads and other forms of structural shoreline stabilization.*
>
> **Regulation**: *Use of a bulkhead, revetment or similar shoreline armoring to protect a platted lot where no primary use or structure presently exists shall be prohibited.*

Chapter 4 contains policies and regulations for specific types of shoreline modification such as shoreline stabilization and dredging. These modifications can have significant effects on the shoreline environment and require very specific policies and regulations.

Chapter 5 contains general policies and regulations that apply to all types of use and development within shoreline jurisdiction including policies and regulations for "grandfathered" uses and development. **Chapter 6** contains the shoreline buffer and vegetation conservation standards to which all developments must adhere. **Chapter 7** has specific protections for critical areas located within shoreline jurisdiction. The shoreline-specific critical areas regulations are similar to the existing critical areas regulations in Clallam County Code 27.12, but contain many revisions that reflect the most current, accurate, complete, available and applicable ~~best available~~ science and ensure consistency with the Shoreline Management Act. **Chapter 8** describes the standards that shoreline uses and developments must meet to achieve the no net loss requirements of the Shoreline Management Act.

Shorelines designated as shorelines of statewide significance (SSWS) by the Shoreline Management Act (RCW 90.58) are listed in **Chapter 9**, along with policies for their use. Shorelines of statewide significance are major resources from which all people of the state derive benefit. These areas must be managed to ensure optimum implementation of the Act's objectives.

Chapter 10 addresses the administration of the Program. This chapter contains procedures and review criteria for substantial development permits, conditional use permits, and shoreline variances.

Chapter 11 provides definitions for important terms used throughout the document.

1.3 How to Use this Document

If you intend to develop or use lands adjacent to a shoreline of the state, consult first with the Clallam County Department of Community Development (DCD) to determine if you need a shoreline permit; they will also tell you about other necessary government approvals that may be required. Most development projects require review by multiple County departments and many also require approval from state and/or federal agencies. Ultimately, it is your responsibility to obtain all of the required permits and comply with applicable laws.

To find out what Program requirements might apply to your proposed shoreline activity, first determine what type of use or development best describes it. All shoreline activities can be identified by a particular use and may also include a development. To summarize the definitions in Chapter 11:

- Development includes structures and other tangible evidence of a shoreline activity, while a
- Use refers more to the intended purpose of a development activity or to a non-structural or intangible shoreline activity.

For example, an observation blind along with the clearing and grading required for siting are types of development related to bird watching as a passive recreational use. Also consider if the type of use is water-oriented or not. The three categories in order of priority are: water- dependent, water-related, and water enjoyment. While some uses that are not water-dependent are still preferred, all shoreline use and development activities must comply with the Program even if a permit or letter of exemption is not required. Chapters 3, 4 and 5 address the most common and anticipated shoreline activities.

Next, determine which shoreline environment designation applies to your site (see Exhibit A). Then check to see if the environment designation policies and regulations in Chapter 2 allow the proposed use (refer to Tables 2-1 and 2-2). Your proposal may be permitted, allowed only as a conditional use, or prohibited. It may also require a variance if you cannot meet the dimensional requirements such as shoreline and critical area buffers (see Tables 6-1 and 6-2), height limits, etc.

Although your proposal may be permitted by the Program, or even exempt from specific permit requirements, you must comply with all relevant policies and regulations of the entire Program. Review Chapters 3 and 4 to learn about policies and regulations specific to your proposed use. Review Chapters 5 through 8 to learn about buffers and setbacks, clearing and grading, vegetation conservation, and other requirements that may apply to your project. The County may require you to complete special studies or analyses prior to implementing your project. If your proposal is found to have unavoidable adverse impacts on shoreline function or processes, based on the terms of this Program, you will be required to provide mitigation to offset the impacts so that the net effect of your proposal is neutral.

For development and uses allowed under this Program, the County must find that the proposal is consistent with the applicable policies and regulations. When your proposal requires an approval typically, a permit or statement of exemption, submit the required application materials to the Clallam County Department of Community Development. Processing of your application will vary depending on its size, value, and features. Contact the Clallam County Department of Community Development for additional information.

1.4 SMP Update Vision

Clallam County is endowed with one of the most striking natural settings in Washington. The County's lake, river, and marine resources are among the most pristine, diverse, valuable, and picturesque in the nation. In the mid-1970s Clallam County developed a comprehensive strategy for managing its shoreline resources in accordance with the state Shoreline Management Act. The County adopted a Shoreline Master Program with policies and regulations designed to accomplish three specific goals: (1) protect the natural environment along shorelines; (2) provide public access to public waters; and (3) accommodate water-dependent uses.

Clallam County has pursued these goals for the benefit of residents and visitors alike for over 40 years. During this time, County residents have witnessed the passage of the Growth Management Act (GMA), County adoption of a County Critical Areas Code under the GMA to protect sensitive areas (wetlands, geologically hazardous areas, aquatic and wildlife habitat conservation areas, frequently flooded areas, and critical aquifer recharge areas), regional watershed planning initiatives, the start of the Elwha River ecosystem restoration, the Dungeness River instream flow rule-making process, new National Flood Insurance Program requirements, significant public and private investments in salmon recovery, and a

variety of other events. Despite the changing social, political, and economic circumstances, the County's original Shoreline Master Program has never been comprehensively updated . . . until now.

Through all these changes, the County's shoreline resources remain in relatively good condition overall. Development in the western part of the County is generally sparse and, in many ways, the shoreline ecosystem functions much as it has for decades. The fact that salmon runs in most of the rivers that drain to the Pacific Ocean have not been federally listed as threatened or endangered is evidence of the good stewardship of shoreline property owners, government agencies, Tribes and citizens.

Fishing organizations consider the rivers of western Clallam County to be among the most productive and pristine in the state (Figure 1-2). Effective land use regulations provided through the Shoreline Master Program will help protect the riparian corridors and in-stream habitats that sustain these salmon runs, preserving these important resources for future generations.

Figure 1-2. The SMP can help ensure that future generations will continue to enjoy fishing on the Sol Duc and other rivers (Photo: Clallam County)



Extensive stands of private and state-owned timberland line the major rivers including the Bogachiel, Calawah, Quillayute, Hoko, Clallam, Sekiu, and Pysht. The forests help keep stream temperatures low, provide food resources for aquatic species, and contribute woody debris that builds complex instream habitat for salmon and trout (Figure 1-3). The Shoreline Master Program seeks to accommodate sustainable timber harvest on managed forest lands while preserving the essential ecological functions that healthy riparian forests provide.

Figure 1-3. Forests, like these at the confluence of the Calawah and Bogachiel rivers, provide shade, large woody debris and other valuable functions (Photo: Ecology, 2007)



Conditions are more variable along the shorelines in the central and eastern parts of the County. Many of the rivers draining into the central Strait have degraded floodplains or blockages that prevent salmon from migrating to upstream spawning grounds. The County is working with Tribes, timber companies, property owners, and state resource agencies to restore parts of the Lyre River, Twin Rivers, Salt Creek, and Morse Creek to improve habitat and allow these rivers to meander naturally across their floodplains. The Shoreline Master Program promotes and encourages these types of shoreline restoration efforts.

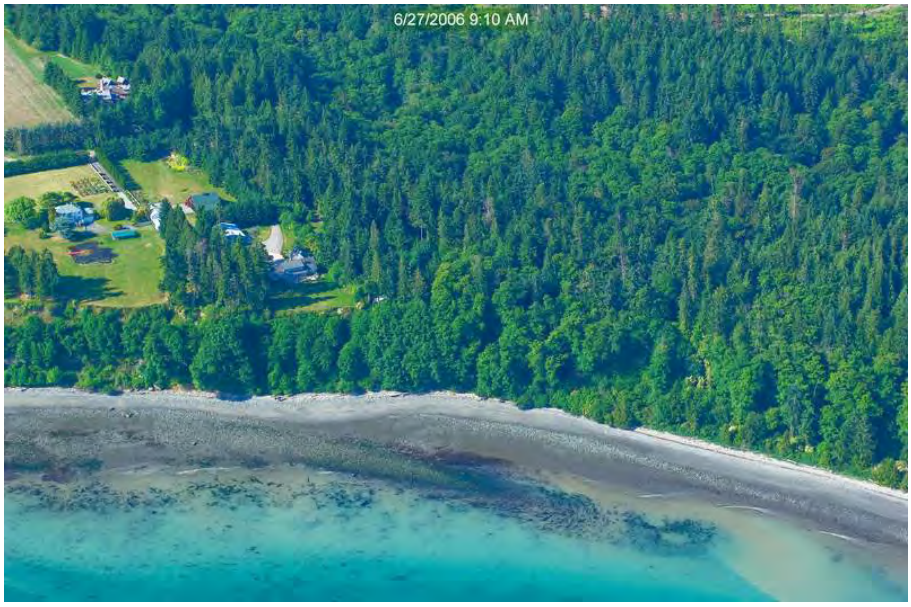
A major restoration effort is now underway on the Elwha River. Largely unimaginable when the Shoreline Master Program was first adopted, demolition of the Elwha dams creates the first opportunity to witness the "recovery" of a major river ecosystem. It also creates tremendous uncertainty for the residents who live downstream. Property owners and scientists alike acknowledge the need to monitor and respond quickly to changing conditions in the years following dam removal. Lessons learned on the Elwha River will improve and inform our ability to manage and restore other large rivers in Clallam County.

Another major restoration effort is underway on the lower Dungeness River, where efforts – including estuary and associated floodplains restoration – is the top restoration priority for the Dungeness basin. Initial restoration actions by the County, Jamestown S'Klallam Tribe, and State Department of Fish and Wildlife have included property acquisitions, removal of structures and septic systems associated with previous uses, and native vegetation enhancement. Additional acquisitions, levee setbacks, and estuarine marsh restoration are currently being planned. The restoration of the Lower Dungeness will increase the quantity and quality of spawning, rearing and transitional habitat available to salmon runs. Efforts will also reconnect flood water storage areas, decreasing flood hazards to surrounding human uses and structures. These restoration efforts require considerable resources of time and money. Protecting existing resources from harm or degradation is generally much less expensive; that's why the Shoreline Master Program contains policies and regulations to prevent new impacts from occurring.

Because of its location in the rain shadow of the Olympic Mountains, eastern Clallam County has experienced relatively rapid growth compared to other areas of the County. This has led to shoreline management challenges related directly to water—too little flow for salmon and agriculture at certain times of the year; too much flow for river residents during floods; and substandard water quality caused by animal wastes and malfunctioning septic systems. The Shoreline Master Program can help address

these issues by ensuring that new developments are located and designed to minimize adverse impacts on the environment and by reducing the potential for conflicts between adjoining land uses (Figure 1-4).

Figure 1-4. Effective regulations can help ensure new developments are located and designed to maintain healthy stands of riparian vegetation and prevent and minimize adverse impacts on the shoreline environment (photo: Ecology)



The marine shorelines of Clallam County are special in many ways. The Strait of Juan de Fuca is a vital passageway for goods and materials as well as a critical migratory corridor for salmon and other species. Chinook salmon and Hood Canal summer chum, two federally threatened species, are among the many culturally and economically important species that migrate to and from the ocean through the Strait. These species forage and rear in the eelgrass and kelp beds that predominant in the nearshore environment. The abundant eelgrass and kelp beds that occur from Sequim Bay to the Makah Reservation are part of what makes the County's nearshore environment so ecologically valuable and worthy of continued protection (Figure 1-5).

Figure 1-5. Abundant kelp on Bullman Beach contributes to a healthy nearshore environment for fish and wildlife (Photo by A. MacLennan)



Clallam County's beaches would not exist without the adjoining bluffs that provide the sands and gravel materials that make up the beach surface (Figure 1-6). The steep bluffs and rocky shores along the Strait supply sediments that build beaches and spits, including Dungeness Spit—the longest natural sand spit in the United States—which is nourished by the "feeder bluffs" to the west. The beaches and spits become spawning grounds for smelt, sand lance, and herring (Figure 1-7). They are also treasured places for surfing, beachcombing and other forms of recreation. A recent (2013) study of feeder bluffs in Clallam County conducted by scientists from the Washington Department of Natural Resources, the Coastal Watershed Institute and Western Washington University confirmed that beach sediment from feeder bluffs play an important role in maintaining habitat for forage fish. The study authors suggest that feeder bluffs be managed conservatively because loss of sediment supply to the nearshore, due to in-river damming and shoreline alterations, results in significantly larger and more variable beach sediment at the drift-cell scale. They note that protecting the role of feeder bluffs in nearshore habitat restoration practices is a high priority.

Figure 1-6. Sediment delivery and transport processes - bluff erosion, landslides and littoral drift help to sustain beaches and spits (Source: King County)

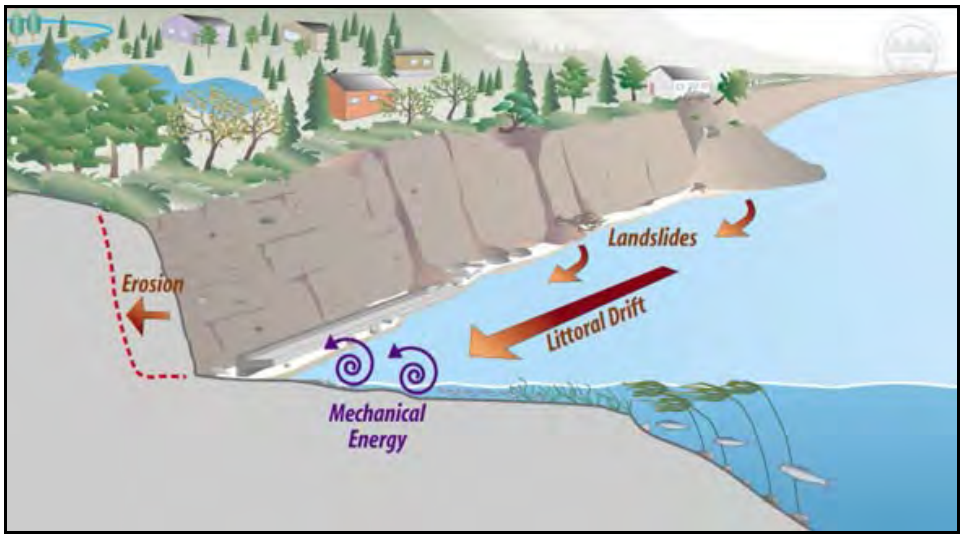


Figure 1-7. Left: One of the many "exceptional" feeder bluffs along the Strait of Juan de Fuca, Southeast of Dungeness River (photo: A, McLennan). Right: Small forage fish eggs on gravel beach. Forage fish are a critical part of the diet for salmon and other species in the Strait of Juan de Fuca (photo: M. Clancy)



As part of the Shoreline Master Program update, Clallam County conducted a first-ever, comprehensive inventory and assessment of marine bluffs along the Strait of Juan de Fuca (see the March 2012 Shoreline Inventory and Characterization Report for WRIAs 17-19). Using a combination of field investigation and aerial photo interpretation, coastal geologists mapped and categorized the bluffs based on their geologic characteristics and contribution to sediment input. The mapping revealed high variability in the range of geomorphic conditions and the relative distribution of the different shore types found along the marine shore. The bluff characteristics vary due to the relative range of exposure/fetch, contrasting lithology/stratigraphy, sediment transport rates, drift cell lengths, and the influence of large-scale rivers systems including the Dungeness, Elwha, Salt Creek, Lyre, Twin Rivers, Pysht, Hoko, Clallam and Sekiu rivers. The mapping highlights three different types of feeder bluffs: talus bluffs (mainly Western Clallam County), feeder bluffs and "exceptional" feeder bluffs. The "exceptional" feeder bluffs (mostly located between the mouth of Morse Creek and the base of Dungeness Spit, between Kulakala Point and Gibson Spit, and along the Miller Peninsula) are most rapidly receding bluff type. The bluff mapping and characterization allow Clallam County to tailor the shoreline regulations to protect the areas that are most critical to the marine sediment supply.

The eroding bluffs that are essential to beaches and spits can also be a source of anxiety to waterfront homeowners. The primary driver of bluff recession in Clallam County and other parts of the region is wave attack at the toe or base of the bluff. Clallam County bluffs are also subject to landslides, triggered primarily by forces acting on top of the bluffs, making them inherently unstable. There is widespread evidence of erosion and landslides, both recent and historic, all along the Strait of Juan de Fuca. Some areas are more prone to erosion than others. Erosion rates in the range of 3 feet per year have been documented west of Dungeness Spit. As a result, a home site that was 131 feet landward of the edge of the bluff in 1956 is now a mere 28 feet from the edge (Figure 1-8). Some residents actively consider moving their houses back from the edge of the retreating bluffs for fear of losing their homes in a catastrophic event. More residents may face similar decisions in the coming years.

Figure 1-8. Bluff erosion threatening homes along Cypress Circle, west of Dungeness Spit (Source: R. Johnson)



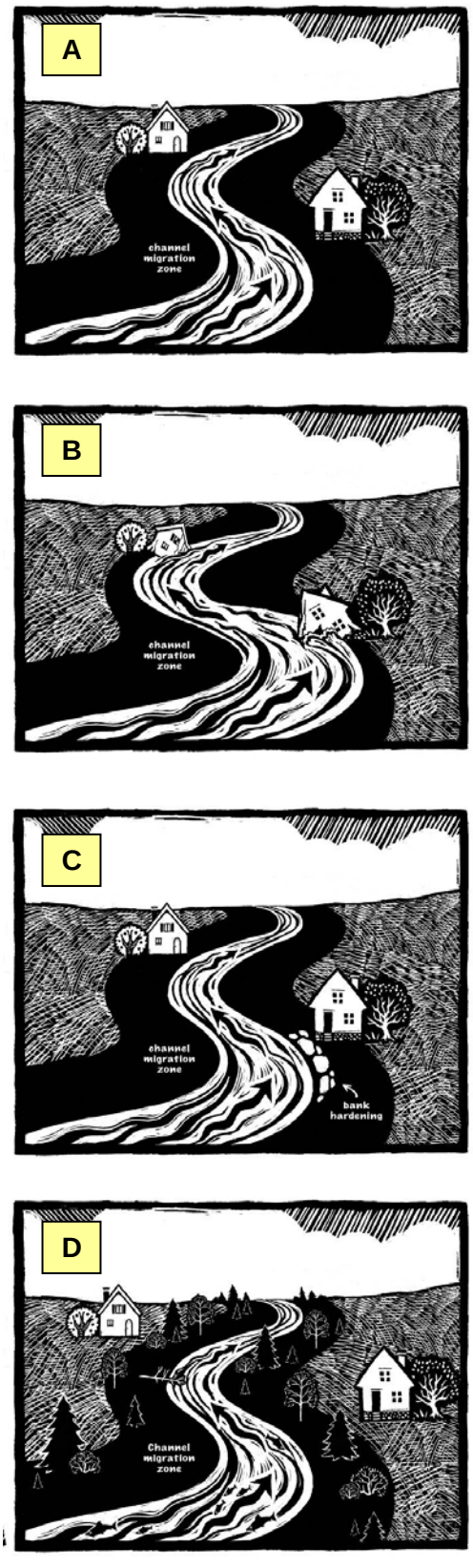
The threat of erosion and landslides will continue to pose challenges to developments along the bluffs (Figures 1-9 and 1-10). These challenges could intensify in the future as the effects of climate change and sea level rise become more apparent. These changes present significant challenges for shoreline planning in Clallam County and throughout the world. Planners and property owners will need to be increasingly vigilant when making decisions about how, where and whether to develop along the County's shorelines.

Figure 1-9. Erosion at base of bluff contributing sand, cobble and gravel to the nearshore. Erosive forces could become more severe in the future due to climate change (Photo by A. MacLennan)



Figure 1-10. Evidence of recent landslide activity near Shipwreck Point (Photo by A. MacLennan)





Flooding and channel migration pose serious threats to citizens and property in Clallam County (Figure 1-11, a through d). Channel migration is a natural process that has a dramatic effect on freshwater rivers and streams and the people who live near them. River channels naturally move across and sometimes outside of their mapped floodplains by eroding the outside banks of a meander bend, or through channel avulsion. This can create very hazardous situations for development within the channel migration zone, which can be damaged or destroyed by gradual or sudden channel shifts (Figure 1-12).Where vegetation along the river has been removed, the risk of channel migration is generally greater.

People often try to contain rivers within their channels by hardening the banks with riprap or other materials that resist erosion. Levees and bank hardening are cited as major factors in the decline of salmon runs, so the challenge of protecting people *and* habitat is very real in Clallam County. Bank hardening reduces habitat quality for salmon and other species and can accelerate the flow, transferring the erosive energy downstream and potentially creating problems for other property owners. Locating development outside of the channel migration zones and maintaining riparian vegetation along stream banks is a safer, less costly and ecologically preferred alternative.

Already, the County has worked with partnering agencies to identify and move at-risk structures from the floodplain along the Dungeness River, and have done so in a way that maintains ongoing use of the structure (Figure 1-13). These efforts have occurred concurrently with ecological restoration.

The extent of a channel migration zone is difficult to accurately determine at a site- or parcel-scale; an in-depth study of an entire river reach by a professional hydrogeologist is required for accurate mapping. The Department of Ecology has documented and mapped many areas that are subject to potential channel migration along shorelines and the Jamestown S'Klallam Tribe has mapped potential channel migration zones (Rot, Byron and Edens, Pam; Delineation of the Dungeness River Channel Migration Zone, River Mouth to Canyon Creek; October 2008) for the Dungeness River. The County has used this information to inform the development of the policies and regulations in this Program.

Figure 1-11a-d. Channel migration areas are potentially hazardous areas and development within these areas should be avoided to reduce safety risk and prevent ecological impacts (From the Dungeness Flood Hazard Management Plan; sketches by Amanda Kingsley, used with permission)

Figure 1-12. Locating new developments outside of channel migration zones will help prevent situations like this which occurred during a recent Dungeness River channel migration event (Photo: Randy Johnson)



In the future, more tough choices must be made about how to manage these areas and minimize risks to people, infrastructure and property. The Shoreline Master Program includes policies and regulations to limit new development in floodplains and channel migration zones, which helps keep these habitats intact and keeps people and property out of harm's way (Figure 1-13). For example, this Program is consistent with the Dungeness River Management Plan recommendations concerning development within the floodplain and channel migration corridor.

Figure 1-13. The County and partners are moving existing developments outside of channel migration zones to prevent potential human and property harm; this project along the Lower Dungeness River also allowed for riparian and floodplain restoration (Photo: Clallam County)



Tsunami hazards are another consideration for shoreline developments in Clallam County. The Washington State Department of Natural Resources in coordination with local emergency management officials have developed tsunami hazard area evacuation route maps to assist coastal residents and visitors find safer locations in case of an earthquake and tsunami. These maps are incorporated in a tsunami

evacuation information brochure available on the Clallam County Emergency Management web pages at: http://www.clallam.net/Maps/evacuation.html

The high energy, dynamic nature of the Strait and the Pacific Coast makes most of Clallam County marine shorelines unsuitable for docks, piers, and other offshore structures. As a result, there are relatively few structural modifications along the marine shoreline. Relative to other marine shoreline areas in the Puget Sound region, Clallam County has a low percentage of armoring. There are areas, however, where natural sediment supply processes have been disrupted. One area that is armored is the shoreline west of the mouth of Morse Creek into downtown Port Angeles, where fill and riprap have been placed and maintained at the toe of the feeder bluff along this reach to create and protect the former railroad grade that now serves as the alignment for the Olympic Discovery Trail. Similar to the railroad the riprap is intended to protect the trail, and the bluff with residences at top, from direct exposure to wave action, although wave caused erosion still occurs and bluff failures and slides remain common due to upland factors. The loss of natural sediment supply in this area reduces the amount of material available to down-drift beaches. Shoreline armoring has resulted in more dramatic changes along Ediz Hook, where loss of sediment supply in the area caused rapid erosion and necessitated riprap along its entire length to prevent washouts. The Shoreline Master Program contains policies and regulations designed to discourage and limit the construction of new shoreline armoring. This is consistent with the Puget Sound Partnership's goal of reducing armoring throughout the Puget Sound region.

Lakes in Clallam County provide unique opportunities for private residential development and public recreational use. Both Lake Sutherland and Lake Pleasant support water-related development and are popular destinations for fishing, boating, and other water-oriented pursuits. Large stretches of the lake shorelines are forested and relatively undeveloped, which adds to their natural beauty and ecological value (Figure 1-14).

Figure 1-14. The natural setting at Lake Pleasant (Photo: Google Earth)



Although the basic goals of shoreline management are as relevant today as they were in the 1970s, the realities of balancing environmental protection with public access and water-dependent use are more complicated than they were when the original Shoreline Master Program was adopted. This updated Shoreline Master Program reflects these realties and provides an important tool for the continued stewardship of shoreline resources. Other tools such as ecological restoration, water cleanup plans, open space tax incentives, beachwatcher and streamkeeper programs, stormwater management plans, land acquisition programs, and property owner outreach will be needed to fully realize the community's goals for shoreline management in the years to come.

Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments, including in Washington State. In June of 2018, the Marine Spatial Plan for Washington's Pacific Coast was finalized. This was the result of a multi-year planning process beginning in 2010 when the State enacted a marine spatial planning law to address resource use conflicts and the potential for new ocean development. The plan was developed by an interagency team with input from stakeholders represented by the Washington Coast Marine Advisory Council (WCMAC). Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the most appropriate locations for particular uses to achieve ecological, economic and social objectives. In March 2010, the state legislature enacted a marine spatial planning law to address resource use conflicts in Washington waters. In 2012, the Governor amended the law and the legislature provided funding for mapping, ecosystem assessment, data tools and stakeholder outreach on Washington's Pacific Coast. The Legislature provided continued funding in 2013 for the development of a Pacific Coast Marine Spatial Plan.

Maintaining the value of Clallam County's shorelines benefits Tribes who have lived here for centuries, hikers who enjoy the views from the Olympic Discovery Trail, fishers after kokanee in Lake Pleasant, shellfish growers in Sequim Bay, surfers riding waves at Crescent Beach, business owners who benefit from tourism and, of course, shoreline property owners. Thoughtful implementation of this Shoreline Master Program is in the interest of all County citizens.

1.5 Shoreline Master Program Goals

The purpose of this Program is to promote the health, safety, and general welfare of the community by providing reasonable regulations for use and development of Clallam County shorelines consistent with the Washington State Shoreline Management Act of 1971 (Revised Code of Washington [RCW] 90.58) as amended. This Program will be implemented and administered to achieve the following goals:

1. To preserve, to the fullest extent possible, the scenic, historic, and ecological qualities of the shorelines of Clallam County, in harmony with those uses which are essential to the life of its citizens.

2. To provide property owners with clear guidelines and requirements for future shoreline development and provide fair and reasonable allowances for the continued use and enjoyment of private property.

3. To ensure, at minimum, no net loss of shoreline ecological functions and processes, and to promote, where feasible, voluntary and collaborative efforts by government agencies, Tribes, businesses, property owners, and other citizens to restore shorelines that have been impaired or degraded in the past by non-natural events.

4. To respect the rights of private property owners and the rights of citizens-at-large to use and enjoy shorelines of the state.

5. To accommodate and give ~~priority~~preference to water-dependent uses such as aquaculture and ~~preferred~~ priority uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.

6. To discourage development in areas where there is a documented risk of erosion, landslides, flooding, channel migration, or other health or safety hazards.

7. To facilitate public access to public waters where it will not interfere with private property rights or irreparably harm the ecological quality of those shorelines.

8. To maintain and protect water quality and quantity for the benefit of people, fish, and wildlife.

9. To complement and contribute positively to salmon recovery efforts and promote healthy and sustainable salmon populations in the County's lakes, rivers, and marine waters.

10. To preserve shorelines for water-dependent and water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-oriented ~~related~~ use of shorelines.

11. To channel future commercial and industrial use into shoreline areas already so utilized, or which lend themselves to such use.

12. To discourage the establishment of new non-water-oriented uses on the shoreline except when they provide substantial public benefit with respect to public access and/or ecological restoration.

13. To use sound, credible, scientific data and information when making decisions about shoreline use and development so that people, resources and property are protected. Credible scientific information includes but is not limited to the March 2012 Shoreline Inventory and Characterization Report (ICR) for WRIAs 17-19; the May 2012 WRIA 20 Inventory and Characterization Report (ICR); the Countywide Shoreline Restoration Plan; and the SMP Final Cumulative Impact Analysis and No Net Loss Report.

14. To increase public awareness of sea level rise projections, and tsunami hazard areas and evacuation route maps in coastal areas.

15. To inform citizens and property owners about information on potential climate change and sea level rise impacts such as the 2015 Climate Change Preparedness Plan for the North Olympic Peninsula, as amended, and the Projected Sea Level Rise in Washington State – A 2018 Assessment.

1.6 Applicability

1. Except when specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program.

2. The provisions of the Program shall apply to all shorelines of the state in unincorporated Clallam County, including all freshwater and saltwater shorelines, shorelines of statewide significance, and all shorelands as defined in RCW 90.58.030, except where this Program makes explicit exception consistent with state law.

3. This Program shall apply to every person, individual, firm, partnership, association, organization, local or state governmental agency, public or municipal corporation, or other non-federal entity who or which:

    a. Proposes any new use, activity, development or structure or a use, activity, or development whose permit has expired within that portion of the unincorporated area of Clallam County subject to the Shoreline Management Act, as now or hereafter amended; or

b. Proposes a change, modification, addition or alteration to an existing use, activity, development or structure within that portion of the unincorporated area of Clallam County subject to the Act, as now or hereafter amended.

4. Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and Washington Administrative Code (WAC)173-27-060(1).

5. Activities on privately owned lands (in-holdings) or any lands subject to non-federal/tribal ownership, lease, or easement, including tribal lands owned in fee by non-tribal members that fall within the external boundaries of federally/tribally owned lands shall be subject to this Program.

1.7 Exceptions to Applicability

1. This Program shall not apply to:

a. lands held in trust by the United States for Indian Nations, Tribes, or individuals;

b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210, including inter-tidal lands between the ordinary high water mark and extreme low water located within the Park along the Pacific Coast; and

c. The exercise of treaty rights, as acknowledged and provided for in RCW 90.58.350, the Shoreline Management Act of 1971.

2. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under chapter 70.150D RCW.

b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are no required to obtain substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

~~a.~~e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

1.8 Jurisdictional Limits

1. The jurisdictional limits of this Program correspond to the following areas, which are defined in RCW 90.58.030 as shorelines of the state:

   a. All marine waters of the Strait of Juan de Fuca – the jurisdiction shall extend waterward from the ordinary high water mark to the state boundary with British Columbia; and

   b. All marine waters of the Pacific Ocean – the jurisdiction shall extend from the ordinary high water mark (excluding the area between the ordinary high water mark and extreme low water located in Olympic National Park) to the state boundary (the three nautical-mile limit). The waters of the Pacific Ocean below (waterward) of the ordinary high water mark (except for the excluded areas in Olympic National Park), including designated marine sanctuaries and bedlands owned by the Washington State Department of Natural Resources, shall be subject to this Program even where the adjacent shorelands are under federal or tribal ownership; and

   c. Reaches of rivers and streams where the mean annual flow is 20 cubic feet per second or greater; and

   d. Lakes and reservoirs 20 acres and larger in area; and

   e. Shorelands adjacent to the above water bodies subject to the provisions of this Program that include: those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; all associated wetlands and river deltas; and the full-extent of the mapped 100-year floodplain pursuant to RCW 90.58.030 (2)(d)(i); as defined herein, and

   f. Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).

2. The portion of any individual parcel subject to shoreline jurisdiction shall be determined by the County on a case-by-case basis at the time shoreline development is proposed. The Administrator may require proponents of shoreline development proposals to provide site-specific information on the location or extent of the floodplain, the ordinary high water mark, and/or any associated wetlands or other critical areas to determine the extent of shoreline jurisdiction on a parcel-by-parcel basis.

3. The County shall maintain a map, which shall be appended (see Exhibit A) to this Program, showing the general location and approximate extent of shorelines subject to this Program. The County shall also maintain a Geographic Information Systems database that depicts the coordinates for locating the upstream extent of shoreline jurisdiction (that is, the location where the mean annual stream flow is at least 20 cubic feet per second). The database shall also show the approximate location of the floodplain, floodway, wetlands, feeder bluffs, landslide hazard areas, channel migration zones and other features that may have a determinant effect on the jurisdictional boundaries of the Program. The database shall show features that have been identified by local, state and/or federal agencies using the best available information. The map and database shall be used for planning purposes only. The map and database shall be updated regularly as new information is made available and the public shall have access to the information upon request.

1.9 Classification of Shoreline Uses and Developments

1. Shoreline uses and developments shall be classified as follows:

    a. Permitted uses and developments – Uses and developments that are consistent with this Program and RCW 90.58. Applicants proposing such uses/developments shall be required to obtain from the County one or more of the following authorizations: a shoreline substantial development permit per Section 10.2.1, a shoreline conditional use permit per Section 10.2.2, a shoreline variance per Section 10.2.3, or a statement from the County Community Development Department that the use/development is exempt from a shoreline substantial development permit per Section 10.2.5, of this Program.

    b. Prohibited uses and developments – Uses and developments that are inconsistent with this Program and/or RCW 90.58 and which cannot be allowed through any permit or variance.

    c. Grandfathered uses and developments – Existing uses and developments that were legally established prior to the effective date of this Program shall be allowed to continue without modification, provided that redevelopment, expansion, change of use, or replacement of such uses/developments shall be regulated according Section 5.1 of this Program.

2. All proposed shoreline uses and development activities occurring within shoreline jurisdiction shall comply with this Program and RCW 90.58 whether or not a shoreline permit is required.

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed outright. It means the use/development may be allowed if it is implemented according to the policies and regulations of this Program. Permitted uses and developments are subject to review and approval by the County; conditional uses and variances are also subject to review and approval by the Department of Ecology. Many permitted uses/developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties and/or natural resources and therefore must comply with the Program in order to avoid or minimize such adverse impacts. The County may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of the project with the Shoreline Management Act and the Program.

4. Compliance with this Program is demonstrated by the issuance of a statement of exemption, shoreline substantial development permit, conditional use permit or variance, as specified in Section 10.2 of this Program.

5. Non-project actions, such as rezones, code and plan adoption, and annexations, shall be reviewed for consistency with this Program. Prior to taking action on a zoning or comprehensive plan map amendment, the proponent shall complete an environmental assessment that shall be approved by Clallam County to confirm the nature, extent, and rating of shorelines and critical areas on the property; determine if the subsequent development proposal would be consistent with this Program; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any State Environmental Policy Act (SEPA) threshold determination pursuant to Chapter 27.01 CCC, Clallam County Environmental Policy. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

6. Clallam County shall not grant any permit, license, or other development approval that is inconsistent with the provisions of this Program.

1.10 Authority

1. This Program is adopted under the authority granted by RCW 90.58 and WAC 173-26. The Shoreline Management Act and this Program are exempt from the rule of strict construction and shall be liberally construed to give full effect to its goals, policies, and regulations. This means that the interpretation of this Program shall not only be based on the actual words and phrases used in it, but also by taking its deemed or stated purposes into account.

2. In administering this Program and evaluating development proposals regulated by the Program, Clallam County, as the Administrator, shall:

   a. Make available to the public information including but not limited to: maps showing the general location and extent of shoreline designations; maps and information describing feeder bluffs, hazard areas such as steep slopes, landslide and erosion hazards, floodplains and channel migration zones; and any public data related to shoreline functions and characteristics.

   b. Confirm and make interpretations, where needed, of the regulatory boundary of the Program and the applicability of protection standards contained within.

   c. Determine whether development proposals are consistent with this Program, and grant, deny, or condition projects as appropriate.

   d. Determine if the protection mechanisms and mitigation measures proposed by development proponents are sufficient to protect the public health, safety, and welfare consistent with the goals, policies, and regulations of this Program.

   e. Maintain and make available for public inspection all records pertaining to certificates of compliance or other permits granted, denied, or conditioned under this Program.

   f. Coordinate review of proposals with other agencies of jurisdiction and relay information to the applicant about other required permits for any development proposal within shorelines.

3. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure:

   a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC.

   b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable.

   c. That the Program reflects any changes in local circumstance, new information or improved data.

4. The County shall convene a citizen review panel to assist in the periodic review process and shall report the findings to the public at-large.

1.11 Relationship to Other Plans and Regulations

1. Uses and developments regulated by this Program may also be subject to other provisions of the Clallam County Code, the Clallam County Comprehensive Plan, the Washington State Environmental Policy Act (RCW 43.21C and WAC 197-11), the federal Clean Water Act, the federal Endangered Species Act, the State Water Pollution Control Act, the State Hydraulic Code and various other local, state, and federal laws. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development, or activity, regardless of whether this Program specially calls for such compliance.

2. The provisions of this Program are intended to complement and not duplicate existing local, state, and federal regulations. When development actions are subject to multiple regulations with overlapping and complementary purposes (such as minimizing environmental impacts), the County shall conduct the development review process in an integrated, fair, and efficient manner so that project proponents have a straightforward pathway for compliance.

3. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.

4. All County development regulations including, but not limited to zoning, subdivision, building, and health regulations apply in addition to this Program, except that regulation of critical areas within the shoreline jurisdiction is accomplished exclusively by this Program.

5. In the event this Program conflicts with other applicable County policies or regulations, all regulations shall apply. Unless otherwise stated, the more restrictive provisions shall prevail.

1.12 Limitations and Disclaimer

1. The degree of environmental protection required by this Program is considered reasonable for regulatory purposes. This Program does not imply that lands outside of shoreline jurisdiction do not provide beneficial functions, nor does it imply that any lands within or outside of shoreline jurisdiction will be free from hazards. This Program shall not create liability on the part of Clallam County, any officer, public official, or employee thereof, for any damages that result from reliance on this Program, providing assistance to applicants/proponents as specified under Section 8.2.5, or any administrative decision lawfully made pursuant to the spirit and purpose of this Program.

2. Maps and other data prepared and made publicly available by the County or other agency to assist in the implementation of this Program shall be based on the best available information. This information shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards of this Program to a property.

3. The shoreline jurisdictional boundaries depicted on the maps shown in Exhibit A are based on the approximate location of the ordinary high water mark (OHWM), 100-year floodplain, and associated wetlands. The maps are intended for planning purposes only and do not necessarily identify or depict the precise lateral extent of shoreline jurisdiction or the location of all associated wetlands and critical areas regulated by the SMP. Interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of shoreline jurisdiction, floodplains, wetlands, critical areas, and other such features. The

designations assigned to each shoreline reach shall apply throughout the full jurisdictional limits set forth by this SMP as determined on a parcel-by-parcel basis at the time a shoreline use or development is proposed. In the event of a mapping error or discrepancy, the text of this SMP and applicable authority of RCW 90.58 and WAC 173-26 shall prevail.

1.13 Governing Principles

The following governing principles, along with the policy statement of RCW 90.58.020 and the principles of WAC 173-26, establish the basic concepts of this Program:

1. Any inconsistencies between this Program and the Shoreline Management Act, Chapter 90.58, RCW, must be resolved in accordance with the Act.

2. The policies of this Program may be achieved by diverse means, one of which is regulation. Other means authorized by the Act include, but are not limited to: implementation of voluntary public or private restoration of shoreline ecological functions; acquisition of lands and/or easements by purchase or gift for protecting shoreline ecological functions and/or increasing public access to the shoreline; and incentive programs.

3. Protecting the shoreline environment is an essential statewide policy goal. Permitted and/or exempt development, actions taken prior to the Act's adoption, and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects shoreline ecological functions from such impairments in the following ways:

    a. By using a process that identifies, inventories, and ensures understanding of current and potential ecological functions provided by shorelines.

    b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing.

    c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions documented in the Clallam County Shoreline Inventory and Characterization Reports.

    d. By including policies and regulations that ensure that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

    e. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such opportunities have been identified, consistent with the Shoreline Restoration Plan.

4. Regulation of private property to implement Program goals, such as public access and protection of ecological functions and processes, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to the protections afforded by the federal and state constitutions, and federal, state and local laws.

5. Regulatory or administrative actions contained herein must be implemented with consideration to the Public Trust Doctrine, regulatory takings, and other applicable legal principles as appropriate.

6. Regulatory provisions of this Program are limited to jurisdictional limits of this Program, whereas the planning functions of this Program may extend beyond the shoreline jurisdiction.

7. Unless expressly stated to the contrary, each use and development described in this Program, and the construction, operation and maintenance of any facilities associated therewith, shall not cause a net loss of shoreline ecological functions or processes or adversely impact other shoreline resources and values. The proponent shall provide compensatory mitigation for any unavoidable adverse impacts to the shoreline environment in accordance with Section 8.3 of this Program.

1.14 Severability

1. If any section or provision of this Program is declared invalid it shall not affect the validity of this Program as a whole.

Chapter 2 Shoreline Environment Designations

***Note to Users**: Each segment (or reach) of the shoreline has an "environment designation" that reflects its existing ecological condition, land use pattern, zoning, the types of health and safety hazards that are present (flooding, landslides, for example), geology, and other characteristics. The environment designations, which are depicted on maps attached to this document, provide a framework for tailoring shoreline policies and regulations to different shoreline segments based on their characteristics. This chapter explains the designations including the criteria for determining where each environment designation is applied and the overall management polices of each designation.*

2.1 Basis of the Designations

1. All lands and waters within the jurisdiction of this Program have one or more of the following shoreline environment designations, depending on the configuration and location of the parcel:

    a. Aquatic

    b. Natural

    c. Resource Conservancy

    d. Shoreline Residential – Conservancy

    e. Shoreline Residential – Intensive

    f. Marine Waterfront

2. A shoreline environment designation has been assigned to each segment (or reach) of the shoreline in accordance with the purposes and policies of WAC 173-26-211(5), WAC 173-26-211(4)(c) and this chapter.

3. The designations were assigned based upon an analysis of the following:

    a. The ecological functions and processes that characterize the shoreline, the nature and type of hazards that are present, and the extent to which the shoreline functions and processes have been altered, as described in the March 2012 Shoreline Inventory and Characterization Report for WRIA 17-19 and the May 2012 WRIA 20 Inventory and Characterization Report; and

    b. Existing development patterns as evidenced by lot size, current land use, and current zoning designation; and

    c. Planned land use as indicated in the Clallam County Comprehensive Plan, Title 31 CCC, and on the Comprehensive Plan Land Use and Zoning Map.

4. Figure 2-2 shows example photographs representing typical river and marine shorelines that are designated Natural, Resource Conservancy, Shoreline Residential-Conservancy, Shoreline Residential-Intensive, or Marine Waterfront.

2.2 Shoreline Environment Designation Map

1. The shoreline environment designations are depicted on a map attached to this Program (Exhibit A) and available through the County's website (http://www.clallam.net) or at the County Community Development Department.

2. The maps show the designation(s) assigned to each shoreline segment (or reach).

3. The lateral extents of shoreline jurisdiction shown on the shoreline environmental designation maps (Exhibit A) are approximate. The mapped jurisdictional extent is based on the approximate location of the ordinary high water mark, the floodplain and wetlands that appear to be associated with the shoreline waterbodies. Although based on the best available information, the maps have inherent discrepancies. Therefore, interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of floodplains, wetlands and other such features. The full lateral extent of shoreline jurisdictional limits shall be determined consistent with Section 1.8 of this Program. The designations assigned to each shoreline segment shall apply throughout the full jurisdictional limits, as determined at the time shoreline development is proposed.

4. The breaks between each designation can be determined using coordinates contained in the Geographic Information Systems database maintained by the County Community Development Department. In the event of a disagreement as to the exact location of a shoreline environment designation break shown on the map, the Administrator shall interpret the maps using the following guidelines:

    a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

    b. Boundaries indicated as approximately following roads, improved trails, or railways shall be respectively construed to follow their centerlines.

5. Changes to the shoreline environment designations assigned to each shoreline segment (or reach) must be approved through a Shoreline Master Program amendment. Any Master Program amendment shall be subject to the requirements of WAC 173-26-100 and shall require approval by the Washington Department of Ecology. This shall not limit prudent efforts by the Administrator to improve depiction of the lateral extent of shoreline jurisdiction based on new information or minor mapping adjustments or to address areas where the shoreline may have moved due to natural process such as erosion and accretion.

6. Any shoreline segment within shoreline jurisdiction that is not mapped and/or not designated shall be designated Shoreline Residential – Conservancy or Resource Conservancy, determined by the Administrator consistent with designation criteria of this Program, unless the Administrator determines that the undesignated area is due to inherent discrepancies in the mapping of dynamic shorelines which are constantly accreting and eroding due to natural process. In such cases, the Administrator shall apply the appropriate designation based on the criteria defined in Sections 2.3 through 2.8 of this Program and the mapping of the surrounding areas. Changes to designations that are unrelated to localized mapping discrepancies shall be addressed through a formal Master Program amendment.

2.3 Aquatic Designation (A)

1. Criteria: The Aquatic designation is assigned to all shoreline waters as described in Section 1.6 of this Program waterward of the ordinary high water mark together with their underlying lands and their water column (Figure 2-1). For purposes of Program administration, the marine waters shall be classified Aquatic – Straits (for the Strait of Juan de Fuca) and Aquatic – Pacific Ocean (for the Pacific Ocean), including harbors, bays, estuaries and inlets.

2. Purpose: The purpose of the Aquatic designation is to protect and restore the quality and health of marine and fresh waters and the species that depend upon them, while allowing for water-dependent uses and public access when located in appropriate areas and developed to avoid a net loss of shoreline functions.

3. Management Policies: The Aquatic environment should be managed consistent with the following policies:

    a. Except as otherwise noted, the permitted, conditional and prohibited shoreline development, uses and modifications in the Aquatic environment are based on the adjacent shoreline environmental designation landward of the ordinary high water mark as shown in Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program.

    b. Permitted, conditional and prohibited shoreline development, uses and modifications in the Aquatic-Pacific Ocean environment are shown in Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program. Shorelands landward of the ordinary high water mark (and between the ordinary high water mark and extreme low water in Olympic National Park) of the Aquatic -Pacific Ocean Environment are located within the Olympic National Park and Tribal Lands and are not subject to this Program.

    c. New structures should be allowed in- or over-water only when necessary for approved water-dependent uses, public access, or ecological restoration.

    d. The size of new in-/over-water structures should be limited to the minimum necessary to support the structure's intended water-dependent use.

    e. To reduce the cumulative impacts on shoreline functions and processes, new in-/ over-water structures should serve more than one approved use where feasible.

    f. New in-/over water structures should be located, oriented and designed to minimize interference with surface navigation and to allow for the safe, unobstructed movement of fish and wildlife species that depend on the waters for migration, rearing or spawning.

    g. New in-/over water structures should be located, oriented and designed to minimize impacts on water quality, sediment delivery and transport, productivity of aquatic vegetation, and shellfish productivity.

    h. In- or over-water uses that adversely impact the functions of critical saltwater and freshwater habitats should not be allowed unless their impacts are mitigated according to the sequence described in Section 8.3 as necessary to assure no net loss of ecological functions.

    i. New uses and development in marine waters of the Pacific Ocean should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, the

Marine Spatial Plan for Washington's Pacific Coast (2018 or as revised) and Chapter 43.143 RCW, Ocean Resources Management Act.

j. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

4. Areas Designated. The general location and approximate extent of the Aquatic designation is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

Figure 2-1. Juxtaposition of the Aquatic and upland (shoreland) designations on a typical waterfront parcel (the location of the OHWM needs to be determined in the field)



2.4 Natural Designation (N)

1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural.~~ The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation) and are ecologically intact, unable to support new use or development without significant adverse impacts to ecological functions or risk to human safety, or have particular scientific or educational interest. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Densely forested (closed-canopy) riparian and/or floodplain habitat extending throughout the shoreline environment;

   b. Shorelines and adjacent upland areas are largely free of development and modification; existing residential development, if any, is scattered at densities generally lower than one dwelling unit per 20 acres;

c. Mostly undeveloped and unaltered estuarine wetland or marine spit habitat;

d. Mostly encumbered by erosion and/or landslide hazards, including areas of feeder bluff and channel migration; or

e. Shorelines associated with high priority and large-scale river restoration areas such as:

i. Areas of the Elwha River downstream of US 101 being managed as part of the Elwha River restoration project;

ii. Lands of the lower Dungeness River, below River Mile 2.75, that are being actively restored as part of County-approved and/or managed restoration project; and

iii. Other large-scale, State or County-approved restoration projects.

2. Purpose: The purpose of the Natural designation is to maintain shorelines that are mostly undisturbed and undeveloped in a relatively undisturbed and undeveloped condition. These shorelines perform important ecological functions and processes that could be lost if development were to occur.

3. Management Policies: The Natural environment should be managed consistent with the following policies:

a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

c. Ensure retention of the existing natural character of shoreline reaches in the Natural environment as part of the evaluation and permitting of new uses, developments and shoreline modification activities.

d. Any use that would substantially degrade or result in a net loss of ecological functions or natural character of the shoreline area should not be allowed.

e. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal shoreline ecological functions should not be allowed.

f. Identify and pursue opportunities to restore and enhance shoreline functions in these overall ecologically intact shoreline reaches.

g. Except as otherwise permitted by this Program, new uses and developments in the Natural environment should be limited to low intensity land uses and implement low impact development site design techniques and practices.

h. Commercial, industrial, mixed use, multi-family residential and other types of intensive development and nonwater-oriented recreation should be prohibited within the Natural environment.

i. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place through a targeted marketing outreach program implemented by Clallam County.

j. New development should be located and designed to maintain vegetation coverage and functionality. Clearing of vegetation for views should be minimized.

k. New single-family residential development may be allowed as a conditional use in the Natural environment if the density and intensity of such use is limited as necessary to maintain the ecological functions and natural character of the shoreline.

l. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

m. New roads, utility corridors, and parking areas that can be located outside of the Natural environment should not be allowed. Maintenance of existing roads and infrastructure should be allowed while minimizing and mitigating impacts to shoreline ecological functions.

n. New structural shoreline armoring should be prohibited.

o. Subdivision to create additional shoreline residential lots should be prohibited.

p. Low intensity, water-oriented recreational uses on public lands may be allowed as a permitted use in the Natural environment if the density and intensity of such use is limited as necessary to maintain the ecological functions and natural character of the shoreline.

4. Areas Designated. The general location and approximate extent of the Natural environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

5. Undesignated Natural Shorelines. Clallam County contains hundreds of miles of lake, river and ocean shoreline areas that are not subject to this Program due to their location within Olympic National Park (RCW 37.08.210) that are characterized by largely intact ecological functions and protected as natural systems with minimal human alteration. Olympic National Park shorelines in Clallam County include, but are not limited to the following areas:

   a. Lake Crescent and Lake Ozette;

   b. Pacific Coast;

   c. Upper reaches and tributaries of the Dungeness River, Morse Creek, Elwha River, Little River, and Sol Duc River subject to this Program; and

   d. Lower coastal reaches of the Quillayute River, Ozette River and Sooes River draining into the Pacific Ocean.

   These national park shorelines provide significant opportunities for both County residents and Park visitors to experience and enjoy the physical and aesthetic qualities of natural freshwater and marine shorelines. In addition, shorelines in the Park are not isolated from shorelines subject to this Program due to hydrologic connections, fish and wildlife corridor connections, and public recreational corridor connections that do not stop at the Park boundary.

2.5 Resource Conservancy Designation (ReC)

1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Resource Conservancy.~~ The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located outside a UGA within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest (CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Typically associated with large, contiguous blocks of forest lands and natural resource areas;

   b. Dispersed, scattered and/or relatively isolated low-density residential, low-intensity recreational, or other water-oriented developments;

   c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices;

   d. Minimal constraints to overbank flooding and/or channel migration; ~~or~~

   e. Forest fragmentation or conversion of forest cover to other land cover types is minimal.

   f. High recreational value or unique historic or cultural resources; or

   ~~b.~~g. LAMIRDS with low-intensity water-dependent uses.

2. Purpose: The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, and/or outdoor recreational use.

3. Management Policies: The Resource Conservancy environment should be managed consistent with the following policies:

   a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

   b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

   c. Riparian forest cover should be protected and maintained through effective use of Forest Practices Act harvest rules, shoreline buffer standards, and voluntary conservation practices.

d. Uses should be limited to those which sustain the shoreline reach physical and biological resources and uses of a nonpermanent nature (e.g., forest practices) that do not substantially degrade ecological functions or the predominant forested and natural character of the shoreline reach.

e. New uses or developments that convert forest lands should be isolated and the intensity and density of such use limited as necessary to maintain ecological functions and the predominant forested and natural character of the shoreline reach.

f. Permitted new uses or developments should not result in a land use pattern that would support reclassification to a more intense shoreline environment classification.

g. New commercial and industrial water-oriented resource- based uses or other low intensity, water-oriented uses may be allowed as a conditional use if the density and intensity of such use is limited as necessary to maintain the ecological functions of the shoreline and retain the predominant forested and natural character of the shoreline reach.

h. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place through a targeted marketing outreach program implemented by Clallam County.

i. New development should be located and designed to maintain vegetation coverage and functionality. Clearing of vegetation for views should be minimized.

j. Significant vegetation removal of a permanent nature that would reduce the capability of vegetation to perform normal shoreline ecological functions should not be allowed.

k. New uses and development should implement low impact development site design techniques and practices.

l. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the Resource Conservancy environment when conducted in a manner consistent with the policies and regulations of this Program.

m. New single-family residences and low intensity, water oriented recreational uses may be allowed if the density and intensity of such use is limited as necessary to maintain the ecological functions and predominantly forested and natural character of the shoreline reach.

n. If forest lands are converted to another use, there should not be adverse impacts to shoreline functions or processes.

o. Land uses incompatible with timber harvest, habitat conservation, and/or outdoor recreational use should be discouraged or prohibited.

p. New structural shoreline armoring should be prohibited.

q. New roads, utility corridors, and parking areas that can be located outside of the Resource Conservancy environment should not be allowed. Maintenance of existing roads and

infrastructure should be allowed while minimizing and mitigating impacts to shoreline ecological functions.

r. Proposed Master Planned Resorts pursuant to Chapter 33.25 CCC and RCW 36.70A.360, and any new divisions of land for residential or other development may be allowed as a conditional use where adequate measures are taken to maintain the ecological functions and protect the predominant forested and natural character of the shoreline reach.

s. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

4. Areas Designated. The general location and approximate extent of the Resource Conservancy environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

2.6 Shoreline Residential – Conservancy Designation (SRC)

1. Criteria: ~~Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Shoreline Residential – Conservancy.~~ The Shoreline Residential – Conservancy designation is applied to shoreline areas landward of the ordinary high water mark in areas designated as rural lands under the County's Comprehensive Land Use Plan and Zoning Map that are generally characterized by adjacent low intensity and density land uses and where ecological functions are not substantially degraded. These areas also include some limited areas of unincorporated Urban Growth Areas that are similar in character. These shorelines generally support a mixture of existing residential uses with densities generally less than one unit per acre and less than one unit per twenty (20) acres, including some platted lands with moderate potential for future development because of zoning, lot size, and location relative to infrastructure and amenities. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Large patches of dense or contiguous riparian forest, presence of priority habitats or species, and/or extensive wetlands;

   b. Minimal shoreline modifications, including a general absence of levees, hardened stream banks, or other structural shoreline armoring;

   c. Partially encumbered by landslide, flooding, or channel migration hazards but with sufficient developable area outside of the mapped hazard zone to support rural residential uses;

   d. Less intensively developed with respect to existing shoreline setback width, shoreline hardening and/or other alteration, and/or riparian clearing compared to Shoreline Residential – Intensive shorelines;

   e. Public or private commercial forest-zoned (CF or CFM) parcels that are adjacent to, or surrounded by, non-commercial forest zoned-parcels which meet criteria 1a through 1d of this section (2.6); or

   f. Public lands providing moderate levels of existing shoreline access where occurring adjacent to rural lands which meet criteria 1a through 1e of this section (2.6).

2. Purpose: The purpose of the Shoreline Residential – Conservancy designation is to protect marine and freshwater shorelines that have large patches of continuous forest cover and/or

minimal evidence of ecological degradation, while allowing low-intensity uses that do not cause a net loss of shoreline functions.

3. Management Policies: The Shoreline Residential – Conservancy environment should be managed consistent with the following policies:

   a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

   b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

   c. Uses should be limited to those which sustain the shoreline area's physical and biological resources, including vegetation coverage.

   d. Water-oriented commercial and industrial uses may be allowed as a conditional use if the density and intensity of such use is limited as necessary to maintain the ecological functions of the shoreline and retain the rural and natural character of the shoreline reach.

   e. Water-oriented recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches are preferred uses, provided adverse impacts to the shorelines are mitigated.

   f. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the Shoreline Residential – Conservancy environment when conducted in a manner consistent with the policies and regulations of this Program.

   g. Intensive or high-density development in these areas could lead to a loss of ecological functions and should be discouraged or prohibited.

   h. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place through a targeted marketing outreach program implemented by Clallam County.

   i. Shoreline Residential – Conservancy shorelines may be suitable for trails, viewpoints, non-motorized watercraft launches, or other types of low-impact public access and water-oriented recreational development as long as such uses are sited to avoid and minimize impacts on shoreline functions or private property rights.

   j. Construction of new structural shoreline stabilization and flood control structures should only be allowed through a conditional use permit where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

k. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

4. Areas Designated. The general location and approximate extent of the Shoreline Residential-Conservancy environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

2.7 Shoreline Residential – Intensive Designation (SRI)

1. Criteria: ~~Figure 2-2 shows sample photographs representing typical lake, river and marine shorelines that are designated Shoreline Residential – Intensive.~~ The Shoreline Residential – Intensive designation is applied to shoreline areas landward of the ordinary high water mark that are characterized as having moderate- to high-density shoreline residential use. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Moderately to mostly developed with existing residential use occurring on relatively small rural residential lots, or with recreational and transportation uses;

   b. Native forest cover has been cleared or is highly fragmented with areas of minimal or no native riparian vegetation, especially between developed areas and the ordinary high water mark;

   c. Shoreline is partially or entirely armored with structural armoring such as bulkheads because of exposure to strong wind and wave action; or

   d. Generally associated with low bank areas where existing development and supporting infrastructure is in close proximity to the water and not separated from the water by steep slopes (e.g., marine bluffs) and other significant natural features.

2. Purpose: The purpose of the Shoreline Residential – Intensive designation is to accommodate moderate- to high-density shoreline residential development in areas that are zoned and platted for these uses, while ensuring infill and new development occur in a manner that avoids and minimizes adverse impacts on shoreline functions.

3. Management Policies: The Shoreline Residential – Intensive environment should be managed consistent with the following policies:

   a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

   b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

   c. Water-oriented commercial may be allowed as a conditional use if the density and intensity of such use is limited as necessary to maintain the ecological functions of the shoreline and retain the rural residential character of the shoreline reach.

d. The scale and density of new uses and development should be compatible with, and protect or enhance, the existing residential character of the area while sustaining shoreline ecological functions and processes.

e. Construction of new structural shoreline stabilization and flood control structures should only be allowed through a conditional use permit where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

f. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place through a targeted marketing outreach program implemented by Clallam County.

g. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

h. These areas should generally not be high priorities for new public access because of the potential for conflicts with existing residential uses.

i. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

4. Areas Designated. The general location and approximate extent of the Shoreline Residential-Intensive environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

2.8 Marine Waterfront Designation (MWf)

1. Criteria: ~~Figure 2-2 shows a sample photograph representing a typical marine shoreline that is designated Marine Waterfront.~~ The Marine Waterfront designation is applied to shoreline areas landward of the ordinary high water mark found along portions of the Clallam Bay-Sekiu Urban Growth Area marine waterfront and at existing isolated, rural and resource land locations characterized as moderately to mostly developed with existing intensive, marine water-oriented commercial or recreational uses or transportation uses. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Native forest cover has been cleared or is highly fragmented with minimal or no native riparian vegetation;

   b. Shoreline is modified with over-water and in-water structures, including breakwaters, piers, and/or marinas supporting water-oriented uses; or

   c. Shoreline is partially or entirely armored with structural armoring such as bulkheads.

2. Purpose: The purpose of the Marine Waterfront designation is to accommodate high-intensity marine water-oriented commercial, recreational and transportation uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

3. Management Policies: The Marine Waterfront environment should be managed consistent with the following policies:

    a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

    b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

    c. The scale, intensity, and density of new uses and development should be compatible with, and protect or enhance, the existing recreational and/or mixed use character of the area while sustaining shoreline ecological functions and processes.

    d. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

    e. Where feasible, proposals for new development should include environmental cleanup and/or restoration of past shoreline damage or degradation.

    f. Where feasible, proposals for new development should provide visual and physical public access to the water.

    g. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place through a targeted marketing outreach program implemented by Clallam County.

    h. Construction of new structural shoreline stabilization and flood control structures should only be allowed where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

    i. Scientific, historical, cultural, and educational uses may be allowed provided no ecological adverse impact on the area will result.

4. Areas Designated. The general location and approximate extent of the Marine Waterfront environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

Figure 2-2. Typical Examples of Shoreline Environment Designations on lakes, rivers and marine shores in Clallam County



Shoreline Residential - Conservancy *(Sequim Bay)*



Shoreline Residential – Conservancy *(Tyler View Road)*



Resource Conservancy *(Hoko River)*



Natural *(Elwha River)*



Shoreline Residential - Intensive *(Lake Sutherland)*



Shoreline Residential - Conservancy *(Dungeness River)*



Resource Conservancy (Pillar Pt.)



Natural (Dungeness Bay)



Shoreline Residential - Intensive *(Vista Drive, Hoko River)*



Marine Waterfront *(Clallam Bay)*



Resource Conservancy *(Calawah & Bogachiel Confluence)*



Shoreline Residential - Conservancy *(Bogachiel & SolDuc Confluence into the Quillayute)*

2.9 Allowed Uses in Each Shoreline Environment Designation

Each new shoreline environment designation shall be managed in accordance with its designated purpose as described in Sections 2.3 to 2.8 of this chapter and according to the other applicable policies and regulations of this Program. Table 2-1 shows the permitted uses, conditional uses, and prohibited uses for each environment designation specific to residential uses and developments and modifications typically accessory to residential uses and developments. Table 2-2 shows the permitted uses, conditional uses, and prohibited uses for each environment designation for all non-residential uses and developments. Additional requirements governing each use are described in Chapters 3 through 9 of this Program. The permit criteria (for exempt shoreline uses, substantial development, conditional uses, and prohibited uses) and administrative standards are described in Chapter 10. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

Table 2-1. Residential Development: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040) ; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

Use/Development/ Modification	Aquatic-Straits[1]	Aquatic-Pacific Ocean[1]	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Residential Use/Development (see Section 3.8)							
Single-family Residences	X	X	P[2]	P[2]	P[2]	P[2]	C
Overwater Residences	X	X	X	X	X	X	X
Floating Homes	X	X	X	X	X	X	X
Multi-family Residences	X	X	C	C	X	X	X
Accessory Dwelling Units	X	X	P	P	P	P/X[4]	X
Land Division / Subdivision	X	X	P[3]	P[3]	P[3]	C[3]	X
Master Plan Resort	X	X	P	P	C	C	X
Modifications Accessory to Residential Development (see Sections 4.1, 4.2, and 4.6)							
Shoreline stabilization							
Hard Structural shoreline stabilization	**See Note 1**	X	P[2,5]	C[5]	C[5]	C[5]	X
Soft Structural/ Bioengineered shoreline stabilization	**See Note 1**	C	P[2]	P[2]	P[2]	P[2]	C
Private beach access structures	**See Note 1**	C	P	P	C	C	X
Mooring buoys	**See Note 1**	C	P	P	P	P	C
Private float plane moorage	**See Note 1**	C	C	C	C	C	X
Docks, piers, floats, lifts (residential)	**See Note 1**	C	P[2]	P[2]	P[2]	C	X
Clearing, grading and filling	X	X	Only allowed in conjunction with an approved shoreline use or development; See Section 5.2 of this Program				

1. Except as otherwise noted, the requirements for the Aquatic designation for the marine waters of the Strait of Juan de Fuca and all lakes and rivers that drain toward the Strait shall be linked to the adjacent, upland shoreline environmental designation. For example, except as otherwise noted, if the use/development is prohibited in the upland Shoreland area, it shall be prohibited in the Aquatic area. The County does not have jurisdiction for the shorelands along the Pacific, so the requirements for the Aquatic designation on the Pacific are not tied to the adjacent shoreland designation.
2. Construction that meets criteria under WAC 173-27-040 (2) is exempt from a substantial development permit but requires a statement of exemption in accordance with Section 10.2.5 of compliance with this Program.
3. Land divisions must also comply with standards under Section 3.8.4 and Section 7.3.8.
4. Detached, accessory dwelling units (ADU) are a prohibited use in the Resource Conservancy designation where zoned Commercial Forest (CCC 33.50.040).
5. New or expanded hard structural shoreline stabilization along feeder bluff, feeder bluff-talus and exceptional feeder bluffs is prohibited (Section 4.6.5.3).

Table 2-2. Non-Residential Uses: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

Use/Development/ Modification	Aquatic – Straits[1]	Aquatic – Pacific Ocean[1]	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Agriculture[2] (see Section 3.1)	X	X	X	X	P	P	X
Aquaculture: (see Section 3.2)							
Aquaculture activities other than geoduck or finfish	P	C	P	P	P	P	C
Geoduck	C	C	C	C	C	C	C
Upland Finfish.	see note 1	X	P	X	C	C	X
In-water, Native Finfish (including Net pens)	C	C	C	C	C	C	C
In-water, Non-Native Finfish (including net pens)	X	X	X	X	X	X	X
Beach access structures - Public (see Section 4.1)	see note 1	C	P	P	P	C	C
Boating facilities: (see Section 4.2)							
Public boat launches	see note 1	P	P	P	P	P	P
Public docks, piers, floats, lifts	See note 1	P	P	P	P	P	P
Docks, piers, floats, lifts – non-residential	see note 1	C	P	P	C	C	C
Float plane moorage	see note 1	C	P	C	X	X	X
Marinas	see note 1	C	P	C	C	X	X
Mooring buoys	see note 1	C	P	P	P	P	C
Public mooring buoys	See note 1	P	P	P	P	P	P
Clearing, grading and filling	X	X	Only allowed in conjunction with an approved shoreline use or development; see Section 5.2 of this Program				
Commercial / Industrial development: (see Section 3.3)							
Water-dependent	see note 1	C	P	C	C[10]	C[10]	X

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

Use/Development/ Modification	Aquatic – Straits[1]	Aquatic – Pacific Ocean[1]	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Water-related	see note 1	C	P	C	C[10]	C[10]	X
Water-enjoyment	see note 1	C	P	C	C[10]	C[10]	X
Non-water-oriented[3]	see note 1	X	C	C	C[10]	C[10]	X
Dredging and dredge material disposal (see Section 4.3)	see notes 1~~ & 2~~	C[4]	C	C	C	C	X
Flood control structures (see Section 4.4)	see note 1	C	C	C	C	C	X[5]
Forest practices[6] (see Section 3.4.)	X	X	C	P	P	P	C
In-stream structures: (see Section 4.5)							
Power generation structures	see note 1	C	P	P	C	C	X
Transportation structures (e.g., culverts)	see note 1	C	P	P	C	C	X
Irrigation structures	see note 1	C	P	P	C	C	X
Utility structures	see note 1	C	P	P	C	C	X
Water supply structures	see note 1	C	P	P	C	C	X
Parking: (see Section 3.6)							
As a primary use	X	X	X/C[11]	X	X	X	X
Accessory to a permitted use	X	X	P	P	C	C	X
Public disabled parking	X	X	P	P	P	C	C
Mining (see Section 3.5)	see note 1	X	C/X[8]	C/X[8]	C/X[8]	C/X[8]	X
Recreational development: (see Section 3.7)	see note 1						
Public Trails	See note 1	P	P	P	P	P	P
Public water-oriented (e.g., marine trail campsites)	See note 1	P	P	P	P	P	P
Other Water-oriented	see note 1	C	P	P	P	P	C

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

Use/Development/ Modification	Aquatic – Straits[1]	Aquatic – Pacific Ocean[1]	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Non-water-oriented (golf courses, sports fields)	X	X	C	C	X	X	X
Underwater parks	C	P	C	C	C	C	C
Restoration and Enhancement (see Section 3.9)[7]	P	P	P	P	P	P	P
Scientific, historical and cultural	P	P	P	P	P	P	P
Shoreline stabilization: (see Section 4.6)							
Hard Structural shoreline stabilization (except gabions, which are prohibited)	see note 1	C[8,9]	P[8,9]	P[8,9]	C[8,9]	C[8,9]	X
Soft Structural/ Bioengineered shoreline stabilization	see note 1	C	P	P	P	P	C
Signs (see Section 3.10)	X[8]	X[8]	P	P	P	P	X[8]
Transportation facilities (see Section 3.11)	see note 1	C	P	P	P	P	C
Utilities (see Section 3.12)							
Dams and hydroelectric generating facilities	C	C	C	C	C	C	X
Off-shore wind/tidal energy systems	C	C	C	C	C	C	X
Municipal sewage systems	C	X	P	C	C	C	X
Solid waste facilities	see note 1	X	C	C	C	C	X
Essential public facilities	see note 1	C	P	P	P	P	X
Oil Gas and Natural Gas Transmission	see note 1	C	C	C	C	C	X

P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

Use/Development/ Modification	Aquatic – Straits[1]	Aquatic – Pacific Ocean[1]	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural
Electrical Energy and Communications	see note 1	C	C	C	C	C	C
Stormwater facilities	see note 1	X	P	P	P	P	X
Public water systems	see note 1	C	P	P	C	C	C
Unclassified uses	C	C	C	C	C	C	C

1. Except as otherwise noted, the requirements for the Aquatic designation on the marine waters of the Strait of Juan de Fuca and all lakes and rivers that drain toward the Strait shall be linked to the adjacent, upland shoreline environmental designation. For example, except as otherwise noted, if the use/development is prohibited in the upland Shoreland area, it shall be prohibited in the Aquatic area. The County does not have jurisdiction for the shorelands along the Pacific, so the requirements for the Aquatic designation on the Pacific are not tied to the adjacent shoreland designation.
2. Does not modify or limit existing agricultural uses on existing agricultural lands per WAC 173-26-241(3)(a)(ii)
3. Non-water-oriented industrial and commercial use/development may be allowed as part of a mixed use if consistent with the criteria in Section 3.3 of this Program.
4. Maintenance dredging in areas that have lawfully dredged in the past may be permitted in accordance with Section 4.3.
5. May be permitted when done in conjunction with a project whose primary purpose is ecological restoration.
6. Pertains to non-timber harvest activities only. Timber harvest is regulated by the Forest Practices Act (RCW 76.09)
7. Some restoration projects may be exempt from a substantial development permit if they meet the criteria in RCW 77.55 and RCW 90.58.147.
8. Subject to exceptions as noted in this Program. See specific use section for details.
9. New or expanded hard structural shoreline stabilization along feeder bluff, feeder bluff-talus, and exceptional feeder bluffs is prohibited (Section 4.6.5.3).
10. Limited to "low intensity land use" (as defined in Chapter 11 of this Program) that are consistent with this Program and a permitted use under the Clallam County Zoning Code, Title 33 CCC.
11. Parking as a primary use with the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area that supports shoreline public access may be permitted through a shoreline conditional use permit.

Chapter 3 Policies and Regulations for Specific Shoreline Uses and Developments

***Note to Users**: This section describes the policies and regulations that apply to specific shoreline uses and developments as well as specific shoreline modifications. The regulations that apply to each parcel may vary depending on the Shoreline Environment Designation assigned to that parcel (see Chapter 2 for information on designations). A single development proposal may involve multiple uses and/or modifications and therefore may be subject to more than one set of policies and regulations. An example is a residential use that also involves construction of a private dock (a modification). The policies and regulations in this section are applied in addition to the general SMP policies and regulations. All of the uses described here are also subject to the County's zoning code requirements in Clallam County Code Title 33 as well as other local, state and federal regulations as indicated in Section 1.11.*

3.1 Agriculture

3.1.0 Applicability

New agricultural uses and developments, as defined in Chapter 11, on land not currently in agricultural use shall be consistent with the following policies and shall conform to the following regulations.

3.1.1 Policies

1. Agriculture is important to the long-term economic viability of Clallam County. Consistent with WAC 173-26-241 (3) (a) (ii), this Program should not modify or limit ongoing agricultural activities occurring on agricultural lands.

2. New agricultural uses and development proposed on land not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses, should conform to this Program.

3. New agricultural use and development should be managed to:

    a. Prevent livestock intrusion into the water;

    b. Control runoff;

    c. Prevent water quality contamination caused by nutrients and noxious chemicals;

    d. Minimize clearing of riparian areas;

    e. Prevent bank erosion; and

    f. Assure no net loss of ecological functions and avoid adverse impacts on other shoreline functions and values.

4. New agricultural use and development should preserve and maintain native vegetation between tilled lands and adjacent water bodies.

5. Conversion of agricultural uses to other uses should comply with all policies and regulations for non-agricultural uses.

6. Existing and new agricultural uses are encouraged to use USDA Natural Resource Conservation Service and/or Clallam Conservation District best management practices to prevent erosion, runoff, and associated water quality impacts.

7. The County should review proposals for new agricultural developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between agricultural development and planned restoration.

3.1.2 Regulations

1. New agricultural use/development on lands not meeting the definition of agricultural land may be permitted in the Shoreline Residential – Conservancy and Resource Conservancy designations through a substantial development permit as indicated by Table 2-2 when it complies with this Program and all of the following:

    a. Manure spreading shall be conducted in a manner that prevents animal wastes from entering water bodies or wetlands adjacent to water bodies.

    b. Confinement lot, feeding operations, manure storage or stockpiles, and storage of noxious chemicals shall not be permitted within floodways, within the shoreline buffer, or within the buffer of any critical area within shoreline jurisdiction. Intentional discharge from any manure storage facility into groundwater or surface water shall be prohibited.

    c. A buffer of naturally occurring or planted woody vegetation (trees and shrubs) shall be established and maintained between the shoreline and areas used for crops or intensive grazing. The width and composition of the buffer on marine, river, and lake shorelines shall be consistent with the standards in Chapter 6.

    d. Bridges, culverts, and/or ramps shall be used to enable livestock to cross streams without damaging the streambed or banks.

    e. Stock watering facilities shall be provided so that livestock do not need to access streams or lakes for drinking water.

    f. Construction of new structures including residences, barns, sheds and similar buildings on agricultural lands shall conform to the requirements of this Program for such structures. Such structures shall adhere to the buffer requirements, height limits, and other regulations established by this Program.

    g. Fencing or other grazing controls shall be used as appropriate to prevent bank compaction, bank erosion, or the overgrazing of, or damage to, shoreline buffer vegetation.

    h. New agricultural use/development shall use best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, wastewater applications, and stream corridor management. Technical assistance on best management practices is available from the Clallam County Conservation District and Cooperative Extension Agent.

2. New agricultural use/development on lands not meeting the definition of agricultural land shall not be permitted in the Natural, Shoreline Residential – Intensive or Marine Waterfront designations.

3. New agricultural use/development on lands not meeting the definition of agricultural land shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8 Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4 Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. In accordance with RCW 90.58.065, existing or ongoing agricultural activities occurring on agricultural lands prior to the effective date of this Program shall not be regulated by this Program, except that expansion of existing or ongoing agriculture activities shall be subject to the applicable provisions of this Program.

5. Persons or entities with existing, ongoing agricultural activities in continuous use since prior to June 16, 1992 who wish to expand such agricultural activities after the effective date of this Program may, in order to protect critical areas or their buffers located at their real property, continue to avail themselves of the alternate standards program enacted in Ordinance 915 and codified in part at CCC 27.12.037.

6. If an agricultural use is converted to another type of use, the provisions of this Program for the proposed use shall apply.

7. Upland finfish aquaculture use and development shall be subject to the Aquaculture policies and regulations (Section 3.2) of this Program.

3.1.3 Application Requirements

1. Applications for new agricultural use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

3.2 Aquaculture

3.2.0 Applicability

Aquaculture uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. Aquaculture for personal, non-commercial use is not subject to the requirements of this Section.

3.2.1 Policies

1. Aquaculture is of statewide interest and is important to the long-term economic viability, cultural heritage and environmental health of Clallam County. Properly managed, it can result in long-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and is a preferred use of the water area when pollution is controlled and damage to the environment is prevented.

2. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions. Impacts to ecological functions shall be mitigated according to the mitigation sequence described in Section 8.3 of this Program.

3. Aquaculture use and development should locate in areas where biophysical conditions, such as tidal currents, water temperature and depth, will minimize adverse environmental impacts. The County should support aquaculture uses and developments that:

   a. Protect and improve water quality; and

   b. Minimize damage to important nearshore habitats; and

   c. Minimize interference with navigation and normal public use of surface waters; and

   d. Minimize the potential for cumulative adverse impacts, such as those resulting from in-water structures/apparatus/equipment, land-based facilities, and

   e. Minimize substrate disturbance/modification (including rate, frequency, and spatial extent).

4. The County should support tideland aquaculture use and development when consistent with this Program and protect tidelands and bedlands that were acquired and retained under the Bush and Callow Acts by not permitting non-aquaculture use and development on these tidelands.

5. Chemicals and fertilizers used in aquaculture operations should be used in accordance with state and federal laws, and this Program.

6. Aquaculture uses/developments should incorporate appropriate measures to mitigate adverse impacts on people and the environment and when they demonstrate that the use/development will not:

   a. Materially and adversely disrupt important intracoastal or international navigation routes; or

   b. Cause adverse impacts on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations; or

   c. Cause adverse impacts on critical saltwater or critical freshwater habitats; or

   d. Cause adverse impacts to Tribal fishing tracts or other Treaty fisheries resources; or

   e. Conflict with other legally established water-dependent uses, including normal public use of the surface waters.

7. When a new aquaculture facility is proposed, the County should provide for public notice consistent with this Program and Chapter 26.10 CCC and notice to tribes with usual and accustomed fishing rights to the area.

8. The County recognizes that potential locations for aquaculture may be restricted due to specific requirements for water quality, temperature, flows, oxygen, adjacent land uses, wind protection, commercial navigation, and/or salinity, and that technology associated with some forms of existing aquaculture is still in its formative stages. These limiting factors necessitate some experimental latitude in the development of this use as long as its potential impacts are taken into account. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored ~~to prevent adverse impacts~~.

9. Commercial net pen aquaculture operations that propagate non-native finfish species shall be prohibited. Commercial net pen aquaculture operations that propagate native finfish species should be monitored and have contingency plans to address escapement, disease transmission, or significant waste-related environmental impacts.

10. Development accessory to aquaculture planting and harvesting should be located landward of the minimum shoreline buffers (Chapter 6) and critical area buffers (Chapter 7) of the Program, unless it requires a location in, over, or adjacent to the water.

11. Cooperative arrangements between aquaculture growers and public recreation agencies are encouraged so that public use of public shorelines can be enhanced, where appropriate, and conflicts between public use of public shorelines and aquaculture operations is minimized or eliminated.

12. The County should review proposals for new aquaculture developments to determine if any such development would thwart or substantially compromise past or planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between aquaculture development and planned restoration.

13. The County should minimize redundancy between federal, state and local commercial aquaculture permit application requirements by accepting documentation that has been submitted to other permitting agencies, and using permit applications that are compatible with federal or state permit applications.

14. County authorizations for aquaculture uses/developments should indicate that, prior to commencing activities, project applicants must obtain state and federal approvals required for those activities.

15. Avoid degradation of water quality of existing shellfish areas from upland uses.

3.2.2 Regulations – General

1. Permitted, conditional and prohibited aquaculture uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All aquaculture uses landward of the ordinary high water mark must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. New in-water, finfish net pen aquaculture in marine waters involving the culture or farming of non-native species (e.g., Atlantic salmon) is prohibited.

3. Aquaculture that does not involve geoduck or fin fish production may be permitted in all shoreline environment designations through a substantial development permit or conditional use permit as indicated by Table 2-2 when it complies with this Program.

4. Aquaculture uses and developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

5. Subtidal, intertidal, floating, and upland structures and apparatus associated with aquaculture use shall be located, designed, and maintained to avoid, minimize and otherwise mitigate adverse impacts on ecological functions and processes.

6. Upland structures accessory to aquaculture use that do not have a functional relationship to the water shall be located landward of shoreline buffers in Tables 6-1 and 6-2 and any critical area buffers as required in Chapter 7.

7. Sleeping quarters and other work structures accessory to aquaculture use/development shall not be constructed in or over water. This regulation shall not preclude the use of moored watercraft for sleeping or work quarters when such moorage is consistent with this Program.

8. Floating/hanging aquaculture structures and associated equipment shall not exceed six (6) feet in height above the water's surface. The Administrator may approve hoists and similar structures greater than six (6) feet in height when there is a clear demonstration of need. The six (6) foot height limit shall not apply to vessels.

9. Abandoned or failed aquaculture equipment shall be removed from the water and/or the adjacent shoreline buffer area identified in Tables 6-1 and 6-2.

10. Aquaculture facilities, including fin fish facilities and facilities for floating/hanging aquaculture, shall use colors and materials that when viewed from the shoreline blend into the surrounding environment in order to minimize visual impacts. This regulation shall not apply to navigation aids.

11. Aquaculture use and development shall not materially interfere with intracoastal or international navigation routes, or access to adjacent waterfront properties, public recreation areas, or Tribal harvest areas. Mitigation shall be provided to offset such impacts where there is high probability that adverse impact would occur consistent with Section 8.3 of this Program. This provision shall not be interpreted to mean that an aquaculture operator is required to provide access across owned or leased tidelands at low tide for adjacent upland owners.

12. Aquaculture use and development shall be sited so that scouring, shading and other adverse impacts to existing red/brown macroalgae (kelp) and eelgrass beds are avoided and minimized.

13. Aquaculture use and development shall be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause ecological adverse impacts, or significantly impact the aesthetic qualities of the shoreline, as required by WAC 173-26-241 (3)(b)(i)(C).

14. Aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors or other methods that minimize disturbance to substrate.

15. Where aquaculture use and development are authorized to use county ~~public~~ facilities, such as boat launches or docks, the Administrator shall reserve the right to condition the permit to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use. The County shall seek comment from the public agency managing any public facility proposed to be used as part of the aquaculture operations on applicable use fees or other use restrictions or requirements.

16. Non-navigational directional lighting associated with aquaculture use and development shall be used wherever possible. The height of the light source above the water surface shall be the minimum necessary, not to exceed 80 inches, unless otherwise specified by State or federal requirements. Non-navigational lighting shall not adversely affect vessel traffic.

17. Aquaculture waste materials and by-products shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

18. The County shall require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the cost to remove the facility ~~value of the facility and the gross value of the annual facility production~~. The County shall waive this requirement where sufficient bond to address the intent of this standard is part of the state Aquatic Land Lease Authorization.

19. Predator control measures used in aquaculture may not include those intended to kill or injure wildlife. Predator control methods must comply with federal and state regulations, as determined by applicable state and federal agencies.

20. Project applicants must obtain all required state and federal approvals to ensure compliance with established water quality standards and regulations relating to the introduction or transfer of aquatic organisms into or within the County's salt or fresh waters.

21. The County may require the applicant to provide baseline and periodic surveys, assessments, and/or operational monitoring by a qualified professional to determine the magnitude of any adverse impacts. Permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates adverse environmental impacts that cannot be adequately mitigated. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

3.2.3 Regulations – Commercial Geoduck Aquaculture

1. Commercial geoduck aquaculture may be permitted in all shoreline environment designations through a conditional use permit as indicated by Table 2-2 when it complies with this Program. Conversion of existing non geoduck aquaculture to geoduck aquaculture shall require a conditional use permit.

2. Conditional use permits shall recognize that commercial geoduck operators have a right to harvest geoduck once planted.

3. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and all sites are within the County's shoreline jurisdiction.

4. Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

5. All subsequent cycles of planting and harvest shall not require a new conditional use permit, subject to Section 10.2.9, Permit Revisions, of this Program.

6. Commercial geoduck aquaculture workers shall be allowed to accomplish on-site work during low-tides, which may occur at night or on weekends. Where such activities are necessary, noise and light impacts to nearby residents and existing uses shall be mitigated to the greatest extent practicable.

7. The County shall require the applicant to provide baseline and periodic surveys, assessments, and operational monitoring by a qualified professional to determine the magnitude of any adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates adverse environmental impacts that cannot be adequately mitigated. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

3.2.4 Regulations – Fin Fish Aquaculture

1. Permitted, conditional and prohibited upland or in-water finfish aquaculture uses and developments, including net pens as defined in Chapter 11, within each shoreline environmental designation are to be based on Section 2.9, Table 2-2 and as further prescribed by the policies and regulations of this Section and Program. New in-water, finfish net pen aquaculture in marine waters involving the culture or farming of non-native species (e.g., Atlantic salmon) is prohibited.

2. In evaluating conditional use proposals for in-water finfish aquaculture use/development the County shall use the most recent regulatory information from state and federal agencies to ensure that the provisions of this Program are being met and that the proposal meets all required state and federal water quality and aquaculture compliance standards.

3. Finfish aquaculture facilities shall avoid the release of herbicides, pesticides, antibiotics, fertilizers, non-indigenous species, parasites, viruses, pharmaceuticals, genetically modified organisms, feed, or other materials known to be harmful into surrounding waters.

4. The depth of water below the bottom of any in-water finfish aquaculture facility shall be sufficient to prevent adverse impacts on benthic communities.

5. The pen configuration (e.g., parallel rows, compact blocks of square enclosures, or clusters of round enclosures) of any in-water finfish aquaculture facility shall be designed and maintained to minimize the depth and lateral extent of solids accumulation.

6. The use of unpelletized wet feed shall be prohibited to minimize undigested feed reaching the benthos or attracting scavengers in the water column.

7. When necessary, vaccination is preferred over the use of antibiotics. Only FDA-approved antibiotics shall be used and such use shall be reported to the State as required.

8. All in-water finfish aquaculture facilities shall be located to avoid adverse impacts on critical saltwater and critical freshwater habitats as defined herein.

9. In-water finfish aquaculture facilities shall comply with existing state and federal regulations to ensure importation of species does not adversely impact native species.

10. In-water finfish aquaculture facilities shall comply with state and federal requirements to control pests, parasites, diseases, viruses and pathogens and to prevent escapement including, but not limited to, those for certified eggs, approved import/transport and live fish transfer

protocols, escapement prevention, reporting and recapture plans, and disease inspection and control.

11. Monitoring of seabed beneath a finfish pen is required for changes in the bathos and appearance of scavengers in the water column. Independent monitoring is necessary with changes reported to the county as required. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

12. Introduction of a new species, changing the species cultivated, expansions of the physical area cultivated or relocation of the aquaculture operation is considered a new use/development and shall require a new permit and compliance with this Program.

13. In-water finfish net pen operations shall not be permitted to use firearms or underwater noise emitting devices to drive off birds or marine mammals that may be attracted to the net pen.

14. Clallam County shall use the most current, accurate, complete, available and applicable ~~best available~~ science appropriate for permitting the location of in-water finfish facilities, including net pens, to protect our natural resources such as National Wildlife Refuges, seal and sea lion haulouts, seabird nesting colonies or other habitats identified as critical feeding or migration areas for birds and mammals.

15. The County shall require the applicant to provide baseline and periodic surveys, assessments, and operational monitoring by a qualified professional to determine the magnitude of any adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates adverse environmental impacts that cannot be adequately mitigated. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

3.2.5 Application Requirements

1. Applications for new aquaculture use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. Prior to approving a permit for a new aquaculture use or development, the Administrator shall require a visual analysis prepared by the applicant/proponent describing effects on nearby uses and aesthetic qualities and visual aesthetics of the shoreline. The analysis shall include any proposed mitigation related to visual and character of area effects.

3. In areas adjacent to navigation lanes with high wind or wave energy, the Administrator may require a plan to address and mitigate the potential for net pens to be swept from moorings into navigation lanes.

4. An application for net pens and in-water finfish aquaculture shall include:

    a. An operation plan that includes information and projections for:

        i. Anticipated harvest cycles and potential plans for future expansion or change in species grown or harvest practices;

        ii. Improvements at the site (e.g., pens, booms, etc.) and their relationship to the natural features (e.g., bathymetry, shorelines, etc.);

iii. Number, types, and dimensions of structures, apparatus, or equipment;

iv. The number and duration of barges or vessels that will be permanently or temporarily moored at the site;

v. Species cultured;

vi. Fish size at harvest;

vii. Annual production;

viii. Average and maximum stocking density;

ix. Source of eggs, juveniles, and broodstock;

x. Type of feed used and feeding methods;

xi. Chemical use (e.g., antifouling, antibiotics, etc.);

xii. Predator control methods;

xiii. Anticipated levels of noise, light, and odor and plans for minimizing their impacts; and

xiv. How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented.

b. Baseline site characterization survey to include:

i. Bathymetric survey (bottom features).

ii. Hydrographic survey (current velocity and direction, drogue tracking, vertical profiles of temperature, salinity and dissolved oxygen).

iii. Ecological survey, including underwater video or photographic survey, of bottom substrate, features, vegetation and habitats.

iv. Baseline benthic survey of sediment chemistry and infauna sampling.

c. Potential impacts to animals, plants, and water quality due to the discharge of wastewater from any related upland development.

d. Proof of application for an aquatic lands lease from the Washington State Department of Natural Resources or proof of lease or ownership if bedlands are privately owned.

e. Department of Health Shellfish Certification Number.

f. Department of Fish and Wildlife commercial aquatic farm or non-commercial, personal consumption designation.

g. Proof of application for any permits required by the U.S. Army Corps of Engineers, Department of Health, or other agency.

h. Estimates of high, average, and low volumes of waste to be produced, including catastrophic events.

i. Analysis of the short- and long-term impacts of anchoring systems on benthic environments.

j. Evaluation of potential for entanglement of marine mammals in mooring lines.

k. A detailed sampling and analysis plan that would be used to assess fish health, potential for disease transmission to wild salmon stocks, and benthic and water quality impacts associated with net pen operations. The sampling and analysis plan should describe statistical analyses that would be employed to evaluate collected information.

l. Evaluation of net-pen survivability under worst-case (e.g., 100-year storm) conditions for the proposed location.

m. A plan for how net pens will be routinely inspected for structural integrity during the lifetime of their operation.

n. A contingency plan in the event of fish release following structural failure. This plan would include both the initial emergency response and measures to capture released fish.

5. An application for commercial geoduck aquaculture shall include:

a. A narrative description and timeline for all anticipated geoduck planting and harvesting activities;

b. A baseline ecological survey of the proposed site, including surveys of existing shellfish resources, potential finfish habitat, substrate composition, and aquatic vegetation;

c. Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations;

d. Whether the proposal involves placing nursery tanks, holding pools or other impervious materials directly on the intertidal sediments;

e. Whether the proposal involves the use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark;

f. Specific periods when limits on activities are necessary to protect priority habitats and associated species and avoid conflicts with neighboring uses;

g. Any required alterations to the natural conditions of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments;

h. Whether the proposal involves marking of property corners such that they are visible at low tide during planting and harvesting;

i. The proposed use of predator exclusion devices with minimal ecological adverse impacts and timing of planned removal of such devices as soon as they are no longer needed for predator exclusion;

j. Planned methods of minimizing turbid runoff during harvest;

k. The number and duration of barges or vessels that will be moored or beached at the site as well as duration limits;

l. Whether the proposal will affect public rights to navigation over the surface of the water;

m. How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented including worker training and regular removal of equipment, tools, extra materials, and all wastes;

n. Where the site contains existing public access to publicly owned lands, consider recommendations from the department of natural resources or other landowning agencies regarding protection of the existing public access ~~Whether the site contains existing public access to publicly owned lands~~; and

o. Proposed mitigation measures to achieve no net loss of ecological functions consistent with Chapter 8, Mitigation and No Net Loss, of this Program.

6. Cumulative Impact Analysis - Expanded requirements: Applicants proposing complex projects, such as multi-species farms, farms on shorelines of statewide significance, farms that have the potential to harm habitat, community recreation use or significant degradation of views and aesthetic values, farms within low-energy shorelines areas including but not limited to bays, coves and estuaries and areas situated adjacent to identified critical areas; farms proposed in areas adjacent to existing aquaculture activities: or when the proposal is the first of its kind in the areas shall be required to provide additional base line information that may include:

   a. Aquatic and benthic organism diversity and abundance;

   b. Sediment compaction;

   c. Littoral drift estimates;

   d. Multi-level current flow date;

   e. Water quality;

   f. Analysis of flushing rates;

   g. An analysis of impacts of farms within water bodies or with the vicinity of the proposal; and

   h. An analysis of visual, aesthetic impacts, and real estate impacts of farms proposed adjacent to residential and high intensity residential shoreline environmental designations.

7. The County will accept documentation that has been submitted by the project applicant to state and federal permitting agencies to satisfy application requirements of this section and Program.

3.3 Commercial and Industrial Development

3.3.0 Applicability

Commercial and Industrial development and use, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. See Section 3.8, Residential Development, for home businesses located entirely within an existing single-family dwelling.

3.3.1 Policies

1. Where allowed, commercial and industrial development and use should be located, designed and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.

2. Commercial and industrial use and development should be located outside of shoreline jurisdiction unless the use/development is water-oriented. Preference should be given first to water-dependent uses, then to water-related, and water-enjoyment uses. When permitted, the scale and degree of disturbance associated with the commercial and industrial use/development should be minimized.

3. Allow for new water-oriented commercial uses and infill/redevelopment of existing areas within the Marine Waterfront shoreline environmental designation consistent with this Program. Commercial land use in all other environmental designations should be limited to isolated, small-scale businesses consistent with the policies and regulations of this Program and Clallam County zoning code (Title 33 CCC). Avoid creating new patterns of waterfront commercial development along shoreline reaches.

4. Water-oriented industrial and port development (Port of Port Angeles) should be directed to, existing waterfront industrial areas such as in the City of Port Angeles, and urban growth areas and rural centers, where such uses already exist, are planned for, and supported by adequate infrastructure in city or county comprehensive plans and zoning regulations. Avoid creating new patterns of industrial waterfront development outside of such established and planned areas.

5. Where allowed, commercial and industrial use and development should be located and designed to be compatible with adjoining non-commercial/industrial uses in terms of noise, aesthetics, scale and other factors.

6. Proponents of commercial and industrial development are encouraged to restore impaired shoreline ecological functions and processes as part of their development proposal.

7. The County should review proposals for new commercial and industrial developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed development and planned restoration.

3.3.2 Regulations

1. Permitted, conditional and prohibited commercial and industrial uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All commercial and industrial uses and development are prohibited within shoreline areas designated Natural. All shoreline commercial and industrial uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. A water-oriented commercial or industrial use or development may be permitted in certain environment designations through substantial development permit or conditional use permit consistent with Table 2-2 when the project proponent demonstrates that it will not have an adverse impact on shoreline ecological functions or processes, adjacent shoreline uses, navigation, recreation or public access.

3. To avoid adverse impacts on shoreline functions and processes and protect people and properties from hazards, commercial and industrial uses and developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Components of an approved commercial or industrial use or development that are water-dependent or water-related may be permitted within the shoreline buffer provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component and provided further that the use/development:

    a. Is located in pre-existing disturbed areas, areas with low habitat value, and/or within the 'active use' area prescribed in Section 6.3; and

    b. Will not impact a geologically hazardous area; and

    c. Uses low impact development techniques to minimize adverse impacts on water quality and habitat; and

    d. Complies with all other requirements of this Program.

5. To ensure consistency with Section 3.3.2.4 above, the County shall determine whether and how much water-dependent or water-related use/development to allow in the shoreline buffer on a case-by-case basis by considering all of the following factors:

    a. The type and intensity of the proposed use; and

    b. The size and configuration of the parcel and the ability to locate structures and other facilities outside the buffer; and

    c. The amount of native vegetation that would be cleared/removed; and

    d. The sensitivity of the aquatic habitat to the disturbances caused by the proposed use; and

    e. The ability of the proponent to offset unavoidable impacts through compensatory mitigation on-site or at an appropriate off-site location.

6. Construction of over-water (i.e., waterward of the ordinary high water mark) commercial or industrial structures shall be prohibited, provided this prohibition does not preclude the development of floats, docks, boat launch ramps, or other river/marine access facilities that are consistent with the intent of this Program and necessary for the operation of an associated water-dependent commercial or industrial use.

7. A commercial/industrial use or development shall not be considered water-dependent, water-related or water-enjoyment unless the proposed design, layout and operation of the use/development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.

8. To ensure that water-oriented commercial uses have priority along shorelines, new non-water-oriented commercial or industrial uses are prohibited unless they meet one or more of the following criteria:

    a. The site is physically separated from the water by another property in separate ownership or a public right-of-way; or

    b. The site is located on a water body that is non-navigable or where navigability is severely limited and the use would provide a significant public benefit with respect to the goals of this Program, such as providing public access and ecological restoration; or

c. The use is part of a mixed-use project that includes an associated water-dependent use and provides a significant public benefit by providing public access or restoring/enhancing the shoreline environment to improve ecological functions and processes. The County shall determine the type and extent of access or restoration on a case-by-case basis according to the opportunities and constraints provided by the site. The County may waive or modify the requirement to provide public access and/or restoration when the size of the parcel and/or the presence of adjacent uses preclude restoration or enhancement of shoreline ecological functions. In such cases, where on-site access or restoration/enhancement is not feasible, equivalent off-site access or restoration/enhancement shall be provided consistent with the policies and regulations of this Program.

9. Existing non-water-dependent and non-water-related commercial or industrial use or development on shorelines that conform to this Program may be permitted to expand landward but not waterward of existing structures provided the expansion otherwise conforms to this Program.

10. Encroachment onto a public beach by a commercial or industrial development is prohibited. Where a commercial use is allowed on shorelands in public ownership, public access to the shoreline waterward of such use must be retained and provided.

11. To preserve shoreline views, new commercial and industrial structures shall not exceed 40 feet in height above the average grade level.

12. The design and scale of a commercial development shall be compatible with the shoreline environment. The following criteria will be used to assess compatibility:

    a. Building materials;

    b. Site Coverage

    c. Height

    d. Density;

    e. Lighting, signage, and landscaping;

    f. Public access; and

    g. Visual assessment.

3.3.3 Application Requirements

1. Applications for new commercial or industrial use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required to demonstrate the use/development is water-dependent and any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. Applications for all commercial or industrial use/development shall also include the following information at the time of permit application:

    a. A description of the reason for needing a shoreline location; and

    b. Any proposed measures to enhance the relationship of the activity to the shoreline; and

c. A description of the proposed provisions for providing public visual and/or physical access to the shoreline; and

d. A description of mitigation measures proposed to ensure that the development will not cause adverse environmental impacts.

3.4 Forest Practices

3.4.0 Applicability

Forest practices, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.4.1 Policies

1. Forest practices are essential to the County's long-term economic health. Forest lands should be reserved for long-term forest management and uses that are compatible with forest management.

2. Clallam County should rely on the Forest Practices Act (RCW 76.09), its implementing rules, and the 1999 Forest and Fish Report and the Forest Practices Habitat Conservation Plan as adequate management of commercial forest uses within shoreline jurisdiction, unless or until those lands are converted to non-forest uses. [WAC 173-26-241 (3)(e)]

3. Review conversions of forest lands to non-forestry uses for compliance with this Program. Forest practices conversions and other Class IV-General forest practices should also:

   a. maintain natural surface and groundwater movement patterns and protect the quality of surface and groundwater;

   b. minimize damage to fish and wildlife species and terrestrial, wetland, and aquatic habitats; and

   c. maintain or improve the quality of soils and minimize erosion.

4. Forest practices conversions and other Class IV-General forest practices on slopes that are steep or subject to sliding, erosion, or high water table, should use best management practices to minimize damage to shorelands and water bodies, and adjacent properties.

3.4.2 Regulations

1. Timber harvesting and forest practices activities within the shoreline jurisdiction shall be conducted in accordance with the Washington State Forest Practices Act (RCW 76.09), WAC 222, and the 1999 Forest and Fish Report, and any regulations adopted pursuant thereto and are not regulated by this Program except as expressly provided herein.

2. All timber harvesting situated within two hundred feet abutting landward of the ordinary high water mark with shorelines of statewide significance shall be conducted consistent with RCW 90.58.150 (selective harvest), as amended. Only selective commercial timber cutting may be permitted so that no more than thirty percent of the merchantable trees may be harvested in any ten (10) year period of time, further provided that:

a. Other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and

b. Clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted.

The County may allow exceptions to the thirty percent (30%) limit with a conditional use permit in accordance with RCW 90.58.150 and WAC 173-26-241(3)(e).

3. Within the shoreline jurisdiction, other development activities associated with timber harvesting, such as filling, excavation, and building roads and structures, that meet the statutory definition of development, shall require a shoreline substantial development permit or conditional use permit, as specified in Table 2-2 of this Program. Such activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable Sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Conversion of forest land to non-forestry uses (Class IV-General Conversion Forest Practices Permit) shall be reviewed in accordance with the provisions for the proposed non-forestry use and the general policies and regulations in Chapter 5 and shall be subject to any permit requirements associated with the non-forestry use.

5. When forest land is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Such failure to declare intent to convert on the application shall provide grounds for the denial of subsequent development proposals for a period of six years from the date of the Forest Practices application approval (RCW 76.09.060(3)(d)).

6. Those lands harvested and not reforested under a Class I, II, or III Forest Practices permit or subject to a notice of conversion to non-forestry use under RCW 76.09.060 shall be subject to denial of all applications for county permits and approvals for a period of six (6) years, as authorized by the Forest Practices Act. The Administrator may consider removal of the moratorium on county permits and approvals subject to full compliance with the Forest Practices Act (RCW 76.09.460 or 76.09.470) and this Program.

3.4.3 Application Requirements

1. Applications for forest practices activities that are subject to regulation under this Program shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program. In addition, a Timber Harvest Permit (Class IV General, Class III Conversion Option Harvest Plan) shall be required.

3.5 Mining

3.5.0 Applicability

Mining uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.5.1 Policies

1. The potential economic benefits provided by mining should be balanced with the goal of protecting shoreline ecological functions. New mining activity should not be permitted in areas where the ecological damage would be significant and/or could not be offset through effective mitigation or restoration measures.

2. Mining should be located and conducted so as to provide long-term protection of water quality, fish and wildlife species and habitats, to minimize disruption to the natural shoreline character, resources and ecology, and to avoid net loss of ecological functions in accordance with this Program and other applicable laws.

3. Areas that are mined should be promptly restored, following completion of the mining activities, to semi-natural or other useful condition through a reclamation process.

4. Mining should not interfere with existing public access or recreation on the shoreline.

5. Mining operations should be located, designed, and managed so that adjoining properties do not experience adverse impacts from noise, dust, or other effects of the operation.

6. The County should review proposals for new mining to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between mining and planned restoration.

3.5.2 Regulations – Mining

1. Permitted, conditional and prohibited mining uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All mining uses and development are prohibited within shoreline areas designated Natural. All mining uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. All mining activities shall be conducted to ensure compliance with the Washington State Surface Mining Act (RCW 78.44) and with the no net loss provisions of this Program. The determination of whether there will be a net loss of ecological functions shall be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during operation of the mine.

3. Mining activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. When mineral extraction is permitted by this Program, associated mineral processing activities shall take place outside of shoreline jurisdiction, unless no feasible location outside of shoreline jurisdiction exists.

5. No materials (such as mining overburden, debris, and tailings) or equipment shall be placed in water bodies, critical areas, or floodways and shall be stored to prevent erosion or seepage to surface and groundwater.

6. To minimize noise, dust, vibration, glare, and other adverse impacts, a buffer of at least one hundred (100) feet wide shall be maintained between any mining facilities/sites, and adjacent properties not used for mining operations. The buffer shall consist of undisturbed soils and vegetation and shall only include land owned or leased by the mine operator.

7. Following mining, disturbed shoreline areas shall be reclaimed to provide appropriate ecological processes and functions consistent with the setting. Approved reclamation programs shall be initiated within sixty (60) days following the completion of the mineral extraction operations, in consultation with the Washington Department of Natural Resources.

8. When reviewing mining proposals, the County shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether the mining project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation. The County shall condition approval of the mining activity to ensure the proposal is consistent with the policies and regulations of this Program.

9. Mining activities involving fracking (i.e., process of injecting liquid at high pressure into subterranean rocks, boreholes, etc…) in the shoreline jurisdiction are prohibited.

3.5.3 Regulations – Mining on Marine and Lake Shorelines

1. Mining of quarry rock from any marine or lake waterbody or adjacent shoreland may be permitted as a conditional use in certain environment designations as indicated in Table 2-2 provided that shoreline processes and resources are not adversely impacted.

2. Mining of sand, gravel, cobbles, boulders, or other minerals from any marine or lake waterbody or adjacent shoreland is prohibited, regardless of the shoreline environment designation.

3.5.4 Regulations – Mining on River and Stream Shorelines

1. Mining within the active channel or channels (a location waterward of the ordinary high-water mark) of a river may be permitted as a conditional use, consistent with Table 2-2, when consistent with this Program and the following:

    a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely impact the natural processes of sediment transport for the river system as a whole; and

    b. The mining and any associated permitted activities will not have adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

2. Specific studies accompanying applications for in-river mining shall demonstrate that no adverse flood, erosion, or other adverse environmental impacts occur either upstream or downstream of extraction sites. Mining extraction amounts, rates, timing, and locations shall be based on a scientifically determined sediment budget adjusted periodically according to data provided by a regular monitoring plan.

3. Aggregate washing and ponding of wastewater are prohibited in floodways.

4. Storage of mining equipment or materials within the FEMA floodway is prohibited during the flood season (November 1 through March 1); provided that temporary stockpiling is permitted

during working hours if all such materials are removed from the floodway at the end of each day's operation.

5. All applicable permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife, shall be obtained prior to commencement of any mining activity and all applicable provisions attached thereto shall be adhered to.

6. Open pit mining may be permitted in a floodplain as a conditional use when consistent with this Program and when all of the following criteria are met:

   a. All pits and other operations should be located outside of the channel migration zone.

   b. All pits of each operation should be located and excavated to a depth to function as a self-flushing chain of lakes whenever the pits are overtopped by floods in order to prevent eutrophication and fish entrapment.

   c. The entire operation should be sized and designed so that additional bank erosion, catastrophic changes in channel location, or adverse impact to fish resources or water quality will not likely result in the long term.

   d. The scale and mode of operation will not have adverse impacts on fish resources, water quality, and recreation resources, nor adversely impact a stream's natural capacity to erode, shift, accrete, and/or flood.

   e. All equipment, works, and structures are designed to withstand flooding without becoming a hazard in themselves nor causing adverse impacts on shore features, without the necessity for shore stabilization structures.

   f. All structures or equipment which are not flood-proofed shall be located outside of the 100-year floodplain during the flood season (November 1 through March 1); provided that such equipment is permitted during daily operations.

7. Overburden or other mining spoil or non-putrid solid wastes shall comply with the fill policies of this Program, and be disposed of in an approved manner to protect shoreline ecological functions and processes, other uses, and aesthetic values.

3.5.5 Application Requirements

1. Applications for mining activities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. Applications for mineral extraction and processing shall be accompanied by a report prepared by a licensed professional geotechnical engineer that includes a description of all of the following:

   a. Types of materials present on the site;

   b. Quantity and quality of each material;

   c. Lateral extent and depth of mineral deposits;

   d. Depth of overburden and proposed depth of mining;

e. Cross section diagrams indicating present and proposed elevations and/or extraction levels;

f. Existing drainage patterns, seasonal or continuous, and proposed alterations to drainage patterns;

g. Proposed means of controlling surface runoff and preventing or minimizing erosion and sedimentation;

h. The location and sensitivity of any affected flood hazard areas;

i. The overall mineral extraction and processing plan, including scheduling, seasonal changes in activity levels, and daily operation schedules;

j. Proposed screening, buffering or fencing plans consistent with the requirements of this Program;

k. Anticipated impacts to aquatic and riparian habitat; measures to mitigate or offset adverse impacts; and

l. A proposed reclamation plan that, at a minimum, meets the requirements of Chapter 78.44 RCW.

3.6 Parking

3.6.0 Applicability

Parking facilities, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.6.1 Policies

1. Parking facilities should be located outside of the shoreline jurisdiction whenever feasible.

2. Parking in shoreline areas should be limited to that which directly serves a permitted shoreline use.

3. Parking facilities should be located and designed with appropriate stormwater management to minimize adverse environmental impacts to water quality, vegetation, and habitat. Low impact development techniques and other best management practices should be employed to prevent impacts.

4. Parking areas should be planned to achieve optimum use. Where feasible, parking areas should serve more than one use (e.g., recreational use on weekends, commercial use on weekdays).

5. The County should review proposals for new parking facilities to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the parking facility and planned restoration.

3.6.2 Regulations

1. Parking facilities shall only be permitted in shoreline jurisdiction through a substantial development permit or conditional use permit as indicated in Table 2-2 when necessary to support an authorized use and where the proponent can demonstrate that there are no feasible locations outside of shoreline jurisdiction.

2. Parking as a primary use shall be prohibited in all shoreline designations.~~, except that within the Marine Waterfront designation of the Clallam Bay-Sekiu Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.~~

3. All overwater parking facilities shall be prohibited in all shoreline designations.

4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated Resource Conservancy and Natural.

5. If permitted within shoreline jurisdiction, parking facilities shall be located landward of shoreline buffers identified in Tables 6-1 and 6-2.

6. Parking facilities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

7. Parking facilities shall be designed and located to minimize adverse impacts upon aquatic habitats and abutting properties. Parking areas shall be screened from adjacent land uses by landscaping, undeveloped space, or structures associated with the authorized primary use to the maximum practicable extent. Landscaping for parking facilities shall consist of County-approved vegetation planted prior to completion of the parking area. Landscape plantings shall be selected, planted, and maintained to provide effective screening within three (3) years of project completion and through maturity of the species.

8. Parking facilities shall require that any required lighting be screened from the aquatic areas, shorelines, associated wetlands, and required buffers.

9. Parking facilities shall be developed using low impact development techniques such as permeable pavement or bioswales when conditions are appropriate for and conducive to such techniques.

10. Parking facilities serving individual buildings shall be located landward of the principal building being served, except when the parking facility is located within or beneath the structure and is adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

11. Parking facilities shall be provided with measures adequate to prevent surface water runoff from contaminating water bodies, using best available technologies. A parking facility maintenance program shall be required to assure the proper functioning of drainage facilities over time.

3.6.3 Application Requirements

1. Applications for parking facilities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

3.7 Recreation

3.7.0 Applicability

Recreational use and development, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.7.1 Policies

1. Recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to access (visual and physical), enjoy, and use the water and shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

2. Preference should be given to activities on publicly-owned lands which are consistent with county, state, and federal park and recreation plans for water-oriented recreational uses and development.

3. The need to accommodate water-oriented recreational development should be balanced with the need to protect shoreline resources including native vegetation, substrates, water quality, and fish and wildlife species and habitats.

4. Recreational developments should facilitate appropriate use and enjoyment of shoreline resources while also conserving them.

5. Recreational development should incorporate educational information and displays information about the shoreline environment and the effects of human actions on shoreline ecological functions and processes.

6. Recreational facilities should only be located within shoreline jurisdiction when they support a water-oriented recreational use. Non-water-oriented recreational facilities should be prohibited in ecologically intact shorelines and should be located landward of the shoreline buffer in Tables 6-1 and 6-2 of this Program.

7. Recreational developments should be designed to minimize the need for clearing and grading. Utilities and roads should not be located or expanded in areas where damage to persons, property, and/or shoreline functions or processes is likely to occur.

8. Recreational developments and plans should provide a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without duplicating facilities.

9. Trail links between shoreline parks and public access points should be provided for walking, horseback or bicycle riding, and other non-motorized access where appropriate.

10. Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

11. The County should review proposals for new recreational developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the recreational development and planned restoration.

3.7.2 Regulations

1. Recreational developments may be permitted in certain environment designations through a substantial development permit or conditional use permit consistent with Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:

    a. They provide opportunities for substantial numbers of people to reach, view and enjoy shoreline water bodies; and

    b. They are located, designed and operated in a way that minimizes adverse impacts on native vegetation, substrates, water quality, and fish and wildlife species and habitats.

2. Recreational use and development shall comply with the applicable provisions Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Components of an approved recreational use or development that are water-dependent or water-related may be permitted within the shoreline buffer provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component and provided further that the use/development:

    a. Is located in pre-existing disturbed areas, areas with low habitat value or within the ‘active use’ area prescribed in subsection 6.3.4; and

    b. Will not impact a geologically hazardous area; and

    c. Uses low impact development techniques to minimize adverse impacts on water quality and habitat; and

    d. Complies with all other requirements of the Program.

4. To ensure consistency with subsection 3.7.2.3 above, the County shall determine whether and how much water-dependent or water-related recreational development to allow in the buffer on a case-by-case basis by considering all of the following factors:

    a. The type and intensity of the proposed recreational use; and

    b. The size and configuration of the parcel and the ability to locate structures and other facilities outside the buffer without significantly diminishing the recreational experience; and

    c. The amount of native vegetation that would be cleared/removed; and

d. The sensitivity of the aquatic habitat to the disturbances caused by the proposed use.

5. Where appropriate, recreational development proposals shall include provisions for non-motorized access to the shoreline from both the uplands and the water (e.g., pedestrian paths, bike paths, and boat launches/landings).

6. Recreational use of motor vehicles including unlicensed, off-road vehicles may be permitted only on roads or trails specifically designated for such use. Recreational motor vehicle use on beaches is prohibited. Recreational motor vehicles may not be used in wetlands, streams or other aquatic areas below the ordinary high water mark. This regulation does not apply to motorized watercraft.

7. Recreational facilities with more than seven thousand (7,000) square feet of clearing and grading or two thousand (2,000) square feet or more of impervious surface shall incorporate measures to prevent erosion, control the amount of runoff, and prevent harmful concentrations of chemicals and sediments from entering water bodies in accordance with the clearing, grading and filling (Section 5.2) and water quality (Section 5.4) regulations of this Program.

8. Recreational facilities shall use signs, fences and vegetative screens to protect adjacent private properties and natural areas from trespass, overflow and other possible adverse impacts.

9. Signs indicating the public's right to access public shoreline recreation areas/facilities shall be installed and maintained in conspicuous locations at points of access and entry.

10. When a public recreation site abuts private property/tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize conflicts with adjacent use/development.

11. Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal, and recycling commensurate with the intensity of the proposed use.

12. Private recreational facilities accessory to a residential use such as swimming pools and ball courts shall be prohibited in wetlands and shall not be approved via a shoreline conditional use permit or shoreline variance.

13. Primitive campsites associated with public marine or water trails that contain no utilities are permitted within the shoreline jurisdiction and may be located in allowed shoreline buffer active use areas consistent with Chapter 6 of this Program.

14. Pursuant to RCW 90.58.100 (4), applications providing for beaches, ecological study areas, and other recreational uses for the public on state-owned shorelines shall be considered a preferred use.

15. Construction of publicly owned trails on public lands, and public trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be permitted subject to the following standards:

    a. The trail shall be constructed in the outer fifty percent (50%) of the shoreline and critical area buffers as indicated in Tables 6-1 and 6-2 to the maximum extent possible. This standard does not apply to trail corridors along existing roads or converted prior railroad or road right-of-way. The Administrator may allow the trail to be located within the inner fifty percent (50%) of the shoreline buffer if there is strong evidence that the later location

would require less clearing, grading and damage to the shoreline ecology, provided that the trail is at least 30 feet landward of the ordinary high water mark except for trail connections and linkages providing direct access to beaches and the water.

b. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other previously disturbed areas.

c. Trails and related facilities shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area shall be a maximum of sixteen (16) feet wide.

d. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of shoreline habitat.

e. Trails shall be limited to non-motorized use, except for emergency vehicles and authorized vehicles for trail maintenance and repair.

f. Trail surfacing shall be composed of natural materials, including but not limited to gravel, rock, bark, untreated wood decking eighteen (18) inches or lower in height; except that regional public trails may have up to twelve (12) feet of permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area.

3.7.3 Application Requirements

1. Applications for recreational use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required to demonstrate the use/development is water-dependent and any information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

3.8 Residential Development

3.8.0 Applicability

Residential development and uses and improvements that are accessory to residential development, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.8.1 Policies

1. The goal of accommodating single-family residential development along shorelines should be balanced with the need to protect ecological functions and processes.

2. New residential use and development should be planned, designed, and located to minimize adverse impacts on fish and wildlife species and habitat, vegetation, and water quality; to maintain slope and soil stability; and to preserve views of the shoreline from nearby upland vantage points.

3. Low impact development practices and cluster development should be implemented as appropriate to preserve natural shoreline features, minimize stormwater runoff, and reduce utility and road construction and maintenance costs.

4. Creation of new residential lots through land division should be designed, configured and developed to minimize impacts to ecological functions and processes, even when all lots are fully built out.

5. The County should review proposals for new residential developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between residential development and planned restoration.

3.8.2 Regulations – General

1. New single-family residential use and development on existing lots of record shall be permitted in all designations except the Aquatic designation through a statement of exemption or conditional use permit consistent with Table 2-1.

2. New multi-family residential use and development may be permitted as a conditional use in the Marine Waterfront and Shoreline Residential–Intensive designations when consistent with the Program. New multi-family residential use and development shall be prohibited in the Natural, Resource Conservancy, and Shoreline Residential –Conservancy designations consistent with Table 2-1.

3. To avoid adverse impacts on Archeological, Historical and Cultural Resources, residential use and development shall comply with the applicable provisions of Section 5.5 of this Program.

4. To avoid adverse impacts on shoreline ecological functions and processes and protect residential properties from hazards, residential use and development shall comply with:

    a. The shoreline buffer and vegetation requirements of Chapter 6; and

    b. The critical area requirements of Chapter 7, including critical area buffer requirements prescribed therein; and

    c. The mitigation and no net loss requirements of Chapter 8; and

    d. The clearing, grading and filling requirements of Section 5.2; and

    e. The water quality requirements of Section 5.4.

5. Residential dwelling units, including accessory dwelling units, shall not be constructed in, over, or on the water or below the ordinary high water mark of any shoreline of the state.

6. In-water, overwater or floating residences or accessory dwelling units are prohibited.

7. New residential development on low bank marine shorelines that are designated Shoreline Residential - Intensive shall be designed to minimize damage from storm surges and coastal flooding. Structures shall be designed to incorporate freeboard above the required elevation of the lowest floor or bottom of the lowest horizontal member consistent with the FEMA Coastal Construction Manual, Fourth Edition (FEMA P-55). This regulation is intended to protect property and prevent the need for future flood control/erosion control structures.

8. To preserve shoreline views, the maximum height above average grade level of any residential structure shall not exceed thirty-five (35) feet.

9. New residential developments shall comply with the utility provisions in Sections 3.12.2, 3.12.10 and 3.12.12 of this Program.

10. Access to new residential developments shall comply with the applicable transportation provisions in Section 3.11.2 of this Program.

11. Home businesses that are located entirely within an existing single-family dwelling and clearly subordinate and incidental to the residential use of the dwelling may be permitted as an accessory use subject to the following provisions:

    a. The home business must be entirely contained within the existing dwelling and shall not occupy greater than twenty-five percent or 500 square feet of the dwelling gross floor area, whichever is less. Any business to be conducted in a separate, detached outbuilding in the shoreline jurisdiction is subject to compliance with commercial and industrial provisions under Section 3.3 of this Program.

    b. The home business shall comply with all other provisions of this Program.

    c. The home business must also be a permitted use and consistent with home-based business standards of the Clallam County Zoning Code, Title 33 CCC. Where there is a conflict with this Program, the most restrictive standards shall apply.

12. Transient lodging (e.g., bed & breakfast, vacation rental) located entirely within a single-family residence and consistent with county zoning and building codes as an appropriate use within a single-family residence shall be considered under this section. Other types of transient lodging shall be considered a commercial use under Section 3.3 of this Program. New transient lodging within a single-family residence shall be subject to a shoreline substantial development permit.

13. Domestic wells serving single-family developments, including a pump and appropriately sized pump house and storage tank, may be permitted in the shoreline or critical area buffer provided there is no alternative location outside of the buffer and the well is located and designed to minimize adverse impacts on shoreline functions.

3.8.3 Regulations – Accessory Structures

1. A shoreline substantial development permit or conditional use permit shall be required for any structures that are not considered necessary for the full use and enjoyment of the main residential use, not typically associated with the main use, or otherwise subordinate to or incidental to the main use of a parcel, including the utilities necessary to serve the accessory use.

2. Structures that are accessory to residential developments may be permitted when the primary residential use is permitted pursuant to, and only when, other provisions of this Program are met.

3. Accessory dwelling units may be permitted through a substantial development permit in the Marine Waterfront, Shoreline Residential–Intensive, and Shoreline Residential-Conservancy designations when consistent with the Program. Accessory dwelling units shall be prohibited in the Resource Conservancy and Natural designation consistent with Table 2-1. All accessory housing shall also comply with the Clallam County Zoning Code, Title 31 CCC.

3.8.4 Regulations – Land Divisions

1. Land division to create new residential lots shall be prohibited in the Natural designation.

2. Land division to create new residential lots may be permitted in the Marine Waterfront, Shoreline Residential– Intensive, and Shoreline Residential – Conservancy designations through a substantial development permit as indicated in Table 2-1 when consistent with the regulations of this Section (3.8.4) and this Program.

3. Land division to create new residential lots may be permitted in the Resource Conservancy designation through a conditional use permit as indicated in Table 2-1 when consistent with the regulations of this Section (3.8.4) and this Program.

4. When permitted, land divisions shall comply with all of the following:

    a. New lots shall be consistent with lot size and configuration requirements established by Clallam County Code Title 33, Zoning, as applicable, provided that new lots comply with the critical area requirements in Chapter 7 of this Program and provided further that new lots in the Shoreline Residential – Conservancy and Resource Conservancy designations have a minimum lot width of at least one-hundred fifty (150) feet and maximum width to depth ratio shall be 1:4.

    b. Proposals for new lots for development within shoreline jurisdiction shall demonstrate an adequate building envelope (including access and utilities) exists after applicable shoreline and critical area buffers, setbacks, easements and other restrictions are taken into account.

    c. Proposals for new lots created within mapped channel migration zones shall require a geotechnical evaluation to ensure that all new lots provide adequately sized building envelope/sites (including access and utilities) outside of the established channel migration zone.

    d. Structural shore armoring or flood control structures will not be required to create the lots.

    e. The new lots will not require structural shoreline stabilization or flood control measures during the useful life of the planned development or seventy-five (75) years, whichever is greater.

    f. No structures are proposed within the required shoreline buffer or critical area buffer, unless the regulations in Chapters 6 and 7 specifically allow them in the buffer.

    g. The shoreline buffer areas prescribed in Tables 6-1 and 6-2 shall be placed in a dedicated open space tract, easement or covenant protecting the buffer into perpetuity. Such dedication or easement shall be recorded together with the land division and shown on the final plat.

    h. Adequate sewer, water, access, and utilities can be provided at the time of final plat or short plat approval subject to the requirements of Clallam County Code Title 29 Subdivisions.

    i. The intensity and type of development is consistent with the Clallam County Comprehensive Plan and the associated development regulations set forth in Clallam County Code Title 33.

j. Potential adverse environmental impacts shall be avoided and unavoidable impacts can be offset through compensatory mitigation to achieve no net loss of ecological functions.

k. New residential subdivisions of more than four (4) units or lots shall include a restriction on the face of the plat prohibiting individual beach access structures. Shared access structures may be permitted in these subdivisions when consistent with the provisions of this Program.

l. Land below the ordinary high water mark shall not be permitted for use in calculating minimum lot area for the proposed lots.

3.8.5 Application Requirements

1. Applications for residential use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. For new residential development within designated floodplains in the Puget Sound basin, the Administrator may require additional information as needed to demonstrate that the proposal development is consistent with the National Oceanic and Atmospheric Administration's (NOAA) recommendations in the 2008 Biological Opinion on the Federal Flood Insurance Program to avoid impacts on Endangered Species Act-listed Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer-run chum salmon, and Southern Resident killer whales, and/or designated critical habitat for those species.

3.9 Restoration

3.9.0 Applicability

Restoration, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.9.1 Policies

1. Restoration should be used to complement and not take the place of the shoreline protection strategies required by this Program to achieve the greatest overall ecological benefit.

2. Clallam County should support voluntary and cooperative restoration efforts between local, state, and federal public agencies, Tribes, non-profit organizations, and landowners to improve shorelines with impaired ecological functions and/or processes.

3. Restoration actions should improve shoreline ecological functions and processes as well as shoreline features and should promote sustainability of sensitive and/or regionally important plant, fish, and/or wildlife species and their habitats.

4. Restoration should be integrated with and should support other natural resource management efforts in Clallam County and in the greater Puget Sound region.

5. The County should minimize policy and regulatory barriers to ecological restoration and where feasible provide incentives to encourage voluntary restoration projects.

6. Restoration efforts should take into account potential implications of climate change to ensure the resiliency and sustainability of the restored habitats over time.

7. The County should actively implement the Shoreline Restoration Plan to achieve the following goals:

    a. Protect and restore ecosystem health.

    b. Maintain and improve ecosystem functions that provide for economic prosperity and human health.

    c. Promote the collection and use of scientific information.

    d. Increase public awareness, education, and involvement.

    e. Encourage cooperation and coordination for implementation.

3.9.2 Regulations

1. Restoration may be permitted in all environment designations through a substantial development permit or statement of exemption as indicated in Table 2-2 when consistent with this Program.

2. Restoration shall be carried out in accordance with a County or resource agency-approved restoration plan and in accordance with the policies and regulations of this Program.

3. Restoration projects shall be monitored and maintained to ensure they achieve their intended restoration goals. The project proponent shall assess and document each restoration project according to the requirements prescribed by the applicable authorizing or funding agency. The project proponent shall be responsible for implementing corrective actions as needed to ensure the project's ecological benefits are sustainable over time.

4. The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved.

5. The Administrator, at his/her discretion, may waive review requirements fees for shoreline restoration projects that meet either of the following criteria:

    a. Sponsored Projects: Restoration projects sponsored, co-sponsored or otherwise supported by Clallam County, Washington Department of Fish and Wildlife, Clallam Conservation District, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Washington Department of Natural Resources, or other public agency approved by the Administrator which are consistent with the County Comprehensive Plan, Sequim Bay Watershed Management Plan, Dungeness Watershed Area Management Plan, Port Angeles Watershed Management Plan, Sequim-Dungeness Groundwater Protection Strategy, County floodplain management plans, and other plans adopted by the County Board of Commissioners and the Clallam County Noxious Weed Control Board.

    b. Vegetation Planting/Removal: Planting of native vegetation or removal of non-native species to improve the functions of a shoreline buffer or designated critical area; provided that such activities performed are limited to the area being enhanced; provided further that watering of newly planted vegetation is provided to ensure plant establishment. Vegetation planting and removal on landslide hazard areas shall require approval of a mitigation plan in accordance with Section 8.3 of this Program.

6. Fish Habitat or Passage Improvement Projects: The expedited permit process set forth by Second Substitute House Bill 2879 (Chapter 249, Laws of 1998) for fish habitat or passage improvement projects, including stabilization and relocation proposals that qualify as fish habitat or passage improvement projects, is hereby adopted by Clallam County. This process sets forth a requirement that the applicant notify Clallam County of the request for a permit waiver of a certificate of compliance or other permit approval and any associated permit fees for those projects which qualify for this waiver. The request shall be in the form of a Joint Aquatic Resources Permit Application (JARPA). Qualified projects must meet the criteria set forth by the legislation which shall include any County-sponsored projects.

    a. Clallam County shall use the JARPA form as an alternative shoreline exemption permit application form for fish habitat or passage improvement projects.

    b. Upon receipt of an application deemed to be qualified by Washington State Department of Fish and Wildlife, the Administrator shall provide comments within fifteen (15) days to the Department of Fish and Wildlife and also the applicant. These comments shall include whether or not the proposal is consistent with this Program and adopted watershed plans, flood management or reduction plans, and other applicable plans, as they apply.

    c. Any fish enhancement or passage improvement project that is constructed or completed without obtaining comments from the Administrator in accordance with Chapter 249, Laws of 1998, shall be deemed a violation of this Program and Chapter 35.01 Clallam County Code. Such projects are subject to violation and enforcement procedures set forth by said regulations.

3.9.3 Application Requirements

1. Applications for restoration projects shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

3.10 Signs

3.10.0 Applicability

Signs, including on-premises and off premises signs, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.10.1 Policies

1. Signs should be located, designed, and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.

2. Sign location and design should not significantly impair shoreline views.

3. Signs of a commercial or industrial nature should be limited to those areas or premises to which the sign message refers.

4. Billboards and other off-premise signs should not be located on shorelines except for approved community gateway or directional signs.

3.10.2 Regulations

1. Signs may be permitted in any environment designation consistent with the policies and regulations of this Section and Program.

2. Sign development is prohibited in the Natural designation, except for trail marking, hazard warnings, or interpretive scientific or education purposes. Such allowed signs shall be limited in size and number to those required to affect their purpose.

3. New signs must comply with the Clallam County Zoning Code, Title 33 CCC, sign regulations and the exemptions listed there also apply in this Program.

4. Signs shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

5. Signs shall be located and designed to avoid adverse impact on shoreline functions and processes. This shall include locating signs outside of shoreline buffers, critical areas or other areas that require substantial vegetation removal, grading or filling.

6. The following types of signs may be permitted in shoreline jurisdiction, subject to the provisions contained within this Program:

    a. Water navigation signs and highway and railroad signs necessary for operation, safety, and direction;

    b. Public information/interpretive signs directly relating to a shoreline resource, use, or activity;

    c. Off-premise, signs for community identification, information, or directional purposes;

    d. Signs with changing message, provided that the information displayed is limited to time, temperature, date, or public non-commercial messages;

    e. National, state, or institutional flags or temporary decorations customary for special holidays and similar events of a public nature;

    f. Temporary directional signs to public or quasi-public events if removed within ten (10) days following the event; and

    g. Temporary campaign signs indicating support or opposition for a ballot proposition or candidate if removed within 10 days after the election the sign relates to.

7. The following types of signs shall be prohibited in shoreline jurisdiction:

    a. Signs that impair visual access through view corridors;

    b. Off-premises, detached outdoor advertising signs;

    c. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use;

d. Signs that incorporate spinners, streams, pennants, flashing or blinking lights and moving devices, except for public highway and railroad signs;

e. Animated outdoor advertising signs consisting of devices that move and/or fluctuate in lighting or position;

f. Signs placed on trees or other natural features; and

g. Commercial signs for products, services, or facilities located off-site.

3.10.3 Application Requirements

1. Applications for sign development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

3.11 Transportation

3.11.0 Applicability

Transportation uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

3.11.1 Policies

1. New roads and railroads should be located outside of the shoreline jurisdiction whenever feasible.

2. Support completion and expansion of the Clallam County portion of the Olympic Discovery Trail (ODT) and connections of other trail linkages to the ODT as an important regional multi-use transportation facility and to increase public access and recreational use of the shoreline.

3. Transportation system plans and transportation projects within shorelines should provide safe shoulders and/or trail space for non-motorized traffic such as pedestrians and bicyclists. Space for such uses should be required along public roads on shorelines, where appropriate, and should be considered when rights-of-way are being vacated or abandoned.

4. Public access should be provided to shorelines where safe and compatible with the primary and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for public transportation system projects in shoreline areas, especially where a need has been identified in county or state plans.

5. Maintenance and repair of existing transportation facilities in shoreline jurisdiction should use all reasonable methods to minimize adverse impacts on nearby shorelines.

6. New transportation facility locations should be planned to fit the topographical characteristics of the shoreline to minimize alterations to natural shoreline conditions.

7. New transportation facilities should be designed and located to avoid and minimize the need for the following:

   a. Structural shoreline protection measures;

b. Modifications to natural drainage systems; and

c. Waterway crossings.

8. The location and design of new transportation uses/developments including replacement of existing roads and other infrastructure should take into account implications of sea level rise and other climate change effects.

9. When transportation corridors are necessary within shoreline jurisdiction, joint-use corridors are preferred and encouraged for roads and other forms of motorized transportation/circulation.

10. The County should review proposals for new transportation facilities to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed facility and planned restoration.

3.11.2 Regulations – Design and Operation

1. Transportation development may be permitted in certain environment designations through a substantial development permit or conditional use permit as indicated in Table 2-2 when otherwise consistent with this Program.

2. Transportation facilities, including trails, shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Transportation facilities shall be designed to generally follow natural topography, to minimize cuts and/or fills, to avoid adverse impacts to shoreline ecological functions and processes.

4. Transportation facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies to avoid adverse impact to the shoreline.

5. Public transportation facilities may be permitted to cross wetlands, streams and/or their buffers when no feasible alternative alignment is available and the facility is designed and constructed to minimize physical, hydrologic and ecological impacts to the wetland or stream. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts, may be specified, including placement on elevated structures as an alternative to fill, if feasible. Proponents of such wetland or stream crossings must demonstrate that all of the following criteria are met:

   a. There is no other feasible alternative route with less impact on shorelines or critical areas.

   b. The crossing minimizes interruption of natural processes such as channel migration, the downstream movement of wood and gravel, and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream substrate and gradient, provide adequate horizontal clearance on each side of the ordinary high water mark, and provide adequate vertical clearance above the ordinary high water mark.

c. Culverts, if needed, shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, Washington Department of Fish and Wildlife, 2013, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions) and in accordance with a state Hydraulic Project Approval. The Administrator may require that existing culverts be replaced or modified as a condition of approval if the culvert is detrimental to fish passage or water quality, and a feasible alternative exists.

d. Crossings shall be limited to the minimum width necessary.

6. Private road access to private development sites may be permitted to cross wetlands, streams and/or their buffers if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts, may be specified, including placement on elevated structures as an alternative to fill, if feasible. Proponents of such wetland or stream crossings must demonstrate that all of the following criteria are met:

a. There is no other feasible alternative route with less impact on shorelines or critical areas.

b. The crossing minimizes interruption of natural processes such as channel migration, the downstream movement of wood and gravel, and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream substrate and gradient, provide adequate horizontal clearance on each side of the ordinary high water mark, and provide adequate vertical clearance above the ordinary high water mark.

c. Culverts, if needed, shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, Washington Department of Fish and Wildlife, 2013, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions) and in accordance with a state Hydraulic Project Approval. The Administrator may require that existing culverts be replaced or modified as a condition of approval if the culvert is detrimental to fish passage or water quality, and a feasible alternative exists.

d. Crossings shall be limited to the minimum width necessary. Common crossings are the preferred approach where multiple properties can be accessed by one crossing.

7. In instances where water crossing is required, the shortest, most direct route shall be used unless such route would cause more damage to the environment. Bridges shall be required when crossing streams that support salmonids unless the proponent demonstrates there are other feasible alternatives that do not cause adverse impacts to fish habitat including fish passage.

8. Bridge supports and abutments shall be designed and spaced so they do not act as walls baffling or blocking flood waters, or interrupting stream channel processes or littoral drift.

9. Arterial roads and railroads shall be built outside the floodway except for necessary stream crossings. If built in the floodway fringe, such routes should be aligned generally parallel to outside stream bends so they will also act as setback levees.

10. Transportation facilities shall be designed so that no significant loss of flood capacity nor measurable increase in predictable flood levels will result. Such facilities shall avoid placing

structures within the channel migration zone or any dynamic, shifting channel area unless demonstrated no feasible location outside of these areas exists and compliance with Chapter 8, Mitigation and No Net Loss.

11. Expansion or new construction of any private or public road within shoreline jurisdiction shall only be permitted when adverse impacts to shoreline functions and processes have been avoided and when unavoidable impacts have been minimized and/or offset through compensatory mitigation in accordance with Section 8.3 of this Program.

12. Road and street repair projects shall be designed to be the minimum necessary to provide safe roads and streets.

13. Transportation facilities shall be constructed of materials that will not adversely impact water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited. Preferred materials are concrete and steel.

14. Transportation development shall be carried out in a manner that maintains or improves state water quality standards for affected waters.

15. Low impact development techniques shall be used to manage stormwater runoff from roads where feasible and where soil and geologic conditions are appropriate and conducive to such techniques.

16. Non-emergency construction and repair work shall be scheduled for that time of year when seasonal conditions (weather, stream flow) permit optimum feasible protection of shoreline ecological functions and processes.

17. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts.

18. Extensions and connections to the Olympic Discovery Trail shall be a preferred transportation, public access and recreational use within the shoreline jurisdiction consistent with the policies and regulations of this Program.

3.11.3 Application Requirements

1. Applications for transportation development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

3.12 Utilities

3.12.0 Applicability

This section applies to all ~~U~~utilities including distribution lines and related facilities, as defined in Chapter 11, ~~shall be consistent with the following policies and shall conform to the following regulations~~except as applies to residential utilities described in Section 3.8.2 of this Program.

3.12.1 Policies

1. New public or private utilities shall be located inland from water bodies, preferably outside of the shoreline jurisdiction, unless:

    a. The utility requires a location adjacent to the water;

    b. Water crossings are unavoidable;

    c. Alternative locations are infeasible; or

    d. Utilities are required for authorized shoreline uses consistent with this Program.

2. Utility facilities and corridors should be planned, designed and located so as not to obstruct or degrade scenic views. This may include locating utility infrastructure below ground, providing vegetative screening, or taking other measures to reduce visual impacts.

3. Utilities should be located and designed to avoid public recreation and public access areas and significant historic, archaeological, cultural, scientific or educational resources.

4. Utilities should be designed and sited to avoid crossing aquatic areas. If a water crossing is unavoidable, it should be located in an area that will cause the least adverse ecological impact, be installed using methods that minimize adverse impacts, and be the shortest length feasible. Perpendicular crossings are preferred.

5. Utility lines should be located and constructed within existing utility corridors and other rights-of-way presently dedicated to public use.

6. New utility installations should be planned, designed and located to eliminate the need for structural shoreline armoring or flood protection measures.

7. All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single-purpose plans, to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.

8. To the extent commensurate with public safety, public utility-owned or controlled property should be accessible to the public and enable access to, and along, shorelines.

9. Solid or hazardous waste disposal, discharge, storage, or recycling facilities, including but not limited to moderate risk facilities, underground injection wells, solid waste and recycling transfer sites, landfills, junk yards, salvage yards, auto wrecking yards, shall demonstrate that such facilities will not adversely impact groundwater resources.

10. The County should review proposals for new utility developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the utility development and planned restoration.

11. Proponents of hydroelectric generation projects should protect and preserve natural and cultural resources. Dams and hydroelectric facilities, including small-scale hydroelectric

facilities, should be located so as not to adversely impact sites having historic, cultural, scientific or educational value as identified by the appropriate authorities.

12. Proposals for new hydroelectric utilities should be carefully considered to ensure that the benefits outweigh the potential impacts on shoreline functions and processes. Projects that impact fish, wildlife, water quality, critical areas, erosion and accretion areas or processes and/or natural scenic vistas should be discouraged.

13. The expansion of existing hydroelectric facilities or the integration of hydroelectric facilities within existing flood control, irrigation, or water supply facilities should be encouraged over the development of new facilities. When new sites are considered, sufficient evidence should be presented by the project proponent to demonstrate that existing facilities are fully utilized or are not practicably available. All non-water-dependent facilities such as staging and storage areas, switching yards, utility transmission lines and in many cases powerhouses, should be located outside of the shoreline wherever feasible.

14. In determining the appropriateness of a stream or river for hydroelectric development, the recommendations and conclusions of the Northwest Power and Conservation Council or equivalent state-adopted site ranking study should be considered.

15. Hydroelectric facilities should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.

16. Powerhouses and related structures should be designed, located and constructed so as to avoid extensive alteration of topography and to preserve the natural features of the shoreline.

17. Dam and hydroelectric facilities should be constructed in such a manner that minimizes erosion and sedimentation during construction.

3.12.2 Regulations – General

1. Permitted, conditional and prohibited utility uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All utilities must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. New utilities may be permitted in certain environment designations through a conditional use permit as indicated in Table 2-2 when otherwise consistent with this Program.

3. Utility developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetative Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. Automatic shut-off valves shall be provided by the project proponent on both sides of the water body, and pipe sleeves shall be used to facilitate repair without future encroachment on surface waters and wetlands, unless more feasible or technically superior alternatives exist that provide equivalent protection, as deemed by the Administrator.

5. The construction, operation and maintenance of utilities shall not cause a net loss of shoreline ecological functions or processes or adversely impact other shoreline resources and values. The proponent shall provide compensatory mitigation for any unavoidable impacts to the shoreline environment in accordance with Section 8.3 of this Program.

6. Utilities that are not water-dependent shall be located outside shoreline buffers unless it is demonstrated that alternative locations and alternative technology are infeasible.

7. When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.

8. Utility facilities shall be constructed using techniques that minimize the need for shoreline fill. When crossing water bodies, pipelines and other utility facilities shall use pier or open pile construction.

9. New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve (12) inches in diameter measured at four and one-half (4.5) feet height on the uphill side.

10. Vegetation clearing during utility installation or maintenance shall be minimized. Upon completion of installation/maintenance or as soon thereafter as possible due to seasonal growing constraints, disturbed areas shall be restored to pre-project configuration, replanted with native species at pre-construction densities or greater and maintained until the newly planted vegetation is established. Plantings shall be native species and similar to vegetation in the surrounding area.

11. Placement of utilities within wetlands, landslide hazard areas, aquatic habitat conservation areas, frequently-flooded areas and their associated buffers may be permitted subject to all of the following standards:

    a. There no other feasible location and the utility is located, constructed, and maintained in a manner that minimizes adverse impacts on these critical areas and their buffers.

    b. New utilities shall use existing utility corridors whenever possible.

    c. The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

    d. New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve (12) inches in diameter measured at four and one-half (4.5) feet height on the uphill side.

    e. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line and the area is restored following utility installation.

    f. Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

3.12.3 Regulations – Dams and Hydroelectric Generating Facilities

1. Small-scale power generating apparatus may be placed in streams provided they do not create impoundments and there are no adverse impacts on shoreline functions and processes, including but not limited to, stream flow, habitat structure, temperature, and/or water quality.

2. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule.

3. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for one hundred-fifty percent (150%) of the cost of the structure shall be filed with the Administrator prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a Civil Engineer licensed in the State of Washington, and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

4. Dams and associated power generating facilities shall not be permitted except in the rare instance where there is clear evidence that the benefits to County residents outweigh any potential adverse ecological impacts. The criteria for approving such facilities will depend on the specific location including its particular physical, cultural, and ecological conditions. Dams and associated power generating facilities shall not be permitted in areas designated as "Protected Areas" by the Northwest Power and Conservation Council or an equivalent state-adopted site ranking program.

5. Hydroelectric generating facilities which provide or generate more than one (1) megawatt of electrical power annually or are located on public land shall provide public access/open space. The County may alter the recommended megawatt threshold per constitutional limits or waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.

6. Construction material staging areas shall be located more than two hundred (200) feet from ordinary high water, except this shall not apply during construction and assembly periods.

7. Service roads shall be a size which is minimally necessary to safely accomplish maintenance and repair of the facility.

8. The following standards shall apply to powerhouses/penstocks:

    a. These shall be designed, located and constructed in such a manner as to avoid extensive removal of riparian vegetation and topographical alteration.

    b. Penstocks shall be designed, located and constructed to present as low a profile as possible.

    c. Powerhouses shall be located a minimum of twenty five (25) feet from ordinary high water, provided that this setback does not apply to raceways.

3.12.4 Regulations – Electrical Energy and Communication Systems

1. Systems components (including substations, towers, and transmission and distribution lines) that are not water-dependent shall not be located in shoreline jurisdiction unless alternatives are infeasible.

2. Underground placement of lines shall be required for new or replacement lines that are parallel to the shoreline and do not cross water bodies. New or replacement lines that cross water or critical areas may be required to be placed underground depending on impacts on

ecological functions and processes and visual impacts. Poles or supports treated with creosote or other wood preservatives that may be mobile in water shall not be used along shorelines or associated wetlands.

3.12.5 Regulations – Essential Public Facilities

1. Essential public facilities shall be located, developed, managed, and maintained in a manner that protects shoreline ecological functions and processes.

2. Essential public facilities shall be designed to enhance shoreline public access and aesthetics.

3. Essential public facilities shall be located outside of shoreline jurisdiction unless they require a waterfront location or unless there is no other feasible alternative.

3.12.6 Regulations – Renewable Energy Systems

1. At wind energy system sites, the design of the associated structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the wind energy system to the natural setting and the existing environment.

2. No wind energy system shall be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority.

3. The renewable energy system shall not interfere with established navigation routes.

4. The renewable energy system shall be designed, constructed and operated in a manner that minimizes adverse impacts on shoreline ecological functions and processes.

5. The County shall take the following into account in its review of renewable energy system applications:

    a. The potential hydrological effects (including physical effects at the site and adjacent coastline through changes to wave patterns, tidal streams, sediment transport, etc.);

    b. Interference with other marine activities;

    c. Potential risk to fish and other marine life, including mammals, from contaminants, noise and vibration;

    d. The effects of increased turbidity and potential for smothering/burial of benthic flora and fauna; and

    e. Other adverse implications on marine habitats and/or species.

3.12.7 Regulations – Oil, Gas, and Natural Gas Transmission

1. Because of the unique shoreline environmental resources of the County, development of petrochemical plants and energy facilities such as crude petroleum transfer facilities and tank farms, petroleum refineries, nuclear power plants, nuclear processing plants, and liquid natural gas and liquid petroleum gas facilities, as defined in RCW 80.50.020, will not be permitted unless it is demonstrated, giving due consideration to the statewide interest, that local economic, social and environmental resources and conditions will be adequately protected from adverse impacts. Oil, gas, and natural gas development and transmission is prohibited in the Natural shoreline environmental designation.

2. Oil, gas and natural gas transmission and distribution pipelines shall not be located in shoreline areas unless alternatives are demonstrated to be infeasible.

3. Local natural gas service lines shall not be located in shoreline areas unless serving approved shoreline uses. Crossings of shorelines shall not be approved unless alternatives are demonstrated to be infeasible.

4. Developers and operators of pipelines and related facilities for gas and oil shall be required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.

5. To the extent feasible, public access shall be incorporated with major transmission line rights-of-way for public access to and along water bodies as required in Section 5.3. The County may waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations.

3.12.8 Regulations – Municipal / Public Sewage Systems

1. Outfall pipelines and diffusers associated with municipal/public and water-dependent shall be located to avoid a net loss of ecological functions.

2. New outfalls and modifications to existing outfalls shall be designed and constructed by the project proponent to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to those habitats.

3. Septic tanks and drain fields are prohibited where public sewer is readily available.

3.12.9 Regulations – Solid Waste Facilities

1. Facilities for processing, storage and disposal of solid waste are not normally water-dependent. Components that are not water-dependent shall not be permitted on shorelines.

2. Disposal of solid waste on shorelines or in water bodies has potential for severe adverse impacts upon ecological processes and functions, property values, public health, natural resources, and local aesthetic values, and shall not be permitted.

3. Temporary storage of solid waste in suitable receptacles is permitted as accessory to a permitted primary use or for litter control.

3.12.10 Regulations – Stormwater Facilities

1. Stormwater management facilities, limited to detention/ retention/ treatment ponds, media filtration facilities, and lagoons or infiltration basins, shall be permitted within shoreline and /or critical area buffers only when the following provisions are met:

   a. Construction of the stormwater facility does not displace or impact a critical area;

   b. There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse impacts to shoreline ecological functions;

c. The stormwater facility meets applicable stormwater management standards (see Section 5.2 and 5.4 of this Program) and the discharge water meets state water quality standards including total maximum daily load (TMDL) standards;

d. The width of the buffer between the stormwater facility and the shoreline or critical area is at least seventy-five percent (75%) of the standard width per Tables 6-1 and 6-2, or thirty-five (35) feet, whichever is greater;

e. There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse impacts on the buffer and adjacent critical areas; and

f. Low impact development approaches have been considered and implemented to the maximum extent feasible.

2. Proposals for all new stormwater facilities shall include landscaping plans that enhance the aesthetic quality of the shoreline, utilize native vegetation, and provide for maintenance care until newly planted vegetation is established.

3. Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a critical area or shoreline buffer on a case-by-case basis when all of the following criteria are met:

a. Due to topographic or other physical constraints, there are no feasible locations for these facilities in the outer buffer area or outside the buffer.

b. The discharge is located in a manner that minimizes disturbance of soils and vegetation.

c. The discharge outlet is designed to prevent erosion and promote infiltration.

3.12.11 Regulations – Public Water Systems

1. Components of water systems that are not water-dependent shall be located away from the shoreline. Private and public intake facilities should be located where there will be no net loss in ecological functions or adverse impacts upon shoreline resources, values, natural features, or other uses.

2. Desalinization facilities shall be located outside of critical areas and landward of shoreline buffers, except for water-dependent components such as water intakes.

3.12.12 Application Requirements

1. Applications for utility development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program. In addition, the following information shall be provided by the project proponent for a utility proposal:

a. A description of the proposed facilities; and

b. The rationale and justification for siting the proposed facility within shoreline jurisdiction; and

c. A discussion of alternative locations considered and reasons for their elimination; and

d. A description of the location of other utility facilities in the vicinity of the proposed project and any plans to include facilities or other types of utilities in the project; and

e. A plan for the reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the facility; and

f. A plan for the control of erosion and turbidity during construction and operation; and

g. An analysis of alternative technologies; and

h. Documentation that utilities avoid public recreation areas and significant natural, historic or archaeological or cultural sites, or that no alternative is feasible and that all feasible measures to reduce harm have been incorporated into the proposal.

3.13 Ocean Management

3.13.0 Applicability - The ocean use policies, regulations, and permitting procedures apply as follows:

1. **Ocean Resources Management Act (ORMA; RCW 43.143).** Ocean uses and developments proposed within the ORMA geographical area must be consistent with ocean use policies and regulations and reviewed using the additional approval criteria of section 3.13.1, below. The applicable ORMA geographical area covers Washington coastal waters from Cape Disappointment directly south to the state border, including the mouth of the Columbia River, and from Cape Disappointment north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan De Fuca including the offshore ocean area within state waters (from OHWM out to 3 nautical miles), the near shore area under state ownership, shorelines of the state, and their adjacent uplands.
   a. Geographic Application. The Ocean Management provision of this section apply to the Pacific Ocean shorelines of statewide significance coastal waters and those associated shorelands located within Clallam County.
2. Marine Spatial Plan (MSP). New ocean uses and developments proposed within the MSP study area must be consistent with the ocean use policies, regulations, and procedural requirements of sections 3.13.2, below. The MSP study area covers marine waters of the Pacific Ocean within state waters (from OHWM out to 3 nautical miles).
   a. The MSP applies to a proposed project only if all three of the following criteria are met:
      i. occurs within the geographic boundaries of the MSP study area;
      ii. will adversely impact renewable resources or existing ocean uses; and
      iii. is a 'new use', as defined by the MSP.
   b. All new ocean uses proposed within the MSP study area must be consistent with the protection standards for ISUs and Fisheries and reviewed using the additional process requirements for new ocean use proposals.
   c. Applicability of ISU protection standards. The state has developed maps of ISUs using the best available data at the time of the MSP development. These maps are intended to assist applicants in identifying where ISUs exist. As finer resolution or updated data becomes available, the state may update the ISU maps, which may include adding, deleting or updating the distribution of an ISU. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed new ocean use project area and to demonstrate protection standards will be met.

3.13.1 Ocean use administration.

1. Additional ORMA approval criteria for ocean uses and developments. In addition to the otherwise required shoreline substantial development, conditional use, or variance approval criteria, newly proposed ocean uses or development shall meet or exceed this additional approval criteria:
   a. There is a demonstrated significant local, state, or national need for the proposed use or activity;
   b. There is no reasonable alternative to meet the public need for the proposed use or activity;
   c. There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;
   d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Olympic National Park;
   e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
   f. Compensation is provided to mitigate adverse impacts to coastal resources or uses;
   g. Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and
   h. The use or activity complies with all applicable local, state, and federal laws and regulations.
2. Additional MSP procedural requirements for new ocean use proposals. In addition to the otherwise required shoreline substantial development, conditional use, or variance permit procedural requirement, MSP defined new ocean use proposals shall include the following:
   a. Pre-application Meeting. Prior to submitting any applications for shoreline permits for new ocean uses or developments the applicant will participate in at least one pre-application meeting which may be consolidated and coordinated with all local, state, and federal agencies. During the pre-application stage:
      i. The applicant should use the MSP to understand potential use and resource conflicts, including review of the baseline data, maps, analyses, and management framework. This information can assist applicants in avoiding and minimizing impacts to resources and uses through project siting and design.
      ii. The applicant should provide required data and information about the project, and identify and coordinate with stakeholder groups as well as other governments, including state, tribal, and federal government entities.
      iii. The applicant should identify state and local policies, procedures, and requirements, including those referenced in the Marine Spatial Plan.
   b. Inventory – Review adequacy of site-specific inventory and respond to requests for additional data or studies.
   c. Effects Analysis – Submit an effects evaluation (See Section 4.5 of the MSP) which includes proposed mitigation measures, and best management practices.
   d. Plans – Submit proposed construction and operation plans, including adequacy of prevention, monitoring, and response plans.
   e. Coordination – Continue to coordinate with government entities (local, state, tribal, and federal agencies), stakeholders (representatives from fishing, aquaculture, maritime commerce, conservation, tourism, recreation), and the Washington Coastal Marine Advisory Council (WCMAC), and the public in all aspects of project development and review.

3.13.2 General Ocean Management Policies

1. Applicability. These ocean management policies and their implementing regulations will be used in evaluating ocean uses, developments, and activities proposed in coastal waters subject to ORMA. These provisions augment the other requirements of this SMP. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources.
2. These general ocean management policies are applicable to all shoreline permits for newly proposed ocean uses, their services, distribution, and supply activities and their associated facilities.
   a. Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.
   b. Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.
   c. The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.
   d. For ocean uses and activities, SEPA shall be applied consistent with WAC 197-11-060 (4)(e) and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent with WAC 197-11-330(3) and 197-11-794. The sequence of actions described in WAC 197-11-768 should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.
   e. Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.
   f. Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.
   g. Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.
   h. Ocean uses and their associated coastal or upland facilities should be located, designed and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling and estuaries.
   i. Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.
   j. Ocean uses and their associated facilities should be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with

chapter 27.34 RCW. Permits in general should contain special provisions that require permittees to comply with chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered.

k. Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.

l. Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

m. In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.

n. Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.

o. Onshore facilities associated with ocean uses should be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.

p. Attention should be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.

q. Special attention should be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.

r. Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts. s. Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.

t. Pre-project environmental baseline inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses and coastal communities or the technology involved is likely to change.

u. Oil or gas exploration, development, or production should be prohibited from Cape Flattery south to Cape Disappointment; in Grays Harbor, Willapa Bay, and the Columbia River downstream from the Longview bridge. For all other areas the following policies apply:

i. Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.

ii. To the extent feasible, the location of oil and gas, and mining facilities should be chosen to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.
iii. Discontinuance or shutdown of oil and gas, mining or energy producing ocean uses should be done in a manner that minimizes impacts to renewable resource ocean uses such as fishing, and restores the seabed to a condition similar to its original state to the maximum extent feasible.

3. The state Marine Spatial Plan (MSP) provides a base of scientific information on ocean uses and resources, provides a framework for evaluating new ocean use proposals, and establishes protections for sensitive areas and fisheries. As such, the state MSP informed the ocean management provisions of this SMP and should be utilized in their implementation.

3.13.3 Ocean Management Regulations.

1. The following ORMA ocean management regulations apply to all shoreline permits for newly proposed ocean uses, their services, distribution, and supply activities and their associated facilities:
   a. Oil and gas exploration, development, and production is prohibited in tidal or submerged lands extending from the mean high tide seaward three miles.
   b. Seafloor mining may be allowed consistent with all of the following: i. The applicant has demonstrated that the location and operation has been designed in a manner that has no detrimental effects on ground fishing, renewable resource uses, beach erosion and accretion processes; and
   ii. The applicant has provided for mitigation of impacts that accounts for the established habitat recovery rates.
   c. Ocean energy producing uses should only be allowed when the applicant has demonstrated the following:
   i. The location, construction, and operation has been designed in a manner that has no detrimental effects on beach erosion, accretion, and wave processes;
   ii. The effect of the project on upwelling and other oceanographic and ecosystem processes have been assessed; and
   iii. Associated energy distribution facilities and lines are located in existing utility rights of way and corridors, whenever feasible.
   d. Ocean disposal uses may be allowed when the applicant has demonstrated the following:
   i. Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment;
   ii. The ocean disposal site has been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers, as appropriate. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of locations;
   iii. The Ocean disposal site has been located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development; and
   iv. Ocean disposal should be sited in areas where the dredge material will provide beneficial use to the greatest extent possible.
   e. Ocean transportation uses may be allowed consistent with the following:
   i. The applicant has provided an assessment of the impacts the proposed transportation use will have on renewable resource activities such as fishing and on environmentally

critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.

ii. When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.

iii. Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.

f. Ocean research uses may be allowed consistent with the following:

i. Other ocean uses occurring in the same area have been identified and potential use conflicts have been minimized.

ii. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of WAC 173-15: Permits for oil or natural gas exploration activities conducted from state marine waters.

iii. The project has been located and will be operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.

iv. Upon completion or discontinuance of the ocean research the site shall be restored to its original condition to the maximum extent feasible, consistent with the purposes of the research.

v. Ocean research findings should be made available for public dissemination, whenever feasible.

g. Ocean salvage uses may be allowed consistent with the following:

i. Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.

ii. Nonemergency marine salvage and historic shipwreck salvage activities should not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

2. Important, Sensitive and Unique Areas (ISUs) Designation. The ISUs assign protection standards and definitions for adverse effects for a list of ecological, historic, cultural, and infrastructure areas. The MSP provides maps utilizing the best available data on ISU locations.

a. Ecological ISUs

i. Biogenic Habitats: Aquatic vegetation, corals, and sponges

ii. Rocky Reefs

iii. Seabird colonies: islands and rocks used for foraging and nesting by seabirds.

iv. Pinniped haul-outs

v. Forage fish spawning areas: intertidal areas used for spawning by herring, smelt or other forage fish.

b. Historic, Cultural and Infrastructure ISUs

i. Historic and archaeological sites: Structures or sites over 45 years old that are listed or eligible for listing in local, state or national preservation registers (e.g. shipwrecks or lighthouses); or Artifacts or other material evidence of tribal or historic use or occupation (e.g. burials, village sites, or middens).

ii. Buoys and submarine cables: Fixed infrastructure such as navigation or monitoring buoys, fiber optic cables, electrical transmission cables, other fixed monitoring equipment in the marine environment (e.g. hydrophones) and any associated mooring lines, anchors or other equipment.

3. ISU Mapping and Location. The state has developed maps of ISUs intended to assist applicants in identifying where ISUs exist. https://www.msp.wa.gov/important-sensitive-and-unique-areas-isus/. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed project area and to demonstrate protection standards will be met.

4. ISU Protection standards. New ocean uses should only be allowed when the applicant can demonstrate consistency with the following ISU adverse effects and protection standards:

a. An applicant for proposed new ocean uses involving offshore development must demonstrate that the project will have no adverse effects on an ISU located at the project site and to off-site ISUs potentially affected by the project, using site-specific surveys, scientific data and analysis, which demonstrate either:
i. The current ISU maps do not accurately characterize the resource or use or the project area (mapped or not mapped) does not contain an ISU resource or use; or
ii. The weight of scientific evidence clearly indicates that the project will cause no adverse effects to the resources of the ISU.

A. Adverse effects standards for Ecological ISUs means degradation of ecosystem function and integrity (direct habitat damage, burial of habitat, habitat erosion, and reduction in biological diversity) or degradation of living marine organisms (abundance, individual growth, density, species diversity, and species behavior).

B. Adverse effects standards for historic, cultural or fixed infrastructure ISUs include the following:

(1) Direct impacts from dredging, dumping, or filling;

(2) Alteration, destruction or defacement of historic, archaeological or cultural artifacts; and

(3) Direct impacts from placement or maintenance of new, temporary or permanent structures in areas with existing infrastructure or historic, archaeological or cultural artifacts.

b. Additional buffers may be appropriate to protect ISU resources from adverse effects. Project developers shall consult with the Washington Department of Fish and Wildlife on recommended buffers for Ecological ISUs associated with their proposed project prior to filing application materials with local or state agencies. Project developers shall consult with the Washington Department of Archaeological and Historical Preservation and tribal preservation officers on further identification and protection of cultural or historical artifacts.

5. Applicants for proposed new ocean uses involving offshore development must consult with WDFW, individuals participating in affected commercial and recreational fisheries, and each of the coastal tribes to identify and understand the proposed project's potential adverse effects to fisheries and tribal uses.

6. Fisheries Protection standards. New ocean uses involving offshore development shall only be allowed when the applicant can demonstrate that their project meets all of the following standards to protect fisheries located at the project site and nearby from adverse effects:

a. There are no likely long-term significant adverse effects for commercial or recreational fisheries. Adverse effects can be direct, indirect or cumulative.

i. A significant reduction in the access of commercial or recreational fisheries to the resource used by any fishery or a fishing community(s);
ii. A significant increase in the risk to entangle fishing gear;
iii. A significant reduction in navigation safety for commercial and recreational fisheries; and
iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.

b. All reasonable steps are taken to avoid and minimize social and economic impacts to fishing.
i. Avoid adverse social and economic impacts to fishing through proposed project location, design, construction, and operation, such as avoiding heavily used fishing areas. Where adverse impacts to fishing cannot be reasonably avoided, demonstrate how project has minimized impacts;
ii. Minimize the number of and size of anchors. Space structures for greater compatibility with existing uses and bury cables in the seafloor and through the shoreline;
iii. Minimize risk of entangling fishing gear from new structures installed in the seafloor or placed in the water. Minimize the displacement of fishers from traditional fishing areas, and the related impact on the travel distance, routing, and navigation safety in order to fish in alternative areas;
iv. Minimize the compression of fishing effort caused by the reduction in the areas normally accessible to fishers;
v. Minimize the economic impact resulting from the reduction in area available for commercial and recreational fishing for the effected sectors and ports.
vi. Limit the number and size of projects located in an area to minimize the impact on a particular port, sector, or fishery;
vii. Consider the distribution of projects and their cumulative effects; and
viii. Other reasonable and relevant considerations as determined by the fisheries consultation process and specifics of the proposed project.

Chapter 4 Policies and Regulations for Shoreline Modifications

4.1 Beach Access Structures

4.1.0 Applicability

Beach Access Structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

4.1.1 Policies

1. Efforts to enable pedestrian access to beach areas must be balanced with the need to protect shoreline ecological functions and ensure public safety.

2. Beach access structures should be located, designed, and maintained in a manner that minimizes adverse impacts on shoreline ecology. Proposals for beach access structures should consider existing topography, shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible.

3. Neighboring property owners are encouraged to combine resources to collectively propose beach access structures in appropriate locations for shared use.

4. Beach access structures should not be permitted until and unless their adverse impacts on stream, lake or marine shoreline functions and processes, including any adverse impacts on adjoining lands and properties, are fully evaluated and mitigated.

5. Beach access structures may not be appropriate in some areas because of safety hazards or sensitive ecological conditions. These structures should not be permitted in areas where there are expected risks to human health and safety or adverse impacts on shoreline functions and processes. Some properties will have view-only access to the adjoining waters.

6. Beach access structures should not be permitted if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.

4.1.2 Regulations

1. Beach access structures may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Tables 2-1 and 2-2 when they are consistent with this Program.

2. New beach access structures shall comply ~~shall comply~~ with the applicable provisions of Chapters: 6, Buffers; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. When consistent with this Program, private beach access structures may be located within a shoreline buffer, provided that:

   a. No more than one beach access structure is allowed on an individual private lot; and

b. The width of any walkway, staircase, tower or tram shall not exceed six (6) feet; and

c. The structure shall not extend more than twelve (12) vertical feet above the bank or slope; and

d. There is no other available public beach access within five hundred (500) feet of the proposed access site; and

e. Compensatory mitigation is provided to offset adverse impacts on shoreline process and/or functions. The mitigation shall include enhancement of the buffer vegetation through planting and/or other appropriate measures needed to achieve no net loss.

4. No portion of a beach access structure shall be constructed in a wetland or wetland buffer or waterward of the ordinary high water mark of any waterbody unless there is no other feasible alternative.

5. When in-water or over-water construction is permitted in accordance with this section it shall be limited to a small pier or pile-supported pedestrian landing platform of twenty-five (25) square feet or less that is otherwise consistent with the provisions of this Program.

6. Existing lawfully constructed beach access structures may be repaired or replaced in-kind consistent with other provisions of this Program.

7. New land divisions shall include provisions for joint-use of beach access structures. Single use structures shall be prohibited in new subdivisions. All necessary access easements shall be recorded at the time of permitting.

8. Beach access structures, including any stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means, are prohibited within areas mapped as Feeder Bluff, Feeder Bluff Talus, and Feeder Bluff Exceptional.

4.1.3 Application Requirements

1. Applications for beach access structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. Before approving a permit for a new beach access structure on a steep slope, marine bluff or other landslide or erosion hazard area, the County shall require a report prepared by a state licensed geotechnical engineer or engineering geologist and/or a qualified biologist demonstrating that all of the following conditions are met:

a. The structure is located in the least environmentally damaging location on the subject parcel; and

b. The structure is designed to minimize the amount of clearing, grading, and excavation; and

c. Construction or use of the structure will not destabilize slopes or increase landslide or erosion hazards; and

d. The structure is located outside of areas mapped as Feeder Bluff, Feeder Bluff – Talus, or Exceptional Feeder Bluff. Beach access structures (including any stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means) are prohibited within areas mapped as Feeder Bluff, Feeder Bluff – Talus or Exceptional Feeder Bluff; and

e. The structure will not substantially interfere with natural erosion and accretion processes; and

f. The placement of the structure is likely not to require structural shoreline stabilization in the foreseeable future; and

g. Unavoidable adverse impacts on shoreline processes and ecological functions are mitigated to achieve no net loss.

4.2 Boating Facilities and Moorage

4.2.0 Applicability

Boating Facilities and Moorage, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

4.2.1 Policies

1. Boating and moorage facilities should be located, designed, constructed, and operated to avoid adverse impacts on shoreline functions and processes and to prevent conflicts with other permitted uses.

2. Boating facilities should not be located or expanded where they would:

   a. Substantially interfere with net-shoreline drift.

   b. Cause adverse impacts on aquatic habitat, water quality, aesthetics, navigation, and/or neighboring uses.

3. Boating facilities and moorage associated with commercial, industrial, and port uses should include public access in accordance with Section 5.3 of this Program.

4. Boating facilities and moorage should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

5. New marinas and other public boating facilities should be co-located with other compatible water-dependent uses where feasible. The Administrator should seek comment from public recreation providers, adjacent cities/counties, port districts, Washington State Parks, affected Native American Tribes, and the Washington State Departments of Ecology, Fish and Wildlife, Health, and Natural Resources, to ensure that local as well as regional recreation needs are addressed.

6. The County should review proposals for boating facilities and moorage to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed development and planned restoration.

4.2.2 Regulations – Marinas

1. New marinas may be permitted in all environment designations, except the Resource Conservancy and Natural designations where they are prohibited, through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2, when they are consistent with this Program and when the proponent demonstrates that all of the following conditions are met:

    a. The marina is located in the least environmentally damaging location; and

    b. The proposed location will not require dredging or excavation/filling of wetlands; and

    c. The proposed location does not restrict the use of commercial and recreational shellfish beds; and

    d. The marina complies with the Washington Department of Health Environmental Health Guidelines for Marina Development and Operation; and

    e. Suitable public infrastructure is available or can be made available to support the marina; and

    f. The area has adequate water circulation and flushing action to prevent water quality degradation; and

    g. Unavoidable adverse impacts on ecological processes and functions are mitigated to achieve no net loss.

2. New marinas and expansions of existing marinas shall be designed, constructed, and operated according to the following:

    a. Open pile or floating breakwater designs shall be used unless the proponent demonstrates that there are specific safety considerations that warrant alternative approaches or unless riprap or other solid construction is shown to have fewer impacts on shoreline ecology over the short and long term.

    b. Structural shoreline stabilization/armoring shall be limited to the minimum necessary to protect marina infrastructure and shall consist of soft-shore bioengineered stabilization unless soft stabilization is demonstrated by a geotechnical analysis to be infeasible or inadequate to protect the site.

    c. Floating structures shall be designed to prevent grounding on tidelands. Floats shall only be used where there is sufficient water depth to prevent grounding at low tide.

    d. Piers and other structures shall be located, sized, and designed to minimize shading of aquatic habitats and species.

    e. Solid structures shall be designed to provide fish passage through and along the shallow water fringe.

    f. Floating piers shall be required in rivers unless the proponent can demonstrate that fixed piers will cause substantially less impact on geohydraulic processes.

3. New marinas and expansions of existing marinas shall with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation

and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Every marina shall have appropriate equipment and operational procedures on hand to store fuels and related chemicals, prevent accidental spills, and facilitate containment and collection of chemicals should spillage occur.

5. New marinas shall include public access amenities. Consistent with Section 5.3 of this Program, public access siting and design shall be determined based on what is appropriate to a given location and the needs/desires of the surrounding community.

6. Live-aboard vessels may occupy up to twenty (20) percent of the slips at a marina. Marinas that accommodate live-aboards shall provide and maintain adequate facilities and programs to address waste disposal and sanitary disposal.

7. New or expanded marinas may include fill waterward of the ordinary high water mark only when necessary for the water-dependent portions of the marina facility. Filling for the creation of marina parking areas shall be prohibited.

8. If new or expanded marina facilities adversely impact net sediment transport or other coastal processes to the detriment of nearby beaches or habitats, the marina operator shall be required to periodically replenish the substrate in these areas to offset adverse impacts.

9. New or expanded development accessory to marinas including parking, open air storage, waste storage and treatment, stormwater management facilities, and utilities shall be designed and constructed to avoid adverse impacts on shoreline functions and processes. The following standards shall apply to new or expanded development accessory to marinas:

    a. Accessory structures and facilities shall be clustered and located so as to reduce clearing and grading impacts.

    b. Water-oriented accessory uses reasonably related to marina operation may be located over water or near the water's edge by conditional use permit if an overwater or water's-edge location is essential to the operation of the use and if public access is provided.

    c. Except as otherwise permitted by this Program, parking shall be located away from the water's edge and landward of shoreline buffers prescribed by this Program.

    d. Pump-out, holding, and/or waste treatment facilities and services shall be provided at all marinas. Pump-out facilities shall be conveniently located and sited to ensure easy access, prevent lengthy queues, and allow full compliance with waste disposal regulations. Vessel-mounted pump-out services and hard-plumbed stations at each slip shall be preferred over portable pump-out equipment.

    e. Marinas shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations. Restrooms shall be available twenty-four (24) hours a day for use by any patron of the marina facility; the need for restrooms shall be determined based on the number of slips and percentage of live-aboard vessels within the marina.

    f. Garbage and recycling receptacles shall be provided and maintained by the marina operator at several locations convenient to users.

g. Marina operators shall post all regulations pertaining to handling and disposal of waste, sewage, fuel, and oil or toxic materials where all users may easily read them.

h. Boat washing facilities shall be provided to minimize transfer of invasive aquatic species between water bodies.

4.2.3 Regulations – Boat Launches

1. Public boat launches may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2, when they are consistent with this Program and when the proponent demonstrates that the boat launch:

   a. Is located in areas where there is adequate water mixing and flushing action to prevent water quality impacts; and

   b. Is designed so as not to retard or reduce natural shoreline flushing characteristics; and

   c. Is constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available; and

   d. Will not block or interfere with existing or potential public access along beaches or otherwise impair public use of public surface waters; and

   e. Incorporates mitigation to offset unavoidable adverse impacts and achieve no net loss.

2. New boat launches shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. No more than one private boat launch facility or structure shall be permitted on a single parcel or residential lot.

4. Public boat launches shall include adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

5. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access, and/or where such facilities will substantially increase public opportunities for water access.

6. Public boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

7. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand.

4.2.4 Regulations – Piers, Docks, and Floats, Non-residential

1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:

a. The dock/pier/float is required to accommodate a water-dependent use or public access; and

b. The dock/pier/float is designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.

2. Non-residential piers, docks and floats shall comply with the applicable provisions of Chapters: 6, Buffers; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Joint-use piers shall be preferred for commercial and industrial developments which are in close proximity to one another.

4. Covered moorage associated with non-residential docks, piers, and floats shall be prohibited.

5. New and substantially expanded non-residential docks, piers and floats shall be constructed of materials that will not adversely impact water quality or aquatic plants and animals over the long term. Materials for any portions of the dock, pier, float, framing, or decking that come in contact with water shall be approved by Washington Department of Fish and Wildlife (WDFW) and Ecology for use in water.

6. To minimize adverse impacts on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the length, width and height of non-residential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use. The Administrator shall defer to the dimensional limits imposed in the project-specific permit conditions issued by the U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife and shall require adherence to the following:

   a. New and replacement piers that exceed 4 feet in width shall have a minimal of 30% functional grating that will allow light to pass through the deck.

   b. New and replacement ramps, walkways, or gangplanks shall be fully grated within 60% open area to allow light passage.

   c. New and replacement floating sections shall have a minimum of 50% functional grating to allow light to pass through the deck. For individual docks less than or equal to 4 feet wide, a minimum of 30% functional grating is required.

7. Commercial, industrial, port or public recreational docks, piers and floats shall be spaced and oriented to shoreline in a manner that avoids or minimizes:

   a. Hazards and obstructions to navigation, fishing, swimming and pleasure boating; and

   b. Shading of beach substrate below; and

   c. Impediments to alongshore sediment transport and/or movement of fish and other aquatic species.

8. Fill waterward of the ordinary high water mark shall be limited to the minimum necessary to match the upland with the elevation of the non-residential dock or pier.

9. Dredging shall be limited to the minimum necessary to allow boat access to a non-residential dock or pier.

4.2.5 Regulations – Piers, Docks, Floats, and Lifts, Accessory to Residential Development

1. Docks, piers, floats and lifts accessory to residential development/use may be permitted in all environment designations, except the Natural designation where they are prohibited, through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-1, when they are consistent with this Program and when the proponent demonstrates that they are:

    a. Designed and constructed to avoid or, if that is not possible, to minimize shading and other impacts on nearshore habitats and processes.

    b. Constructed of materials that will not adversely impact water quality ,or aquatic plants and animals, over the long-term. Materials for portions of the dock, pier, float, framing and decking in contact with water shall be approved by applicable state agencies for use in water.

    c. Spaced and oriented to the shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating.

    d. Designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in original moorage design shall not be grounds for approval of dredging.

    e. Designed to avoid impediments to alongshore, sediment transport and/or movement of fish and other aquatic species.

2. New residential piers, docks and floats shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. If permitted under this Program, no more than one (1) dock/pier and one (1) float and one (1) watercraft lift may be permitted on a single lot owned for residential use or private recreational use.

4. In-water fixed platform structures supported by piles that do not abut the shoreline shall be prohibited.

5. Floats accessory to residential use shall not exceed two hundred (200) square feet in area or three (3) feet in height as measured from mean lower low water.

6. Floats shall only be used where there is sufficient water depth to prevent grounding at low tide. The County may require the use of stoppers or other measures to ensure compliance with this standard.

7. Private single-family residential piers and docks shall not extend over water farther than fifty (50) feet as measured perpendicular from the ordinary high water mark or, in tidal waters, shall not extend more than fifteen (15) feet from the minus six (6.0) foot mark as referenced from mean lower low water . Shared residential piers and docks may extend an additional ten (10) feet for each single-family residence sharing the pier.

8. To avoid and minimize adverse impacts on nearshore habitats and species caused by overwater structures, the length, width and height of residential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use. The Administrator shall defer to the dimensional limits imposed in the project-specific permit conditions issued by the U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife and shall require adherence to the following:

    a. New and replacement piers that exceed 4 feet in width shall have a minimal of 30% functional grating that will allow light to pass through the deck.

    b. New and replacement ramps, walkways, or gangplanks shall be fully grated with 60% open area to allow light passage.

    c. New and replacement floating sections shall have a minimum of 50% functional grating to allow light to pass through the deck. For individual docks less than or equal to 4 feet wide, a minimum of 30% functional grating is required.

9. Residential developments creating four (4) or more new lots or new dwelling units may be granted permits for community docks to be shared by two or more lot owners or dwelling units. No more than one (1) dock/pier or float may be permitted for each three (3) adjoining waterfront lots, with necessary access easements to be recorded at the time of permitting. Single-user docks, piers and floats for individual residential lots may be permitted in subdivisions existing prior to June 16, 1992, only where a shared facility has not already been developed.

10. Single-user moorage for private float planes may be permitted as a conditional use in certain environment designations as indicated in Table 2-1where construction of such moorage:

    a. Is limited to the smallest size necessary to accommodate the float plane; and

    b. Will not adversely impact shoreline functions or processes, including wildlife use; and

    c. Includes mitigation to compensate for the greater intensity of use associated with the float plane moorage.

11. Covered moorage associated with single-family residential development shall be prohibited, except that the County may allow a small covered area up to one hundred (100) square feet in size, maximum height of ten (10) feet, and with vertical walls on up to three (3) sides on the overland portion of a dock/pier only.

12. Single-user docks/piers/floats may not be located within sideyard setbacks for residential development (both onshore and offshore); a shared dock/pier may be located adjacent to or upon a shared side property line upon filing of an agreement by the affected property owners.

13. Fill waterward of the ordinary high water mark shall be limited to the minimum necessary to match the upland with the elevation of the residential dock or pier.

14. Dredging for construction or maintenance of docks, piers and floats accessory to residential use shall be prohibited waterward of the ordinary high water mark.

15. Boating facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be non-reflective.

16. No dock, pier, float, or watercraft moored thereto shall be used as a residence.

17. Docks, piers and floats shall be prohibited in wetlands.

18. Piers and docks should be limited to the areas in front of their ownership unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. The configuration of a pier and dock should not limit the adjacent upland owner's ability to access the aquatic area immediately in front of their ownership. (RCW 79.105.430)

4.2.6 Regulations – Mooring Buoys

1. Mooring buoys may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Tables 2-1 and 2-2, when they are consistent with this Program and when the proponent demonstrates that the buoy:

    a. Will be located to avoid adverse impacts to eelgrass beds and other valuable aquatic and nearshore habitat areas; and

    b. Will not impede the ability of other landowners to access private property; and

    c. Will not pose a hazard to or obstruct navigation or fishing; and

    d. Will not adversely impact water quality; and

    e. Will not pose a threat to shellfish beds or an existing aquaculture operation.

2. The installation and use of mooring buoys in marine waters shall be consistent with all applicable state and federal laws and permit requirements, including standards of the state Departments of Natural Resources, Health, and Fish and Wildlife and the U.S. Army Corps of Engineers.

3. Recreational mooring buoys on state-owned aquatic lands shall not be used for permanent residential (living on the boat) or commercial purposes; limitations shall not interfere with use of mooring buoys for scientific research purposes.

4. Wherever appropriate, mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other Washington Department of Natural Resources (WDNR)-approved designs that have minimal adverse impacts on aquatic ecosystems and fish; where specific WDNR-designs are inappropriate or ineffective given the proposed mooring buoy location, reasonable and effective designs shall be used that minimize adverse impacts on aquatic ecosystems and fish.

5. Mooring buoys shall be clearly marked and labeled with the owner's name and contact information and permit number(s).

6. Placement and number of mooring buoys within bays and other areas shall not exceed a density of four (4) buoys per acre.

7. During the installation of the mooring buoy, the location of the mooring buoy may be adjusted to minimize impacts to sensitive habitat areas (i.e. eelgrass beds), provided that revised location complies with all rules and regulations. If the location of the mooring buoy is

significantly modified, an amended site map with the amended longitude and latitude shall be submitted to the County for review and approval.

8. Mooring buoys should be generally limited to the areas in front of their ownership, unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. If it is determined that the location of the proposed mooring buoy interferes with a proposal for a mooring buoy by the adjacent landowners, the mooring buoy of the non-adjacent shall be located further away from the shore in compliance with all rules and regulations. (SEE RCW 79.105.430(3)).

9. Mooring buoys shall be located no closer than 100 feet from another mooring buoy, dock, pier, float, or other fixed navigational obstruction, unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. If it is determined that the proposed mooring buoy interferes legally established buoys, moored boats, or private tidelands it shall be removed or moved to a location that complies with all rules and regulations.

10. No more than two (2) boats shall be secured by a mooring buoy. Mooring buoys that are placed by exemption shall not be rented or leased.

11. Boats that are occupied shall not be permitted to moor at private docks, piers, and floats longer than three (3) days unless pump-out facilities are available in the immediate vicinity.

4.2.7 Application Requirements

1. Applications for boating and moorage facilities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. Proposals for new or expanded marina facilities shall include appropriate technical studies and plans that are not already required via another regulatory review process. Examples of studies and plans that may be required include, but are not limited to:

    a. A Maintenance Plan for maintaining pump-out and waste/sewage disposal facilities and services.

    b. A Spill Response Plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.

    c. An Operational Plan that, at a minimum, describes procedures for fuel handling and storage; measures including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.

    d. A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.

    e. An analysis of fish and shellfish resources which may be affected.

    f. An assessment of existing water-dependent uses in the vicinity, including but not limited to navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures.

3. An assessment or assessments necessary to ensure the proposed new or expanded marina is consistent with Section 4.2.2 of this Program, including documentation that all unavoidable adverse impacts on ecological processes and functions are mitigated as part of the proposal in order to achieve no net loss.

4.3 Dredging and Dredge Material Disposal

4.3.0 Applicability

Dredging and Dredge Material Disposal, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

4.3.1 Policies

1. Dredging should be permitted only when alternatives are infeasible and when the dredging/dredge disposal is necessary to support an existing legal use, an approved water-dependent use, an essential public facility, or an approved restoration project.

2. When permitted, dredging and disposal operations should be planned, timed, and implemented to minimize:

   a. Adverse impacts to shoreline ecology; and

   b. Adverse impacts to in-water and adjacent upland uses; and

   c. Interference with navigation.

3. The County should review proposals for new dredging activities to determine if any such activity would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed dredging and planned restoration.

4.3.2 Regulations – Dredging

1. Dredging may be permitted in all environmental designations, except the Natural designation where it is prohibited, through a conditional use permit as indicated in Section 2.9, Table 2-2, only when the activity is consistent with this Program and when there are no feasible alternatives to dredging.

2. Dredging shall only be permitted when necessary to support the following uses and developments; dredging for other purposes is prohibited:

   a. Approved harbors, marinas, ports, and water-dependent industries;

   b. Development or maintenance of essential public infrastructure and facilities;

   c. Environmental cleanup activities required under the Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act;

   d. Trenches required for underground utility installation when boring, directional drilling, and other installation methods are not feasible;

   e. Maintenance dredging for the purpose of restoring a lawfully established use or development, except for a residential dock;

f. Maintenance dredging for the purpose of restoring previously permitted or authorized hydraulic capacity of a stream or river;

g. Maintenance of existing legal irrigation reservoirs, drains, canals, or ditches;

h. Establishing, expanding, relocating, or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigation uses;

i. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat;

j. Approved beach nourishment projects; or

k. Public access and public water-oriented recreational developments/uses, including construction of public piers and docks that benefit substantial numbers of people.

3. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

4. Dredging for flood management purposes shall be permitted only when the project proponent demonstrates that:

   a. The dredging is a required component of a County-approved comprehensive flood management plan; or

   b. The dredging has a long-term benefit to public health and safety and will not cause a net loss of ecological functions and processes.

5. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed unless it is for the purpose listed in 4.3.2.2 above.

4.3.3 Regulations – Dredge Material Disposal

1. Dredge disposal may be permitted in all environmental designations, except the Natural designation where it is prohibited, through a conditional use permit as indicated in Section 2.9, Table 2-2, only when the activity is consistent with this Program.

2. All unconfined, open water dredge disposal activities in the Strait of Juan de Fuca shall comply with Washington's Dredged Disposal Management Program criteria and guidelines and other applicable local, state, and federal regulations.

3. Dredge disposal activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. When clean dredge material is deposited on land, it shall be considered fill and subject to all applicable fill regulations in Section 5.2 of this Program.

5. When consistent with this Program, disposal of clean dredged materials in water areas other than Puget Sound Dredged Disposal Analysis sites may be permitted only for the following reasons:

    a. To restore or enhance habitat; or

    b. To reestablish substrates for fish and shellfish resources; or

    c. To nourish beaches that are starved for sediment; or

    d. To remediate contaminated sediments.

4.3.4 Application Requirements

1. Applications for dredging and dredge disposal shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. When reviewing dredging proposals, the County shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether additional review or regulation is needed. The Administrator may require information to ensure:

    a. The project is designed, located, and timed to mitigate impacts on legally established neighboring uses and developments; and

    b. Appropriate measures are taken to ensure the activity will not interfere with fishing or shellfishing; and

    c. Appropriate measures are taken to minimize adverse impacts on recreation, public access, and navigation; and

    d. The activity shall not adversely impact natural processes such as channel migration, marine bluff erosion, and/or net-shoreline drift; and

    e. Appropriate best management practices are employed to prevent water quality impacts or other forms of environmental degradation; and

    f. Upstream and upgradient sediment sources that create the need for dredging have been investigated and where feasible, mitigated; and

    g. Appropriate measures are employed to protect public safety and prevent adverse impacts on other approved shoreline uses; and

    h. The proposed activity complies with applicable federal, state, and other local regulations.

3. When reviewing proposals for dredge disposal, the Administrator shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether additional review or regulation is needed. The Administrator may require information to ensure:

    a. The proposed action will not cause significant and/or ongoing damage to water quality, fish, shellfish, and/or other biological resources; and

b. The proposed action will not adversely alter natural drainage, water circulation, sediment transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and

c. The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater, and terrestrial species and habitat.

4.4 Flood Hazard Management and Flood Control Structures

4.4.0 Applicability

Flood Hazard Management and Flood Control structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

4.4.1 Policies

1. When managing floodplains, the County should balance the need to protect life and property with the need to maintain fish and wildlife habitat and other floodplain functions.

2. The need for new flood control structures should be avoided by limiting new development and new uses, including subdivision of land, in flood-prone areas.

3. Structures built within floodplains should be designed in accordance with the Frequently Flooded Areas regulations in Sections 7.15 and 7.16 of the Program and should not obstruct the passage of water, inadvertently cause a stream to be diverted to a new channel, or otherwise adversely impact fish habitat or floodplain functions.

4. Information about flood hazards should be made readily available to existing and prospective shoreline property owners so they are informed about the risks of living in areas that are prone to flooding, erosion, channel migration, and other hazards.

5. New flood control structures should be permitted only where there is a documented need to protect an existing structure and where appropriate measures are implemented to minimize impacts on floodplain functions including fish and wildlife.

6. New flood control structures should not unduly interfere with navigation, water-related recreation or public access to public waters.

7. When evaluating the need for flood control structures such as levees and/or dams, opportunities to remove or relocate existing developments and structures out of flood-prone areas should be pursued as a first course of action. Alternative measures, such as overflow corridors and setback levees, that may have less adverse impact on shoreline and floodplain functions and processes should be implemented before structural flood control measures are approved.

8. Non-regulatory methods to protect, enhance, and/or restore shoreline ecological functions and processes should be encouraged as an alternative to flood control structures. Non-regulatory methods may include acquisition of land or easements; education; voluntary protection and enhancement projects; and incentive programs.

9. Long-term, comprehensive flood hazard management plans should be developed and implemented in cooperation with other applicable agencies and persons to prevent flood damage, maintain the natural hydraulic capacity of streams and floodplains, and conserve or restore valuable, limited resources such as fish, water, soil, and recreation and scenic areas.

10. Planning and design of flood control structures within the Puget Sound basin should be consistent with the National Oceanic and Atmospheric Administration's (NOAA) recommendations in the 2008 Biological Opinion on the Federal Flood Insurance Program, or any successor thereto and should incorporate elements from adopted watershed management plans, restoration plans and/or surface water management plans.

11. Voluntary relocation of existing developments that are located in flood-prone or other hazardous areas is encouraged when doing so will substantially reduce human health and safety hazards and improve ecological conditions.

12. The County should review proposals for floodplain management plans and food control structures to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed activities and planned restoration.

4.4.2 Regulations

1. Flood control structures may be permitted through a conditional use permit as indicated in Section 2.9, Table 2-2, when consistent with Sections 7.15 (Frequently Flooded Area Designation and Mapping) and 7.16 (Frequently Flooded Area Protection Standards), and other applicable provisions of this Program and when there is credible engineering and scientific evidence that:

    a. They are necessary to protect existing, lawfully established development; and

    b. They are consistent with Clallam County Code Title 32 and the County Comprehensive Plan; and

    c. Non-structural flood hazard reduction measures are infeasible; and

    d. Impacts on Endangered Species Act-listed Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer-run chum salmon, and Southern Resident killer whales, and/or designated critical habitat for those species can be effectively mitigated consistent with NOAA's 2008 Biological Opinion, or any successor thereto, on the Federal Flood Insurance Program; and

    e. Proposed measures are consistent with an adopted comprehensive flood hazard management plan if available.

2. Flood hazard management and flood control structures shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. When permitted, flood control structures shall be:

    a. Constructed and maintained in a manner that provides the highest degree of protection to shoreline ecological functions or processes and does not degrade the quality of affected waters or the habitat value associated with the aquatic and riparian area; and

b. Placed landward of the ordinary high water mark except for weirs, current deflectors and similar structures whose primary purpose is to protect public bridges, roads, and other public infrastructure; and

c. Placed landward of associated wetlands and channel migration zones except for structures whose primary purpose is to improve ecological functions; and

d. Designed to allow for normal groundwater movement and surface runoff. Natural features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages; and

e. Designed to allow maintenance of bars and associated aquatic habitat through normal accretion. Flood control structures on streams shall not disrupt the normal meander progression nor lessen the stream's natural storage capacity.

4. When permitted, flood control structures shall be limited to the height required to protect adjacent lands from the predictable annual flood unless it can be demonstrated through hydraulic modeling that a greater height is needed and will not adversely impact shoreline ecological functions and processes.

5. Solid waste such as motor vehicles, derelict vessels, appliances, or demolition debris shall not be used as part of any flood control structure.

6. Flood control structures shall be professionally engineered and designed by a state licensed engineer prior to final approval. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.

7. No flood control structure shall be installed or constructed without the developer having obtained all applicable federal, state, and local permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife.

4.4.3 Application Requirements

1. Applications for flood control structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. To determine that the provisions of this section are fully addressed, the Administrator may require one or more technical studies/reports at the time of permit application for flood control structures unless the Administrator determines that issues are adequately addressed via another regulatory review process. Technical reports required pursuant to this section may include any of the following:

   a. An analysis of the flood frequency, duration and severity and expected health and safety risks as a rationale and justification for the proposed structure.

   b. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on stream hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.

c. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources, include species and habitats protected by the federal Endangered Species Act.

d. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features.

e. A description of proposed plans to remove vegetation and revegetate the site following construction.

3. To ensure compliance with the no net loss provisions of this Program, the Administrator shall require the proponent to prepare a mitigation plan consistent with Section 8.3 of this Program that describes measures for protecting shoreline and in-stream resources during construction and operation of a flood control structure. The required mitigation shall be commensurate with the value and type of resource or system lost. Mitigation activities shall be monitored by the proponent to determine the effectiveness of the mitigation plan. In instances where the existing mitigation measures are found to be ineffective, the proponent shall take corrective action that satisfies the objectives of the mitigation plan.

4.5 In-stream and In-water Structures

4.5.0 Applicability

In-stream and In-water structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. In-stream/in-water structures associated with boating facilities/moorage are covered in Section 4.2 of this Program. In-stream/in-water structures associated with large utilities such as hydroelectric or wind/tidal power generation are covered in Section 3.12 of this Program.

4.5.1 Policies

1. Recognizing the large number of physical variables to be considered in properly locating and designing in-stream and in-water structures, and the high probability that poorly located and inadequately designed structures will fail and/or adversely impact properties and shore features, such structures should be sited and designed by the project proponent consistent with appropriate engineering principles and guidelines of the Natural Resources Conservation Service, the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife.

2. Project proponents shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species when locating and planning in-stream and in-water structures.

3. In-stream structures should be planned and designed to be compatible with navigation and recreation, especially in shorelines of statewide significance, provided that public safety and ecological protection are fully addressed.

4. Proposals for new in-stream and in-water structures should be evaluated by the Administrator for their potential adverse impacts on the physical, hydrological, and biological characteristics as well as effects on species that inhabit the shoreline, riparian area, or nearshore area.

5. The County should review proposals for new in-stream/in-water developments to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between residential development and planned restoration.

4.5.2 Regulations

1. In-stream and in-water structures may be permitted in all environmental designations, except the Natural designation where they are prohibited, through a substantial development or conditional use permit as indicated in Section 2.9, Table 2-2, when consistent with this Program and when associated with and necessary for an ecological restoration project, a fish passage project, or a permitted shoreline use/development such as a transportation facility.

2. In-stream and in-water structures shall not impede upstream or downstream migration of anadromous fish. All new and replacement structures, including culverts, must be made fish passable in accordance with the most recent Washington State Department of Fish and Wildlife requirements or with the National Marine Fisheries Service guidelines for Endangered Species Act-listed species.

3. All in-water diversion structures shall be designed to permit the natural transport of bedload materials. All debris, overburden, and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.

4. All in-stream and in-water structures shall be designed and installed by a licensed, professional engineer.

5. In-stream and in-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.

6. In-stream structures and their support facilities shall be located and designed to avoid and minimize the need for structural shoreline stabilization.

7. In-stream and in-water structures shall be located and designed to preserve or enhance aquatic habitat and to minimize impacts on the visual and aesthetic quality of the shoreline.

8. During construction in-stream and in-water, all heavy construction equipment and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions.

9. Natural in-stream and in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.

10. In-stream structures such as, but not limited to, high-flow bypasses, and weirs, may be permitted in Type S, F, Np, Ns Waters when they are part of a watershed restoration project or identified in watershed planning documents prepared and adopted under Chapter 90.82 RCW, the salmonid recovery plan or Salmon Recovery Board Habitat Project List, and the County's shoreline restoration plan and upon acquisition of any required state or federal permits. The structure shall be designed to avoid adverse impacts on stream flow, water quality, or other habitat functions and values.

4.5.3 Application Requirements

1. Applications for in-stream/in-water structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. The County shall require the proponent of any in-stream or in-water structure to provide the following information prior to final approval unless the County determines that the issues are adequately addressed via another regulatory review process:

    a. A description and analysis of alternative sites, and a thorough discussion of the environmental impacts of each; and

    b. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on stream hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream; and

    c. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and

    d. A cultural resources assessment if there are known or suspected cultural, archeological or historic resources in the vicinity of the site; and

    e. For hydropower facilities, the proposed location and design of powerhouses, penstocks, accessory structures and access and service roads; and

    f. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features; and

    g. A description of any plans to remove vegetation and/or revegetate the site following construction; and a proposed mitigation plan that describes, in detail, provisions for protecting in-stream resources during construction and operation, and measures to compensate for impacts that cannot be avoided; and

    h. A description of sites proposed for the depositing of debris, overburden, and other waste materials generated during construction; and

    i. Long-term management plans which describe, in sufficient detail, provision for protection of in-stream resources during construction and operation. The plan shall include means for monitoring its success.

4.6 Shoreline Stabilization

4.6.0 Applicability

Shoreline erosion—including erosion caused by currents, flood, and wind or wave action—is natural phenomenon associated with properly functioning shoreline environments. However, erosion can put existing structures and uses at risk. In some cases, shoreline stabilization is necessary to protect existing uses and development from naturally occurring erosion. Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures. These actions include structural and non-structural stabilization methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, enhancing vegetation, managing drainage and runoff, and other measures to avoid the need for structural stabilization.

This section establishes policies and regulations for structural shoreline stabilization measures. Structural shoreline stabilization measures can be "hard" or "soft." "Hard" structural stabilization measures refers to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineered vegetation measures or beach enhancement.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Shoreline stabilization measures and methods shall be consistent with the following policies and shall conform to the following regulations.

4.6.1 Policies

1. The County should take active measures to preserve unarmored shorelines and prevent the future proliferation of bulkheads and other forms of structural shoreline stabilization.

2. The need to protect shorelines from the effects of erosion should be balanced with the need to protect fish and wildlife habitats and maintain sediment delivery and transport processes, which sustain healthy river and marine nearshore ecosystems.

3. Information about shoreline erosion hazards should be made readily available to existing and prospective shoreline property owners so they are informed about the risks of living in areas that are prone to erosion, channel migration, landslides and other hazards. This should be achieved through a targeted marketing outreach program implemented by Clallam County.

4. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

5. The amount of existing armoring on Clallam County's shores should be reduced . The total amount of armoring removed should be greater than the total amount of new armoring. Feeder bluffs should be a priority for removal of existing armoring and avoidance of new armoring.

6. Non-structural shoreline stabilization measures should be encouraged as a means of protecting structures from erosion. Non-structural shoreline stabilization measures include relocating structures away from the water, enhancing vegetation, managing drainage and runoff, and other measures.

7. New structural shoreline stabilization should be permitted only when necessary to protect existing primary structures, single-family residence, public infrastructure, and/or for essential public facilities when other alternatives are infeasible.

8. New structural and non-structural shoreline stabilization measures should be located, designed, and maintained in a manner that minimizes adverse impacts on shoreline ecology, including effects on the project site, adjacent properties, and down-drift or downstream areas.

9. Stabilization structures should be designed based on an understanding of long-term physical shoreline processes. Structural and non-structural shoreline stabilization structures should fit the physical character and hydraulic energy of a specific shoreline reach, which may differ substantially from adjacent reaches.

10. Structural shoreline stabilization should not interfere with existing or future public access to public shorelines nor with other preferred shoreline uses.

11. Voluntary relocation of existing developments that are located in erosion-prone or other hazardous areas should be encouraged when doing so will substantially reduce human health and safety hazards and improve ecological conditions.

12. Reduce the adverse impacts of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

13. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

14. The County should review proposals for new shoreline stabilization to determine if any such development would thwart or substantially compromise planned restoration actions. The County should work with the proponents of each project to resolve likely conflicts between the proposed stabilization and planned restoration.

4.6.2 Regulations – General

1. New uses and developments that would require shoreline stabilization which causes adverse impacts to adjacent or down-current properties and shoreline areas should not be allowed.

2. Soft shoreline stabilization measures shall be utilized unless demonstrated through a geotechnical report and analysis not to be sufficient to protect primary structures, dwellings and businesses. Alternatives for shoreline stabilization shall be based on the following order and preference:

    a. No action or non-structural measures (e.g., increase building setbacks, or relocate structures;

    b. Soft shoreline stabilization constructed of natural materials including bioengineering, beach nourishment, protective berms, or native vegetation stabilization;

    c. Hybrid shoreline stabilization, usually constructed of a mix of rock, logs, and native vegetation; and

    d. Hard shoreline stabilization constructed of materials such as rock, riprap or concrete.

3. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

4. When hard shoreline stabilization measures are demonstrated to be necessary, they must:

    a. Limit the size of stabilization measures to the minimum necessary.

    b. Assure no net loss of shoreline ecological functions.

5. Shoreline stabilization measures for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited.

6. Placement of shoreline stabilization methods shall follow the natural contour of the existing shoreline, be parallel to and at or above the ordinary high water mark except as otherwise authorized by this Program.

7. Shoreline stabilization projects shall be designed and constructed to avoid or minimize impacts to sediment transport.

8. Shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or groundwater may continue without ponding or saturation that could compromise the surrounding soil stability.

9. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.

10. Gabions are prohibited as a means of stabilizing shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

11. Publicly financed or subsidized shoreline erosion control measures shall be designed to not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the stabilization project.

12. Shoreline stabilization must be designed by a geotechnical engineer, engineering geologist, and/or professional engineer licensed in the State of Washington with demonstrated experience in hydraulic activities of shorelines. Alternatively, soft shoreline stabilization may be designed by a habitat biologist or a qualified professional each with demonstrated expertise in designing soft shoreline stabilization structures.

13. The effects of the stabilization to upstream and downstream properties must be clearly disclosed and taken into consideration during the design of the shoreline stabilization structure.

14. Shoreline stabilization shall be designed to take into account sea level rise and storm surges.

15. Shoreline stabilization must comply with all applicable U.S Army Corps of Engineers and Washington State Department of Fish and Wildlife requirements.

16. Shoreline stabilization, as applied in Section 4.6, is generally distinguished from shoreline restoration activities. However, specific shoreline stabilization elements of restoration activities shall be guided by this section.

17. Shoreline stabilization projects shall be designed to avoid and reduce adverse impacts to ecological functions as demonstrated by a mitigation plan pursuant to Chapter 8 of this Program.

4.6.3 Additional Regulations – Existing Structural Shoreline Armoring

1. Existing structural shoreline armoring may be replaced with a similar structure, pursuant to a statement of exemption, if there is a demonstrated need to protect primary uses or structures including residences, public transportation infrastructure, or essential public facilities from erosion caused by currents, tidal action, or waves and all of the following apply:

a. The existing structure no longer adequately serves its purpose and the replacement structure performs the same stabilization function of the existing structure and does not require additions to or increases in size. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

b. The replacement structure shall not encroach waterward of the ordinary high water mark or the existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

c. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

d. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

e. Alternative or soft stabilization approaches shall be considered prior to in-kind replacement.

f. The replacement structure is designed, located, sized, and constructed to minimize effects on shoreline processes and fish and wildlife habitat, and will not result in a net loss of shoreline functions.

g. Where possible or as an element of mitigation sequencing, failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using non-structural or soft stabilization measures.

h. The need for a replacement structure and consistency with the above standards and other applicable provisions of Section 4.6 is demonstrated through a geotechnical report.

2. Removal of older structures shall be required as replacement structures are put in place if leaving the existing structure in place would cause a net loss of ecological functions. Exceptions may be made by the County in cases where removal would cause more ecological disturbance to critical saltwater or critical freshwater habitats than leaving the remnant structure in place.

3. Bank stabilization may be permitted on Type S, F, Np, Ns Waters for the purpose of retarding erosion and protecting legally placed, existing residential structures or essential public facilities/infrastructure which cannot be moved, subject to all of the following criteria:

a. The bank stabilization shall be designed by a civil engineer licensed in the State of Washington with sufficient expertise in hydraulics, hydrology, and/or geomorphology, along with a biologist to assess habitat impacts; and

b. The civil engineer shall consider and implement bioengineered stabilization measures unless hydraulic analysis indicates that hard structural stabilization is necessary due to the site conditions; and

c. Avoidance or relocation of the structure or improvement that needs protection has been reviewed and is not feasible or practical; and

d. Stabilization activities shall minimize any potential negative impacts to the natural functions and processes of the stream; and

e. The effects of the stabilization to upstream and downstream properties are clearly disclosed and taken into consideration during the design of the structure; and

f. The materials used in or near surface waters shall not contain petroleum-based treatments or preservatives, including creosote, copper and arsenic.

4.6.4 Additional Regulations – Subdivisions and Existing Lots without Structures

1. Land subdivisions shall be designed to assure that structural shoreline armoring will not be required to allow reasonable development or use of the established lots to occur in the foreseeable future.

2. Use of a bulkhead, revetment or similar shoreline armoring to protect a platted lot where no primary use or structure presently exists shall be prohibited.

4.6.5 Additional Regulations – New or Expanded Shoreline Stabilization

1. New or expanded structural shoreline stabilization including bulkheads, revetments, seawalls, breakwaters, and jetties may be permitted in all environment designations, except the Natural designation where they are prohibited, through a statement of exemption, substantial development permit, or conditional use permit as indicated in Section 2.9, Tables 2-1 and 2-2 when consistent with this Section and Program.

2. New or expanded structural stabilization are prohibited except in the following situations:

   a. To protect projects whose primary purpose is enhancing or restoring ecological functions or hazardous substance remediation projects pursuant to RCW 70.105 when all of the conditions below apply:

      i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

      ii. The erosion control structure will not result in a net loss of shoreline ecological functions.

      iii. The need for structural stabilization measures is demonstrated through a geotechnical report.

   b. In support of water-dependent development when all of the conditions below apply:

      i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

      ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

      iii. The erosion control structure will not result in a net loss of shoreline ecological functions.

      iv. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.

   c. To protect an existing primary structure, including a single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6), when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, such as placing the proposed use or development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The erosion control structure will not result in a net loss of shoreline ecological functions.

iv. There is conclusive evidence, documented by a geotechnical report that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

3. Hard structural shoreline stabilization, including new armoring and expansions of existing armoring, is prohibited on shorelines mapped as feeder bluffs. Soft structural/bioengineered methods may be allowed and non-structural methods are preferred.

4. When any new or expanded structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions all of the following shall apply:

   a. The size of stabilization measures shall be limited to the minimum necessary.

   b. Soft shoreline stabilization approaches shall be used to assure no net loss of shoreline ecological functions, unless such approaches are demonstrated to be inadequate to protect primary structures, dwellings, and businesses.

   c. Adverse impacts of new stabilization structures, including replacement structures, on critical habitat for Endangered Species Act-listed species or other shoreline processes or functions shall be avoided and, if that is not possible, minimized to the maximum extent possible. Compensatory mitigation shall be required for impacts that are unavoidable consistent with Section 8.3 of this Program.

5. Proponents of new or expanded structural shoreline stabilization may be required to provide an assessment of on-site drainage and vegetation characteristics and their effects on slope stability to ensure the requirements of this section are met.

4.6.6 Additional Regulations – Bulkheads

1. Bulkheads shall be located generally parallel to the shoreline. Adequate bank toe protection shall be provided to ensure bulkhead stability without relying on additional riprap.

2. Bulkheads shall be located so as to tie in flush with existing bulkheads on adjoining properties, except when adjoining bulkheads do not comply with the design or location requirements set forth in this Program.

4.6.7 Additional Regulations – Revetments

1. Revetments shall be placed landward of associated wetlands.

2. Revetments shall be located sufficiently landward of the stream channel to allow streams to maintain point bars and associated aquatic habitat through normal accretion.

3. Revetments shall be prohibited on estuarine shores, in wetlands, on point and channel bars, and in channel migration zones.

4. When requesting a permit for a revetment along a stream or river, the proponent shall provide a geotechnical analysis of stream geomorphology both upstream and downstream of the proposed revetment site to assess the physical character and hydraulic energy potential of the specific stream reach and adjacent upstream or downstream reaches. The purpose of such analysis is to assure that the physical integrity of the stream corridor is maintained, that stream processes including channel migration are not adversely impacted, and that the revetment would not cause significant damage to other properties or shoreline functions and processes.

4.6.8 Additional Regulations – Breakwaters, Jetties, and Seawalls

1. Breakwaters, jetties, and seawalls shall meet all of the following criteria in addition to the other applicable regulations of Section 4.6 and this Program:

   a. They are shown to be necessary for purposes of navigation or habitat enhancement.

   b. They are required to protect from strong wave action against existing public water-dependent uses such as a harbor, marina, or port that are located seaward of the ordinary high water mark.

   c. Adverse impacts on water circulation, sediment transport, fish and wildlife migration, shellfish, and aquatic vegetation can be effectively mitigated.

2. Open-pile, floating, portable, or submerged breakwaters, or several smaller discontinuous structures that are anchored in place, shall be preferred over fixed breakwaters.

4.6.9 Application Requirements

1. Applications for shoreline stabilization shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. Proposals for new or expanded structural or non-structural shoreline stabilization must provide documentation that demonstrates all of the following:

   a. The erosion is not being caused by upland conditions, such as the loss of vegetation or poor drainage; and

   b. The erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope; and

   c. Alternatives to structural shoreline armoring are determined to be infeasible or insufficient; and

   d. The structural shoreline stabilization design is the least environmentally damaging alternative; and

   e. Unavoidable adverse impacts are mitigated according to the prescribed mitigation sequence such that there is no net loss of shoreline ecological functions or processes.

3. Geotechnical reports pursuant to this section shall demonstrate the need for shoreline stabilization by estimating time frames and rates of erosion and describing the urgency

associated with the specific situation. As a general matter, hard armoring solutions shall not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

4. To verify that the provisions of this section are fully addressed, the Administrator may require information to support a permit application for any type of shoreline stabilization. The Administrator shall consult with the appropriate state and federal natural resources agencies to determine the type and level of information that should be provided. Application information required pursuant to this section shall address the urgency and risks associated with the specific site characteristics and shall include:

    a. A scaled site plan showing: (1) existing site topography, and (2) the location of existing and proposed shoreline stabilization structures, and any fill including dimensions indicating distances to the ordinary high water mark; and

    b. A description of the processes affecting the site and surrounding areas, including but not limited to tidal action and/or waves; slope instability or mass wasting; littoral drift; channel migration; and soil erosion, deposition, or accretion; and

    c. A description of alternatives to structural approaches, and a thorough discussion of the environmental impacts of each alternative; and

    d. A description of any proposed vegetation removal and a plan to revegetate the site following construction; and

    e. A hydraulic analysis prepared by a qualified hydrologist, professional engineer, geotechnical engineer or engineering geologist that describes anticipated effects of the project on water and wave elevations and velocities; and

    f. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and

    g. A cultural resources assessment if there are known or suspected cultural, archeological or historic resources in the vicinity of the site; and

    h. A description of opportunities for providing public access to and along the affected shoreline, as well as any proposed on-site recreational features, if applicable; and

    i. A description of any waste and debris disposal sites for materials generated during construction; and

    j. Any other information that may be required by the Administrator to demonstrate compliance with the review criteria referenced in this section.

Chapter 5 General Policies and Regulations

***Note to Users**: The policies and regulations in this chapter apply to all uses and developments in all shoreline environment designations. The policies and regulations are not listed in order of priority.*

5.1 Existing (Grandfathered) Uses and Developments

5.1.0 Applicability

1. This Section applies to uses, developments, non-conforming lots, lots and lots of record (as those terms are defined in Chapter 11) that existed or were lawfully established prior to the effective date of this Program but do not conform to the regulations of this Program.

2. Consistent with RCW 90.58.620 and WAC 173-27-080, single-family residences and appurtenant ~~accessory~~ structures located landward of the ordinary high water mark that were legally established prior to the effective date of this Program, but do not conform to the regulations of this Program, are considered conforming structures ~~and uses~~ for the purposes of this Program. ~~For the purposes of this section, accessory structures do not include shoreline modifications or over-water structures.~~

5.1.1 Policies

1. Uses and developments that were lawfully established prior to the effective date of this Program should continue to exist along shorelines regardless of whether the use or development fully conforms to the standards set forth in this Program. If such use or development that predates the effective date of this Program is located in a hazardous area (as that term is defined in Chapter 11) or is causing any environmental adverse impacts, then the County should encourage and ensure timely permitting of the relocation or reconstruction of the use or development to ameliorate the hazard/impact.

5.1.2 Regulations – Existing Uses

1. Uses or developments lawfully existing before the effective date of this Program, with the exception of existing over-water residences and existing non-water-oriented commercial or industrial uses, shall be considered grandfathered as that term is defined in Chapter 11 of this Program.

2. Over-water residences and non-water-oriented commercial or industrial uses lawfully existing before the effective date of this Program shall be considered a non-conforming use as that term is defined in Chapter 11.

3. All grandfathered uses or developments may be repaired, maintained, expanded, sold or modified in a manner consistent with this Program.

4. All non-conforming uses or developments may continue and may be repaired and maintained in a manner consistent with this Program.

5. Changing an Existing Grandfathered Use:

   a. A grandfathered structure that is being or has been used for a use that does not conform to this Program may be used for a different non-conforming use only upon the approval of a

conditional use permit in accordance with Section 10.2.2. Conditions may be imposed to assure that the use will not become a nuisance or a hazard, and to assure that the use will not result in a net loss of the ecological function of the shoreline. In addition, all the following criteria shall be met:

i. The configuration and/or location of property would not support a conforming use;

ii. The proposed use will be at least as consistent with RCW 90.58 and this Program and as compatible with the uses in the area as the preexisting use;

iii. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;

iv. The structure(s) associated shall not be expanded in a manner that increases the encroachment into buffers established by this Program, or other areas where new structures, development or use would not be allowed;

v. The change in use or the enlargement, intensification, increase or alteration of the existing use will result in no net loss of shoreline ecological functions and/or processes; and

vi. Commercial or mixed-use developments may be expanded or enlarged within the existing building footprint as a conditional use.

6. If a use is discontinued for eighteen consecutive months or for eighteen months during any two-year period, any subsequent use, if allowed, shall comply with this Program.

5.1.3 Regulations – Existing Structures

1. Structures, lots, and lots of record lawfully existing before the effective date of this Program (or any amendment thereto impacting them) that do not meet the specific standards of this Program shall be considered "grandfathered" as that term is defined in Chapter 11 of this Program. Grandfathered structures are classified as follows:

   a. Existing, Permitted, or Vested: The building, structure, or lot was existing on the effective date of initial adoption of the Program (August 5, 1976), or any subsequent amendment thereto, or was authorized under a permit or approval issued, or is otherwise vested to the Program; or

   b. Variance: A structure for which a variance has been issued; or

   c. Conditional: The structure would be designated as a conditional use under this Program and has not obtained a conditional use permit.

2. Grandfathered structures may continue as long as they remain otherwise lawful, and meet all of the requirements of this section.

3. Except for single-family residential developments, any grandfathered structures that are expanded, enlarged or relocated, must obtain a variance or be brought into conformance with this Program and RCW 90.58. Any grandfathered structure that is moved any distance must be moved to comply with the bulk and dimensional requirements of this Program.

4. Any grandfathered rights shall expire and any subsequent use of the structure shall be conforming if the structure is abandoned as that term is defined in Chapter 11 of this Program.

5. Normal maintenance and repair of a grandfathered structure may be allowed in accordance with this chapter, other provisions of this Program, and Clallam County Code Chapter 33.43. For structures within floodplains, if the normal repair/routine maintenance exceeds fifty percent (50%) of the fair market value of the structure it shall be considered substantial improvement and subject to the standards for new floodplain development in Section 7.16.

6. Rebuilding After Damage: If a grandfathered residential structure or accessory structure sustains structural damage due to fire, flood or other natural casualty the structure may be reconstructed upon its original site and to the configuration existing immediately prior to the damage, provided that:

   a. The structure is located outside of geologically hazardous areas as defined in this Program. If the structure is within a geologically hazardous area, the Administrator may allow the reconstruction if the proponent provides a geotechnical or geological evaluation by a qualified professional which indicates the structure will be safe for a period of 75 years. The geotechnical/geological study shall conform to the applicable provisions in Section 7.14;

   b. The structure is located outside the floodway. If a structure located within the floodway sustains major damage whereby the cost of restoring the structure to its "before damaged" condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, it shall be reconstructed outside the floodway according to the floodplain regulations in Section 7.16 and other applicable National Flood Insurance Program requirements. Improvements and repairs must be protected against occurrence of the one percent annual chance flood through elevation or other measures. Structures located within the floodway shall not be rebuilt within the floodway;

   c. The structure may not be expanded, horizontally or vertically, except as otherwise allowed by this Section and Program;

   d. No degree of relocation will occur, except that move of the structure further landward from the ordinary high water mark is allowed and encouraged;

   e. The submittal of applications for permits necessary to restore the development is begun within six (6) months of the damage. The Administrator may waive this requirement in situations with extenuating circumstances such as resolution of an estate, or widespread economic or natural disaster; and

   f. The reconstruction is commenced within two (2) years of the issuance of permits. Administrator may allow a one (1) year extension.

7. Expansion/Enlargement of Single-family Residence or Appurtenant ~~Accessory~~ Structure:

   a. Administrative Approval: The Administrator may allow a one-time enlargement, expansion or addition to a grandfathered, single-family residence or appurtenant ~~accessory~~ structure that would not otherwise be allowed under this Program, if all of the following criteria are met:

      i. The enlargement or addition does not expand the total footprint of the existing structure by more than 400 square feet.

      ii. The expansion or addition does not adversely impact critical areas or significantly impair the ability of a substantial number of people to view the shoreline.

iii. The structure is located landward of the ordinary high water mark.

iv. No waterward enlargement or expansion beyond the existing structure's foundation walls will occur.

v. An equivalent area of shoreline buffer is enhanced through planting of native vegetation. The Administrator shall require a planting plan to ensure this standard is implemented.

b. Conditional Use Approval Required: Enlargements, expansions or additions that do not meet all of the criteria in part "(a)" above and where expansion/enlargement occurs laterally or landward, but not waterward, shall require a conditional use permit criteria pursuant to Chapter 10 of this Program.

c. Variance Approval Required: Enlargement or expansion of a single-family residence or appurtenant~~accessory~~ structure that do not meet all of the criteria in part "(a)" above that would extend waterward beyond the existing foundation walls, further into a shoreline buffer or critical area, or that increases the structure height above the limits established by this Program shall require a variance pursuant to Chapter 10 of this Program.

8. Expansion/Enlargement within Floodplains:

a. Substantial expansion, enlargement, or improvements of existing residential structures defined as more that 50 percent of the present fair market value of the structure within the one percent annual chance floodplain must have the lowest floor, including basement, elevated to or above the one percent annual chance flood level.

b. Substantial expansion, enlargement, or improvements of existing non-residential structures as defined in part "(a)" above shall have the option of elevating the lowest floor, including basement, to be at least one foot above the one percent annual chance flood level, or together with accessory utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

5.1.4 Regulations – Existing Vegetation

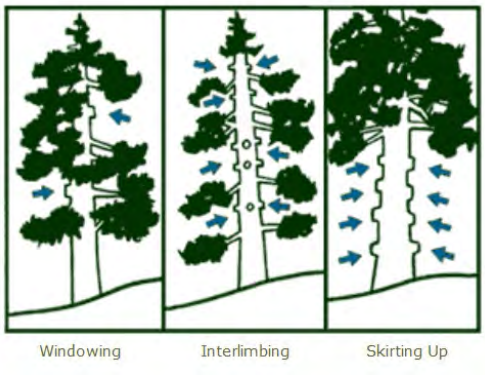
1. Vegetation conservation standards of this Program shall not apply retroactively to existing uses and developments, except where otherwise required as mitigation for new and expanded uses and development. Existing views may be maintained.

2. Existing areas of residential landscaping, lawns and gardens, may be maintained, but not expanded. These areas do not require replanting with native vegetation, but such restoration is encouraged consistent with this Program.

3. Non-destructive limbing and/or pruning of trees, using the techniques depicted in Figure 5-1, shall be allowed. Shrubs may be trimmed and pruned.

4. New clearing, thinning, and limbing of existing vegetation other than that which is listed above is subject to compliance with the shoreline and critical area buffer regulations in Chapters 6 and 7 of the Program.

Figure 5-1. Preferred techniques for non-destructive thinning and pruning to maintain shoreline views



5.2 Clearing, Grading and Filling

This section contains stormwater management and clearing and grading regulations that would apply to any/all development within shoreline jurisdiction.

5.2.0 Applicability

All new uses and developments shall comply with the applicable policies and regulations for clearing and grading as defined in Chapter 11.

5.2.1 Policies

1. Clearing, grading and filling activities within shoreline jurisdiction should be proactively controlled to address the problem of stormwater pollution.

2. Clearing, grading and filling should only occur in conjunction with an allowed use or development, unless otherwise allowed in this Program.

3. When allowed, clearing, grading and filling should be conducted so that water quality, habitat, hydrology, natural erosion rates, and runoff/drainage patterns are not adversely impacted.

5.2.2 Regulations

1. Clearing, grading and filling shall only be allowed as part of an approved shoreline use/development and shall be subject to the requirements of the primary use/development.

2. When allowed, clearing, ~~and/or~~ grading, and filling shall be located, designed, and ~~carried out~~constructed in a manner that:

   a. Minimizes land disturbance to the minimum necessary for the intended development; and

   b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and

   c. Includes plans to revegetate or otherwise stabilize areas of exposed soil following construction; and

d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and

e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and

f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place; and

g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.

3. Fill materials placed within shoreline jurisdiction shall consist of clean sand, gravel, soil, rock or similar material that is certified to be free of invasive weeds. The use of contaminated material or construction debris, including material or debris that is contaminated with invasive weed seeds or parts, shall be prohibited.

4. Fill placed waterward of the ordinary high water mark of any water body shall only be permitted when alternatives are infeasible and when the filling/excavation is necessary to support one or more of the following activities:

   a. Approved marinas, ports, and other water-dependent industries where upland alternatives or structural solutions including pile or pier supports are infeasible.

   b. Development or maintenance of essential public infrastructure and facilities that demonstrates requires a waterfront location.

   c. Federally mandated environmental cleanup activities required by the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act.

   d. Maintenance of a lawfully established use or development.

   e. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat.

   f. Public access and public water-oriented recreation projects benefitting substantial numbers of people.

   g. Part of an approved shoreline stabilization, flood control, or in-stream structure project when consistent with this Program.

5. Excavation below the ordinary high water mark shall be considered dredging and shall be subject to the regulations in Section 4.3 of this Program.

6. The following information shall be required for all proposals involving fill unless the Administrator determines that issues are adequately addressed via another regulatory review process:

   a. A description of the proposed use of the fill area; and

b. A description of the fill material, including its source, required weed free certification as applicable, and characteristics; and

c. A description of the method of placement and compaction; and

d. A description of the location of the fill relative to natural and/or existing drainage patterns; and

e. A description and map of the fill area and depth relative to the ordinary high water mark; and

f. A description of proposed means to control surface runoff; and

g. A temporary erosion and sediment control (TESC) plan.

5.3 Public Access

This section describes the policies and regulations for providing public access to public shorelines.

5.3.0 Applicability

Public access includes the ability of the general public to reach and enjoy the water's edge, to travel on the waters of the state, and to view water and the shoreline from adjacent locations. Physical public access means having the ability to physically touch or reach the water. Visual public access means having the ability to view the shoreline or water, but does not necessarily include physical access to the water's edge.

5.3.1 Policies

1. The goal of providing public access should be balanced with the need to protect ecological functions and preserve the rights of private property owners.

2. Existing physical and visual access sites/areas should be maintained to ensure the public's continued ability to enjoy the recreational and aesthetic qualities of the shoreline, unless the maintenance of such existing sites is inconsistent with the policies and regulations of this Program.

3. The County should work with State Parks, and other appropriate agencies and individuals to acquire lands that can provide physical and visual access to public waters for public use and to provide, promote and accommodate public access on parks and other state owned land, where no access currently exists.

4. Public entities and private landowners should not be required to provide public access when such access is shown to be inappropriate due to reasons of safety, security, or adverse impacts to shoreline functions and processes.

5. Pursue opportunities to implement the Clallam County Park and Recreation MasterPlan, as amended, to increase and improve public access and enjoyment of County shorelines.

6. Support and promote the development of public access to the Washington State Parks and Recreation Lands where non-existent or limited such as state park lands located on both sides of the Sol Duc River near Mary Clark Road. In regards to the latter, the County supports the State Parks Commission to manage the timber on the track of land on both banks of the Sol Duc River (commonly referred to as the Mary Clark Road/Hwy 101) for the benefit of the public to access this river system, with little public access available in the reach; and to

recommend any needed legislation to be able to do so. Timber management could also be a funding windfall that supports State Park plan to open and manage this track for the public's use and enjoyment.

7. Support retention and improvements of existing developed public access points and related facilities (e.g., parking, restrooms, trails) to maintain public access to shorelines including those access points associated with restoration of publically-owned shorelands such as the access to Elwha River at the end of Lake Aldwell Road. In regards to the latter, with the absence of Lake Aldwell, the county has an interest in the lands and associated uplands of the former lake (Commonly referred to as Elwha Project Lands) that might be affected by PL 102-495 and sees value in such interest to insure public access along with the environmental qualities this law is attempting to achieve.

8. Given the significant area and extent of public lands in Clallam County and along its shorelines, the County should work together with other public land managers to optimize and prioritize improving accessibility and recreational opportunities on existing shoreline public lands.

9. Develop an integrated shoreline area public access system plan consistent with WAC 173-26-221 (4) to inform future updates to this Program related to public access policies and regulations that includes, but is not limited to:

    a. Consolidate and supplement current inventories and information on public lands, easements and right-of-way; public beach access (even if boat-in only and adjacent upland privately-owned); and non-public lands (e.g., land trust, tribal, campgrounds/resorts) that allow for public access located within and adjacent to the shoreline jurisdiction. Associated with these areas inventory the types of shoreline access opportunities (e.g., parks, trails, boat launches, camping, etc.) and existing support facilities (e.g., restrooms, parking, shelters, etc.).

    b. Consolidate and supplement inventories of public transportation (e.g., US 101, SR 112, Olympic Discovery Trail, others) and utility corridors within and adjacent to the shoreline jurisdiction. Associated with these corridors inventory the types of public access such as outstanding views, overlooks/pullouts, access to waterfront, etc. and existing support facilities (e.g., parking, rest stop, interpretive facilities, etc.).

    c. Identify opportunities to increase shoreline public access that:

        i. Improve public access to existing public-owned lands, right-of-way, and easements along shoreline where no access currently exists or access is a limiting factor.

        ii. Identify shoreline reaches where new public access and associated access activities (e.g., trail, boat launch, etc…) are most needed to serve the needs of County residents and visitors.

        iii. Promote a variety of shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points.

        iv. Improve integration of shoreline public access and types of recreational opportunities across local, state and federal lands.

    d. Coordinate shoreline public access with the Clallam County's Park and Recreation Plan and expansion and connections to the Olympic Discovery Trail.

    e. Public review and input on the shoreline public access system plan.

5.3.2 Regulations

1. Single family residential developments and developments of four (4) or fewer lots shall not be required to provide public access to the shoreline.

2. Multi-family residential use and s~~S~~ubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless:

   a. There are unavoidable public health or safety hazards on the property that cannot be prevented through reasonable means;

   b. The public access is likely to cause unacceptable environmental impacts that cannot be mitigated;

   c. The access would create significant, undue, and unavoidable conflicts with adjacent uses that cannot be mitigated; or

   d. Shoreline public access is determined to be adequate, or will be based on planned actions, consistent with a County integrated shoreline area public access system plan adopted under WAC 173-26-221 (4).

3. Commercial and industrial development and development by public entities, such as local governments, port districts, state agencies, and public utility districts, shall include physical and/or visual public access to public waters unless:

   a. Unavoidable public health or safety hazards exist and cannot be prevented through reasonable means;

   b. The use/development has inherent security needs that cannot be mitigated through reasonable design measures or other solutions;

   c. The cost of providing the access, easement or an alternative amenity is disproportionate to the total long-term cost of the proposed development;

   d. The public access will cause unacceptable environmental impacts that cannot be mitigated; or

   e. The access would create significant, undue, and unavoidable conflicts with adjacent uses that cannot be mitigated.

4. To be exempt from the public access requirements in this section, the project proponent must demonstrate that all feasible alternatives have been considered, including:

   a. Regulating access through means such as maintaining a gate or limiting hours of use; and

   b. Separating uses and activities (using fences, hedges, landscaping, etc).

5. Public shoreline access provided by public road ends, public roads rights-of-way, public utilities and rights-of-way shall not be diminished by the County or neighboring property owners in accordance with RCW 36.87.130.

6. The County shall evaluate existing public lands and access in the shoreline reach(s) as part of the findings of any decision involving requirements that private development provide for shoreline public access under this Program.

5.4 Water Quality and Water Management

5.4.0 Applicability

Water quality means the physical, chemical, and biological characteristics of water. Water quality is a measure of the condition of water relative to the requirements of humans and other species. Water quality is typically assessed in terms of specific standards for drinking water, shellfish harvest, recreation, fish production, and other beneficial uses.

Water management refers to the set of practices that are required to ensure there is adequate water to maintain stream flows and support domestic uses.

5.4.1 Policies

1. Shoreline uses and developments should incorporate best management practices, low impact development techniques, shoreline and critical area buffers, vegetation conservation, and other appropriate measures to achieve all of the following:

    a. Prevent the direct discharge of pollutants to surface and ground waters, including stormwater ditches.

    b. Meet water quality standards and designated beneficial uses of surface waters.

    c. Implement stormwater standards to mimic the natural hydrology as much as possible and reduce high flows resulting from future development/redevelopment.

    d. Operate and maintain stormwater ditches, culverts, and ponds in a manner that ensures their longevity and effectiveness.

    e. Raise public awareness of the societal value of water resources to encourage behavior that improves water quality.

    f. Encourage removal of wood structures treated with creosote, copper, chromium arsenate or other hazardous substances.

2. Shoreline use and development should be designed to minimize the long-term need for chemical fertilizers, pesticides, herbicides, or other similar chemical treatments that could contaminate surface or groundwater or cause adverse impacts on shoreline ecological functions and values.

5.4.2 Regulations

1. All shoreline uses and developments shall use effective temporary erosion and sediment control (TESC) methods during project construction. Project proponents shall submit a TESC plan for Administrator review and approval prior if they meet any of the following criteria:

    a. Disturb seven thousand (7,000) square feet or more of land;

    b. Result in slopes over twenty five percent (25%) and greater than five (5) feet in height;

    c. Impound water exceeding a volume of one (1) acre-foot;

    d. Result in the diversion of existing drainage courses; or

e. Involve clearing and grading in an erosion hazard area or on slopes steeper than twenty five percent (25%).

2. To protect water quality, shoreline uses and developments shall comply with the following standards based on the type and scale of the proposed development:

   a. Tier 1 Developments – Residential development with up to two thousand (2,000) square feet of new or replaced impervious surface:

      i. All new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be certified to be free of invasive weeds.

      ii. Roof runoff must be routed to a drywell or, if a dry well is not appropriate for site conditions, runoff must be dispersed to a vegetated area, a rain garden or bioswale, an infiltration system or permeable pavement.

      iii. Project proponents must submit a one page drainage plan showing how stormwater runoff will be controlled and design standards implemented.

   b. Tier 2 Developments – Single-family residential development with more than 2,000 square feet of new or replaced impervious surface, other residential development which disturbs more than seven thousand (7,000) square feet of land or generates two thousand (2,000) to five thousand (5,000) square feet of impervious surface, and all commercial development smaller than five thousand (5,000) square feet in size that do not use hazardous substances:

      i. All Tier 2 developments shall provide for on-site stormwater management controls, in accordance with best management practices identified by the County and/or Washington Department of Ecology Stormwater Management Manual for Western Washington, as amended.

      ii. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be certified to be free of invasive weeds.

   c. Tier 3 Developments - All industrial development; commercial and residential development which generates more new or replaced impervious surface than is allowed in Tier 2, converts three-quarters acre or more of native vegetation to lawn or landscaped areas, or converts 2.5 acres or more of native vegetation to pasture; and all commercial projects that use hazardous materials:

      i. A stormwater management site plan prepared by a licensed engineer must be prepared in accordance with the most current edition of the Ecology Stormwater Management Manual for Western Washington, as amended.

      ii. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be certified to be free of invasive weeds.

3. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards. On-site sewage systems shall comply with the shoreline and critical area buffer requirements of this Program, and shall be a minimum of 100 feet landward of the ordinary high water mark and any waterbody. On

shorelines which, according to the state's water quality assessment, exceed allowances for nitrogen contamination, the County shall require new septic systems to provide denitrification.

4. All building materials that may come in contact with surface waters shall be composed of non-toxic materials, such as wood, concrete, approved plastic composites, or steel that will not adversely impact water quality or aquatic plants or animals. Materials used for docks or similar structures shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenate, or pentachlorophenol is prohibited in shoreline water bodies.

5. Solid and liquid wastes and untreated effluents shall not be allowed to enter any groundwater or surface water or to be discharged onto land. The release of oil, chemicals, genetically modified organisms, or hazardous materials onto land or into the water is prohibited.

6. Illicit non-stormwater discharges to the stormwater system are prohibited. This includes direct discharges of wastewater (e.g., from sinks, washing machines) to stormwater conveyance systems such as drainage ditches, and discharge of wastes from incidental sources such as spills from road accidents into stormwater drainage.

5.5 Archaeological, Historical, and Cultural Resources

5.5.0 Applicability

1. All new uses and developments shall comply with the applicable policies and regulations for protection of archaeological, historical, and cultural resources as defined in Chapter 11.

5.5.1 Policies

1. Sites and resources having known or suspected archaeological, historic, or cultural value should be protected. These sites/resources are important, non-renewable resources and many are in danger of being damaged or lost because of ongoing development. Wherever possible, sites should be permanently preserved for scientific study and/or public observation consistent with 36 CFR 800 and RCW 27.53. If the presence of an archeological site is unknown then a survey should be conducted by an archeologist.

2. Proposed development on or adjacent to an identified archaeological, historic, or cultural site should be designed and operated to be compatible with continued protection of the archaeological, historic, or cultural site.

3. The location of historic, cultural, and/or archaeological sites/resources should not be disclosed to the general public unless adequate provisions can be put in place to ensure long-term protection and preservation of such sites/resources.

5.5.2 Regulations

1. All shoreline use and development proposals shall be reviewed to determine if they have the potential to impact historic, cultural, and/or archaeological sites/resources. The Administrator shall consult with the Washington State Department of Archeological and Historic Preservation and if there is evidence that the proposed project is located within five hundred (500) feet of such a site/resource or if the site has not been surveyed or evaluated for presence/absence of cultural resources, the Administrator shall:

a. Notify and inform potential affected Tribes and the Washington State Department of Archaeology and Historic Preservation of the proposed activity including timing, location, scope, and resources affected; and

b. Require the proponent to provide a Cultural Resource Site Assessment prior to development to determine the presence/absence of archaeological, historic, or cultural resources. The Assessment shall include a survey to determine presence/absence of cultural resources. The Administrator can waive this requirement if the proposed development activities do not include any ground disturbance and will not impact a known archaeological, historic, or cultural site/resource.

2. When a Cultural Resource Site Assessment required by this section identifies the presence of archaeological, historic, or cultural resources, a Cultural Resource Management Plan shall be required. The plan shall assess the archaeological, historic, or cultural site/resource; analyze potential adverse impacts caused by the proposed activity; and recommend measures to prevent adverse impacts.

3. Cultural Resource Site Assessments and Cultural Resource Management Plans required by this section shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The project proponent shall be responsible for any professional service fees associated with the assessment or plan.

4. The Administrator may reject or request revision of the conclusions reached in a Cultural Resource Site Assessment or Cultural Resource Management Plan when it can demonstrate that the assessment is inaccurate or does not fully achieve the policies of this section.

5. Excavation for archaeological investigations or data recovery may be permitted when conducted by a professional archaeologist or qualified historic preservation professional in accordance with applicable state laws.

6. Where public access is provided to any private or publicly owned building or structure of archaeological, historic, or cultural significance, a Public Access Management Plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and affected Tribes. The project proponent shall be responsible for any professional service fees associated with the access plan.

7. If any site/object of possible archaeological, historic, or cultural interest is inadvertently discovered during any new shoreline use or development, the project proponent shall immediately stop work and comply with all of the following measures:

a. Notify the County Community Development Department and the Washington State Department of Archaeology and Historic Preservation; and

b. Prepare a Cultural Resource Site Assessment to determine the significance of the discovery and the extent of damage to the resource; and

c. Distribute the Cultural Resource Site Assessment to the Washington State Department of Archaeology and Historic Preservation and affected Tribes for a 30-day review to determine the significance of the discovery; and

d. Maintain the work stoppage until the Administrator and above-listed agencies or governments have reviewed the site assessment and determined that work can proceed; and

e. Prepare a Cultural Resource Management Plan pursuant to this section if the Administrator determines that the site is significant; and

f. If an archeological resource is damaged, an archeological damage assessment shall be completed pursuant to WAC 25-48-043 and the National Park Service Technical Brief 20.

8. Upon inadvertent discovery of human remains, the project proponent must immediately notify the County Sheriff, Coroner, and Washington State Department of Archaeology and Historic Preservation.

9. In the event that unforeseen factors constituting an emergency, as defined in RCW 90.58.030, necessitate rapid action to retrieve or preserve archaeological, historic, or cultural resources, the Administrator shall notify the State Department of Ecology, the State Attorney General's Office, potentially affected Tribes, and the State Department of Archaeology and Historic Preservation within 10 days of such action.

Chapter 6 Shoreline Buffers and Vegetation Conservation

6.1 Applicability

Shoreline buffers, as defined in Chapter 11, help protect people and property from natural hazards that are present on some shorelines. Shoreline buffers also protect and provide shoreline habitat, water quality, and other ecological functions from the adverse impacts of adjacent land use and development. Retention and restoration of buffers and the functions they provide, especially native vegetation buffers, helps to stabilize coastal areas and streambanks and achieve no net loss of shoreline ecological functions. As a result, this chapter establishes policies and regulations for shoreline buffer widths and the allowed alterations and uses of such buffers. In addition, this chapter and other provisions of this Program also promote vegetation conservation within buffers and the shoreline jurisdiction including restrictions on clearing and grading, while providing for vegetation restoration and enhancement, and control of invasive weeds and non-native species.

Unless otherwise stated, buffer and vegetation conservation regulations of this Program do not apply to those activities covered under the Washington State Forest Practices Act, except for conversion of forest uses to other uses and those other forest practices over which the County has authority. Like other Program provisions (see Section 5.1 of this Program), buffer and vegetation conservation standards do not apply retroactively to legally-established existing uses and structures.

All new shoreline uses and developments shall comply with the shoreline buffer and vegetation conservation policies and regulations in this section. New uses and developments may also be subject to additional buffers and vegetation conservation standards prescribed in Chapter 7 of this Program due to the presence of critical areas such as wetlands, streams, habitat conservation areas (e.g., endangered or threatened species habitats), geologically hazardous areas (e.g., landslide hazard areas, channel migration zones), and other critical areas located within the shoreline jurisdiction.

6.2 General Shoreline Buffer and Vegetation Policies

1. Buffers should be established and maintained along all marine and freshwater shoreline waterbodies to protect people and property from risks associated with flooding, bank erosion, channel migration, bluff recession, landslides, storm surges, sea level rise, tsunamis and other hazards.

2. To protect the ecological and aesthetic qualities of the shoreline environment and minimize adverse impacts associated with shoreline development, new shoreline uses and developments should be separated and set back from the edge of the shoreline waterbody. The area between the waterbody and the development should be retained in a well-vegetated and mostly undisturbed condition.

3. A buffer zone of natural vegetation should be established and maintained along all shoreline waterbodies so that shorelines can erode and aggrade naturally without posing a risk to the adjacent structures and prompting the need for structural armoring.

4. Buffers composed of predominantly native vegetation should be established and/or preserved along all shorelines to:

    a. Protect the health and sustainability of the many fish and wildlife species that depend on the County's lakes, rivers, and marine waters for food, cover, breeding, resting, rearing, and other essential life functions.

b. Provide clean water for recreation, fishing, shellfish production, and other beneficial uses.

c. Protect people and property from hazards associated with floods, storm surges, landslides, erosion, migrating river channels, tsunamis, and other natural processes or events.

d. Minimize the costs that the public would have to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.

e. Maintain the aesthetic values that natural and scenic shorelines provide.

f. Ensure no net loss of shoreline ecological functions.

5. Shoreline buffers should be preserved in a predominantly natural and undisturbed state except that reasonable accommodation should be made for views, pedestrian access, and water-related use/development when it is otherwise consistent with this Program.

6. Development proposals that involve extensive vegetation removal to create views or expansive lawns should not be allowed. Property owners should not assume that an unobstructed view of the water is guaranteed.

7. The goals of preserving and restoring vegetation along shorelines should be balanced with the need to accommodate preferred shoreline uses and developments and provide views of the shoreline.

8. New developments and uses should be designed to minimize tree removal and vegetation clearing. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability.

9. Allow for the short-term alteration of buffers to restore and enhance buffer ecological functions, including the control of invasive and non-native species.

6.3 Regulations – General Shoreline Buffer and Vegetation Requirements

1. Shoreline Buffer Width: The area bordering all shoreline waterbodies shall be designated as the shoreline buffer. New uses and developments shall be located landward of the shoreline buffers shown in Table 6-1 unless this Program specifically allows the use/development to occur within the shoreline buffer (see Figures 6-2 through 6-6 for example buffer scenarios for each designation—figures do not show all possible buffer scenarios). Shoreline buffers shall be measured in all directions from the ordinary high water mark. New uses and development may also be subject to additional buffers prescribed in Chapter 7 of this Program due to the presence of critical areas.

2. Minor and Major Shoreline Buffer Width: To determine the standard shoreline buffer width shown in Table 6-1, the Administrator shall evaluate each development proposal to determine if it qualifies as major new development or minor new development according to the following criteria:

   a. Minor New Development: Applies only to single-family development or low intensity, water-dependent recreational use/development on existing lots of record, unless the lots are part of a subdivision where specific development standards or buffers were required as part of the plat. Divisions of land creating new lots for residential or other developments

are not considered minor development because they intensify development pressures along the shoreline. Minor new development must meet all of the following criteria:

i. The amount of total clearing/land disturbance within shoreline jurisdiction must be the lesser of fifteen percent (15%) of parcel area or twenty thousand (20,000) square feet, provided that a minimum of two thousand five hundred (2,500) square feet shall be allowed; and

ii. The amount of impervious area (including structures) within shoreline jurisdiction must be the lesser of five percent (5%) of the total parcel area or six thousand five hundred (6,500) square feet, provided that a minimum of two thousand (2,000) square feet shall be allowed; and

iii. The cumulative footprint of all structures on the parcels must be less than four thousand (<4,000) square feet; and

iv. The vegetation within the standard shoreline buffer must meet the cover and/or density standards in Section 6.3.4. If the buffer vegetation does not meet the cover and/or density thresholds established in Section 6.3.4 the applicant shall be required to enhance and improve the buffer by planting trees and/or shrubs to achieve the required plant density and cover. The number, spacing and species to be planted shall be adequate to create a functioning buffer similar to what would be found on a relatively undisturbed site. The vegetation shall be nurtured and maintained to preserve the cover and density characteristics and ensure continuation of a healthy and functioning buffer over time.

b. Major New Development: Any development that does not qualify as minor new development; any new subdivision or division of land creating new lots for development.

3. Critical Area Buffers: Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas and buffers that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii). Table 6-2 summarizes critical area buffer requirements. Chapter 7 of this Program contains policies and standards for protection of critical areas within the shoreline jurisdiction including critical area buffer requirements.

4. Shoreline Buffer Condition: Shoreline buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. The area within the shoreline buffer shall be maintained in a predominantly well vegetated and undisturbed condition defined as an average density of at least one hundred fifty (150) trees and/or shrubs per acre or fifty five percent (55 %) areal cover of trees and/or shrubs, whichever is greater. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated areas shall comprise at least eighty percent (80%) of the buffer area. The remaining twenty percent (20%), or at least fifteen (15) linear feet of the water frontage, whichever is greater, may be retained as lawn for active use. Low growing species that preserve views of the shoreline shall be allowed. Native vegetation is preferred but non-native ornamental trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds.

5. Tree and Shrub Buffer Retention: There shall be no grading or removal of trees or shrubs greater than three (3) inches in diameter at a height of five (5) feet within the shoreline buffer unless the grading or tree removal is required to accommodate an approved shoreline use/development and is otherwise specifically allowed by this Program. This requirement shall

not pertain to hazard tree and noxious weed removal authorized by this Program or to routine mowing.

6. Lake Sutherland ~~Standard~~ Buffer: ~~The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance.~~

In the Shoreline Residential - Intensive designation, single-family residential use and development that qualifies as minor new development under Section 6.3.2(a) above, shall be located at least 35 feet landward of the Ordinary High Water Mark. The minimum 35-foot buffer is not eligible for further buffer reduction under Sections 6.4, 6.7, or 7.8. In addition to meeting the minimum 35-foot buffer, all minor new development shall avoid and minimize shoreline impacts consistent with the mitigation sequencing requirements of this Program. Furthermore, the landowner shall mitigate the impacts by selecting and implementing one of the following options (a or b below) to maximize the ecological functions of the buffer zone:

a. Plant woody cover to create a multi-tiered woody riparian area that meets all of the following criteria:
   i. Trees must be planted at 10-foot spacing (on center) and shrubs must be planted at 6-foot spacing (on center) to create an average density of at least one hundred fifty (150) woody stems per acre or eighty-five percent (85%) areal vegetative cover, whichever is greater; and
   ii. The planting plan shall be designed to optimize overhanging vegetation and woody debris recruitment; and
   iii. Trees and shrubs must be retained and maintained in perpetuity; and
   iv. Landowner must monitor and document plant establishment annually for at least 5 years and submit a written report of the buffer condition to the County Department of Community Development in October of each year; and
   v. Landowner must post a bond to cover all or a portion of the cost of the plant maintenance and annual monitoring; and
   vi. The County may require replanting or supplemental planting if the annual monitoring indicates that the plant density and cover standards are not being met.

b. Implement a site-specific habitat management plan (HMP) for the property. The HMP need not necessarily involve planting to achieve the same plant cover and density standards required in option 6.3.6.a above, but shall otherwise maximum fish and wildlife habitat value and meet all of the following criteria:
   i. Describe the nature and intensity of the proposed development and the effect of the proposed development, activity or use on the wildlife species and habitats that occupy the lake and adjacent shoreline; and
   ii. Include a map prepared at a readable scale showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; and a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date; and
   iii. Identify the specific measures that will be implemented and maintained on the property to avoid, minimize and compensate for any adverse impacts to fish and wildlife habitats created by the proposed development (for example, this could include removing/reducing overwater structures or shoreline stabilization); and

iv. Be prepared by a qualified professional who has been educated in fish or wildlife biology or a closely related field, and has professional experience as a biologist; and

v. Use the most current, accurate, complete, available and applicable science in all facets of the analyses. The WDFW Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, and/or similar reference documents may serve as guidance for the plan; and

vi. The plan must include performance standards and a program for annual monitoring for at least 5 years; and

vii. The landowner must post a bond to cover all or a portion of the cost of the monitoring.

c. If the landowner chooses to locate their minor new development at least 50 feet from the OHWM on a parcel that is less than 200 feet deep or at least 75 feet from the OHWM on a parcel that is more than 200 feet deep, no planting or HMP is required.

d. All Major New Development on the Lake Sutherland shoreline shall meet the buffer requirements outlined in Table 6-1.

7. Interrupted Buffer: The shoreline buffers shown in Table 6-1 shall apply to all parcels within shoreline jurisdiction provided that where there is a legally established, public or private (does not include driveways) roadway present, the buffer will end on the waterward side of the road and will not extend to the areas landward of the road. Likewise, in an existing subdivision where there is legally established residence on a developed lot waterward of an undeveloped lot, the buffer shall not extend onto the undeveloped lot.

8. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffer shall apply unless this Program specifically allows the use/development to encroach into the buffer zone.

Table 6-1. Shoreline Buffer Widths (in feet) by Environment Designation[1,2] (See examples in Figures 6-2 through 6-6)

Shoreline Environment Designation	Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM)		
	Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line	Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line	Major New Development, including all Land Divisions
Marine Waterfront	50 feet	75 feet	100 feet
Shoreline Residential - Intensive	50 feet[2]	75 feet[2]	100 feet
Shoreline Residential - Conservancy	100 feet	125 feet	150 feet
Resource Conservancy	150 feet	150 feet	150 feet
Natural	175 feet	175 feet	175 feet

[1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply.
[2]Lake Sutherland—New single-family residential developments and uses in the Shoreline Residential-Intensive designation shall be at least 35 feet landward of the OHWM based on the criteria and standards of Section 6.3.6.~~regardless of lot size or Shoreline Designation.~~

Table 6-2. Critical Area Buffers [1] (See examples in Figures 6-2 through 6-6)

Critical Area	Standard Buffer Width (feet)	More Standards
Wetlands	25 to 300 (depending on wetland category and characteristics)	Sections 7.4-7.6
Other streams in shoreline jurisdiction	50 to 100 feet (depending on water type)	Section 7.7-7.9
Terrestrial Habitat Conservation Areas	Per Habitat Management Plan (if required)[2]	Sections 7.10-7.11
Landslide Hazard Area		
• *Marine Bluff—Feeder Bluff Exceptional*	150 feet	Section 7.12-7.14
• *Marine Bluff—Feeder Bluff or Feeder Bluff Talus*	100 feet	Section 7.12-7.14
• *Other Landslide Hazard Area*	50 feet	Section 7.12-7.14
• *Channel Migration Zone*	Based on Channel Migration Zone Assessment[3]	Section 7.12-7.14

[1] Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas and buffers that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).
[2]The shoreline and critical area buffers in Tables 6-1 and 6-2 incorporate wildlife habitat and corridor protection areas, except where a larger buffer is required per a habitat management plan. [3]Buffer not required if new development/use located outside of mapped potential channel migration zone.

6.4 Regulations – Shoreline Buffer Averaging

1. The Administrator may approve, without a shoreline variance, a reduction in the shoreline buffer widths through buffer averaging. The averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent/non-water-related developments shall not be eligible for buffer averaging except through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

    a. Total area of buffer area remains the same and the buffer meets the stem density and/or percent cover targets defined in Section 6.3.4. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets.

    b. The width of the reduced portion of the buffer shall be at least seventy-five percent (75%) as wide as the required buffer (in other words, if the required buffer width required in Table 6-1 is one hundred [100] feet wide, the reduced portion must be at least seventy-five [75] feet wide).

    c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length (water frontage). In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of water frontage, a reduced buffer width may be applied to forty [40] feet of length.

    d. The proposed development incorporates stormwater management best management practices to address drainage, runoff and other slope stability issues.

    e. All other requirements of this Program, including the critical area requirements of Chapter 7, are met.

2. Buffer Reduction Requiring a Variance: Shoreline use and development proposals that do not meet the minimum shoreline buffer width requirements identified in Section 6.3 or buffer averaging requirements of this ssection (6.4) shall require a shoreline variance in accordance with Chapter 10 of this Program.

6.5 Regulations – Shoreline Buffer Clearing

1. General Requirements: When approving a new use/development, the Administrator may allow limited clearing, grading, thinning, and/or pruning in a shoreline buffer consistent with this section (6.5). Such allowances shall not require compensatory mitigation provided that the amount and extent of buffer modification is the minimum necessary to accommodate the allowed use, the modification is located within pre-existing disturbed areas, areas with low ecological function value or within the ‘active use’ area prescribed in Section 6.3.4 and all other requirements of the Program are met. This requirement is meant to ensure that impacts are avoided and minimized to the extent possible.

2. Clearing for Views or Access: The Administrator may allow limited and selective tree removal, pruning, and/or limbing in the buffer to create a view of the shoreline or accommodate access to the water when otherwise consistent with this Program and the following:

   a. The location and size of the view corridor shall be clearly defined on the site plan.

   b. Approval of selective vegetation clearing shall require preparation of a vegetation management plan prepared by a qualified arborist, forester or landscape architect when the vegetation clearing involves removal of trees greater than three (3) inches in diameter at a height of five (5) feet and use of ground-disturbing equipment such that soils or topography are materially altered; and/or the buffer condition following selective clearing does not meet the stem density and/or percent cover targets defined in 6.3.4.

   c. The vegetation management plan shall identify and describe the location and extent of the proposed tree removal, pruning, and limbing and shall include measures to mitigate the adverse impacts of vegetation removal, including but not limited to planting replacement trees or shrubs which do not diminish views but which provide beneficial functions such as stabilizing soils and providing shade, cover and/or food resources for wildlife. The species to be planted shall be adequate to create a functioning buffer similar to what would be found on a relatively undisturbed site. Trees shall be replaced at a ratio of 3 to 1 (planted:removed).

   d. For properties within designated landslide or erosion hazard areas, the Administrator may require review of the vegetation management plan by an engineering geologist or geotechnical engineer to ensure that the proposed removal, pruning, and/or limbing will not cause or exacerbate hazards associated with soil or slope instability.

   e. For properties in or adjacent to wetlands or other sensitive habitats, the Administrator may require review of the vegetation management plan by a qualified biologist to ensure that the proposed removal, pruning, and/or limbing will not cause significant harm to species or habitats.

   f. A vegetation management plan is not required if the clearing can be accomplished using the pruning/limbing using the preferred techniques shown in Figure 5-1 and without removing trees greater than three (3) inches in diameter at a height of five (5) feet; no ground-disturbing equipment is required; soils or topography are not materially altered; and the buffer condition following selective pruning/limbing conforms to the stem density and/or percent cover targets defined in Section 6.3.4.

3. Hazard Tree Removal: Removal of a hazard tree may be allowed in the buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal shall be the minimum necessary to balance protection of the shoreline and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator shall require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

4. Private Pathways: Private pathways which provide pedestrian access to the shoreline may be allowed within the shoreline buffer provided they are constructed of pervious material, are less than or equal to six (6) feet wide, and follow a route that minimizes erosion and gullying (e.g.,

a winding but direct path). Pathways may include a maximum of one private picnic/view platform, patio or landing within each lot; the picnic/view platform, patio or landing shall be a maximum of 100 square feet in size and may be covered by a roof structure no more than 10 feet in height above the floor elevation of the structure. Pathways shall be located within view corridors and/or the active use zone, as indicated in Section 6.3.4, to the maximum extent practicable in order to minimize buffer disturbance. For properties within designated landslide or erosion hazard areas, the Administrator may require review by an engineering geologist or geotechnical engineer to ensure that the pathway will not cause or exacerbate hazards associated with soil or slope instability.

6.6 Regulations – Developments Allowed in the Buffer

1. The Administrator may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate boat launches, docks, piers, and floats accessory to an approved single-family residential development when they are consistent with the policies and regulations in this Program. The Administrator also may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate other water-dependent and water-related shoreline uses or modifications in Sections 3.2 (Aquaculture), 3.3 (Commercial and Industrial Development), 3.5 (Mining), 3.7 (Recreation), 3.9 (Restoration), 4.2 (Boating Facilities and Moorage), 4.3 (Dredging), 4.4 (Flood Control Structures), 4.5 (In-stream and In-water Structures), and 4.6 (Shoreline Stabilization), that meet all of the requirements of this Program. Such uses/ modifications require a location in, on or immediately adjacent to the water but may have adverse impacts on shoreline functions and processes. The Administrator may allow such uses so long as compensatory mitigation is provided to offset adverse impacts and achieve no net loss in accordance with the applicable provisions of Section 8.3. Compensatory mitigation shall be required for all of the following:

    a. Pedestrian beach access structures that are accessory to an approved single-family residential development when they are consistent with the policies and regulations specified in Section 4.1.

    b. Public trails and public access improvements when they are consistent with the policies and regulations in Sections 3.7 and 4.1.

    c. Certain utilities and essential public facilities that meet the definition of water-dependent or water-related when they are consistent with the policies and regulations specified in Section 3.12.

    d. Any other water-dependent or water-related use/modification that has unavoidable adverse impacts on shoreline functions or processes.

6.7 Regulations – View Protection Common Line Buffer

1. Common Line Buffer: To ensure that new single-family residential developments within the Shoreline Residential – Intensive and Marine Waterfront designations have views of the shoreline that are similar, and generally equivalent, to adjacent residences, the following regulations shall apply, as shown in Figures 6-6a and 6-6b:

    a. For a new residence on a vacant lot with legally established residences on both sides, the proposed residence shall be set back from the ordinary high water mark of the shoreline to a common line drawn between the nearest corners of each adjacent residence.

b. For a new residence on a vacant lot with a legally established residence on one side of the proposed structure, the proposed residence shall be set back from the ordinary high water mark of the shoreline to a line drawn between the nearest corner of the existing adjacent residence and the nearest applicable setback for the adjacent vacant parcel.

c. Where there are two adjacent residences on a shoreline which forms a cove or peninsula, the setback line shall be determined by averaging the setback lines of the two adjacent residences or the buffer and setback specified elsewhere in this Program, whichever is greater.

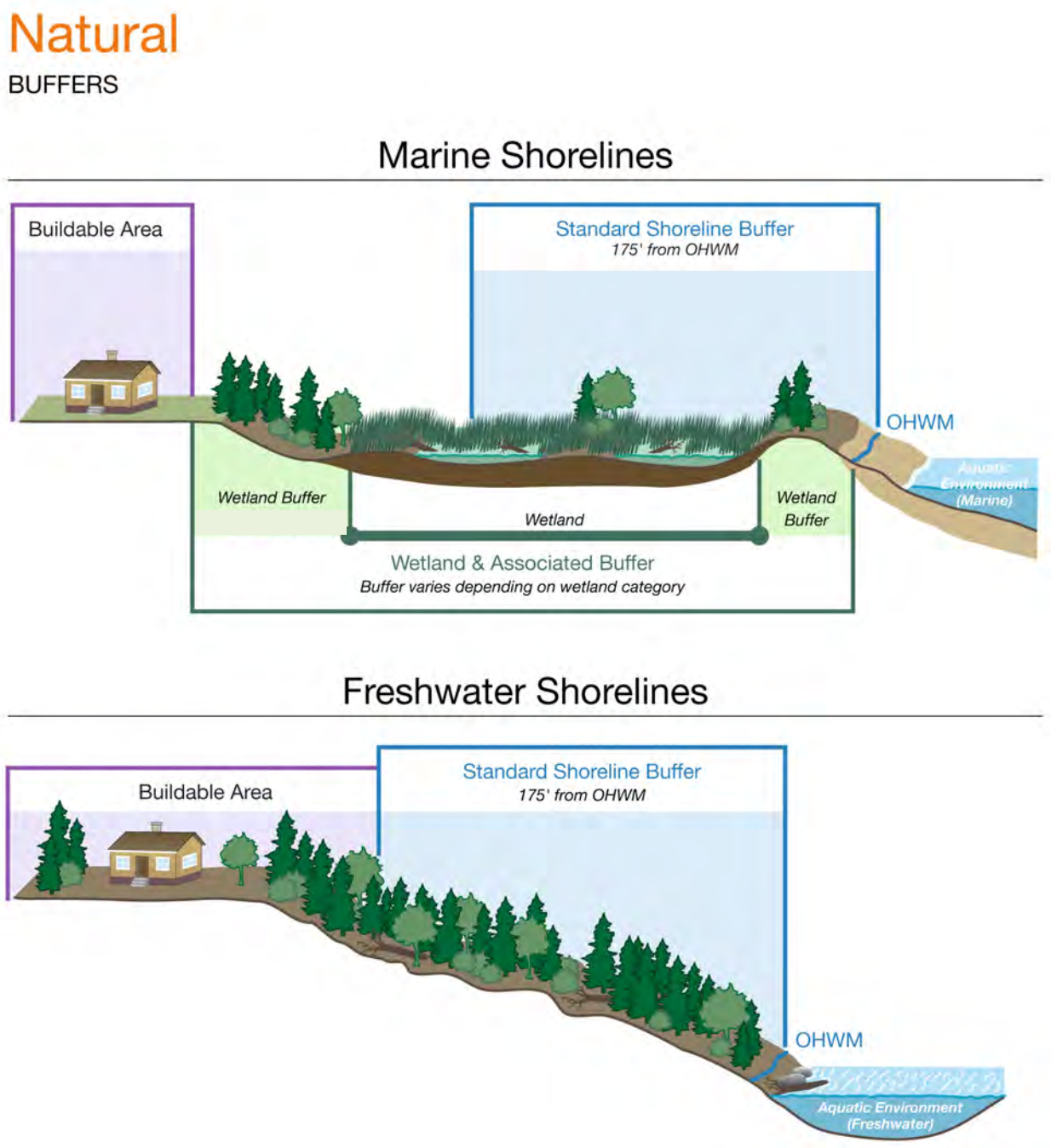
d. Where there are no adjacent established residences on either side, the shoreline setback line shall comply with the standard minimum shoreline buffer width of this Program.

2. Parcels located in mapped channel migration zones or landslide hazard areas shall not be eligible for the common line buffer option. The common line buffer option shall not be used to deviate from any wetland buffers required by this Program.

3. The low bank shoreline reaches along the Strait of Juan de Fuca and inner bays within the Shoreline Residential-Intensive and Marine Waterfront designations are subject to beach erosion and accretion that can result in significant changes over-time to the location of the ordinary high water mark. In such areas, new single-family residential development shall not be located waterward of the closest pre-existing, legal residence within the shoreline reach.

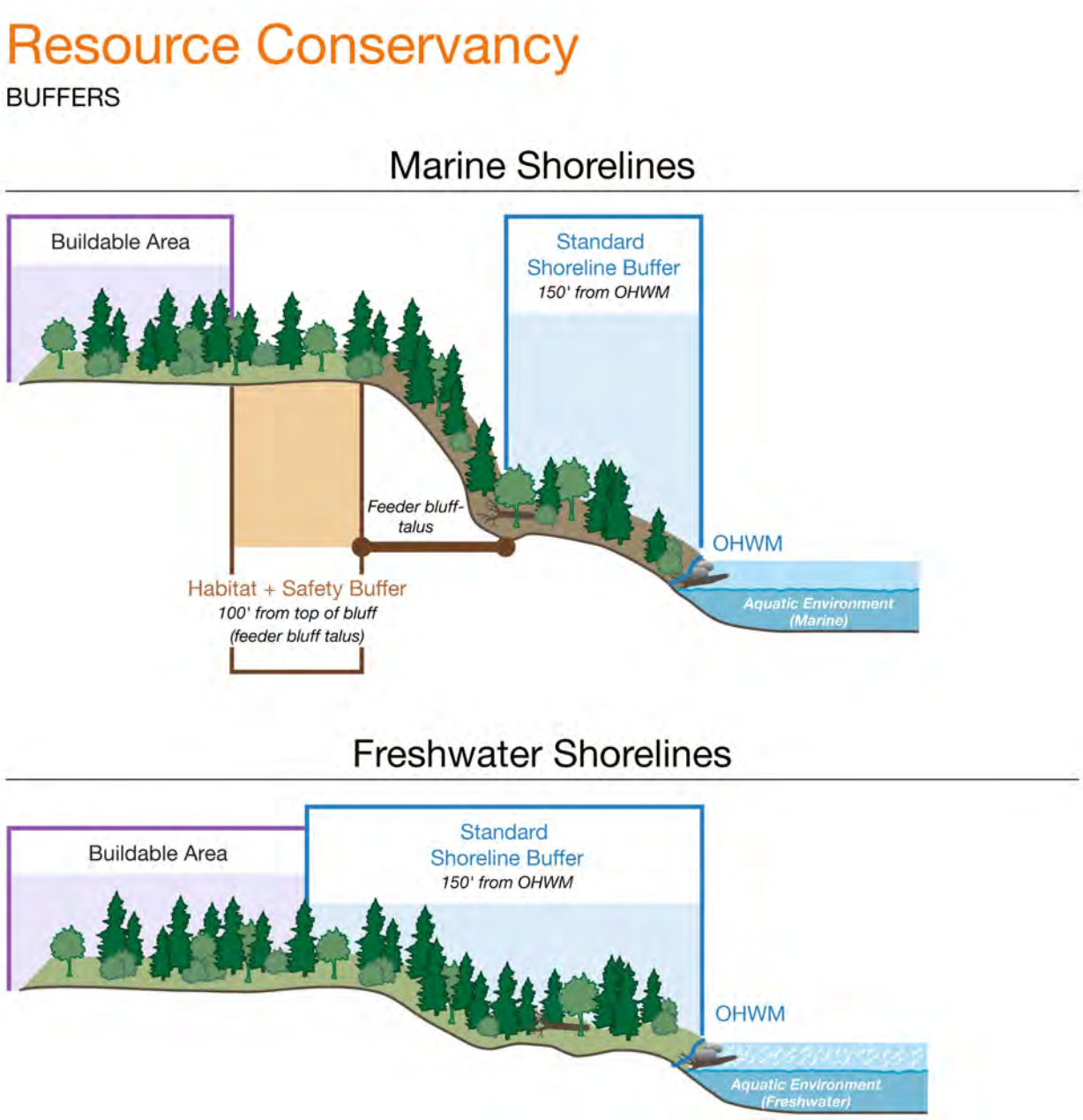
4. The common line buffer may be administratively waived where an elevation survey demonstrates that due to a difference in topography or a vegetation survey demonstrates that due to the presence of significant view blocking vegetation on or adjacent to the common border of two parcels, the proposed residence will not result in any view blockage to adjacent residences. In such cases, the buffers specified elsewhere in this program shall apply.

Figure 6-1. Buffer widths for the Natural Designation



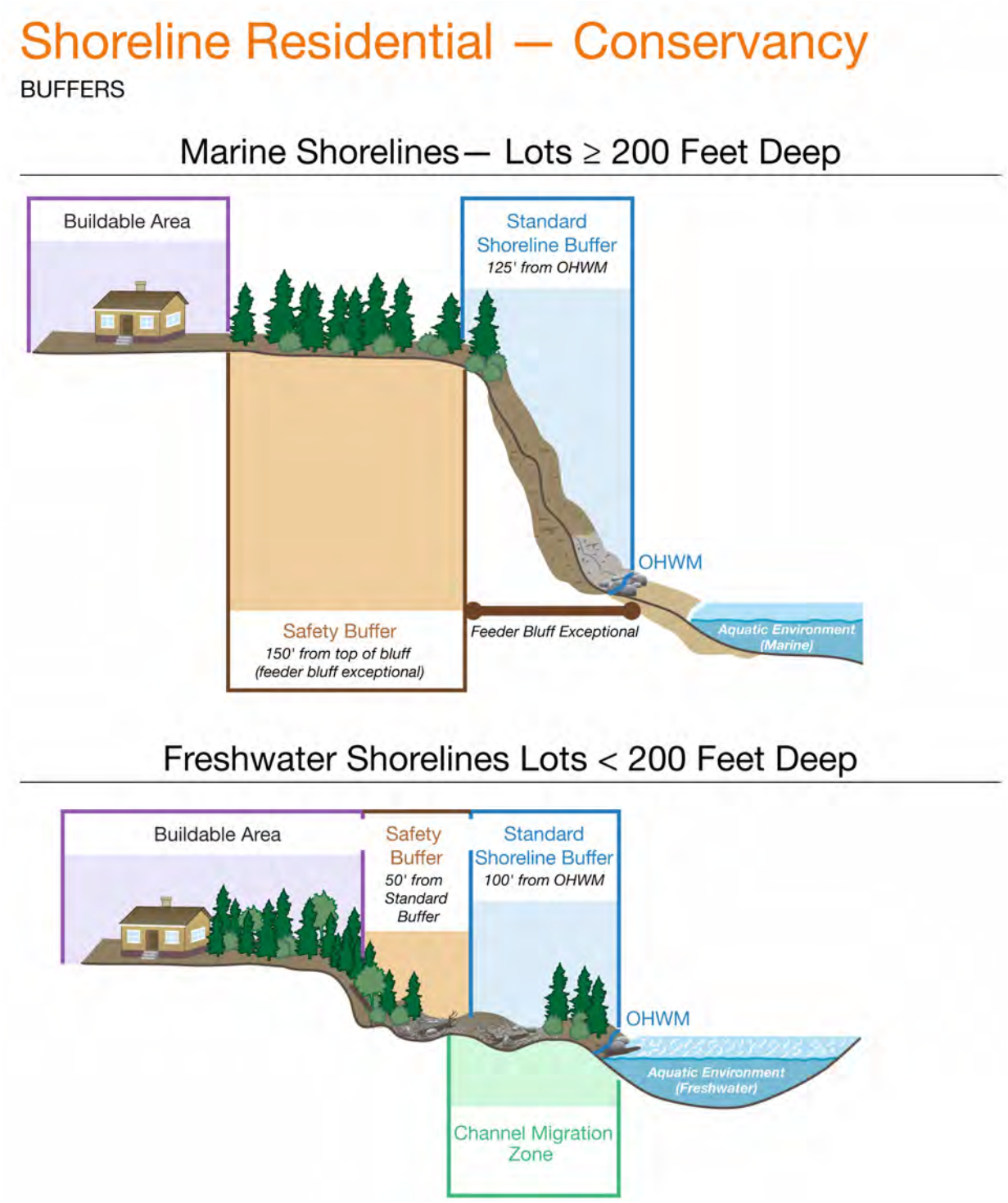
Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.

Figure 6-2. Buffer widths for the Resource Conservancy designation



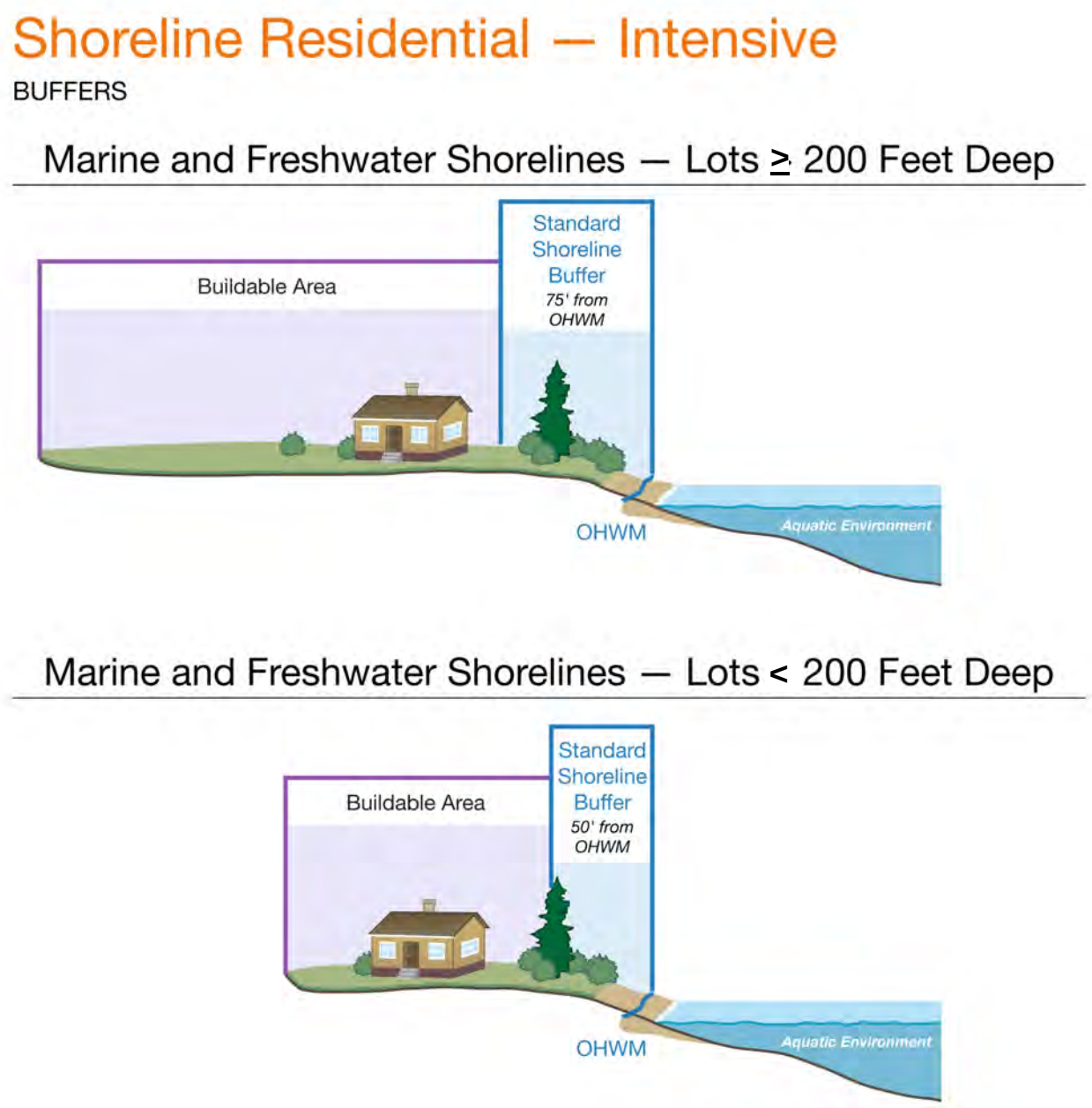
Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.

Figure 6-3. Buffer widths for the Shoreline Residential - Conservancy designation



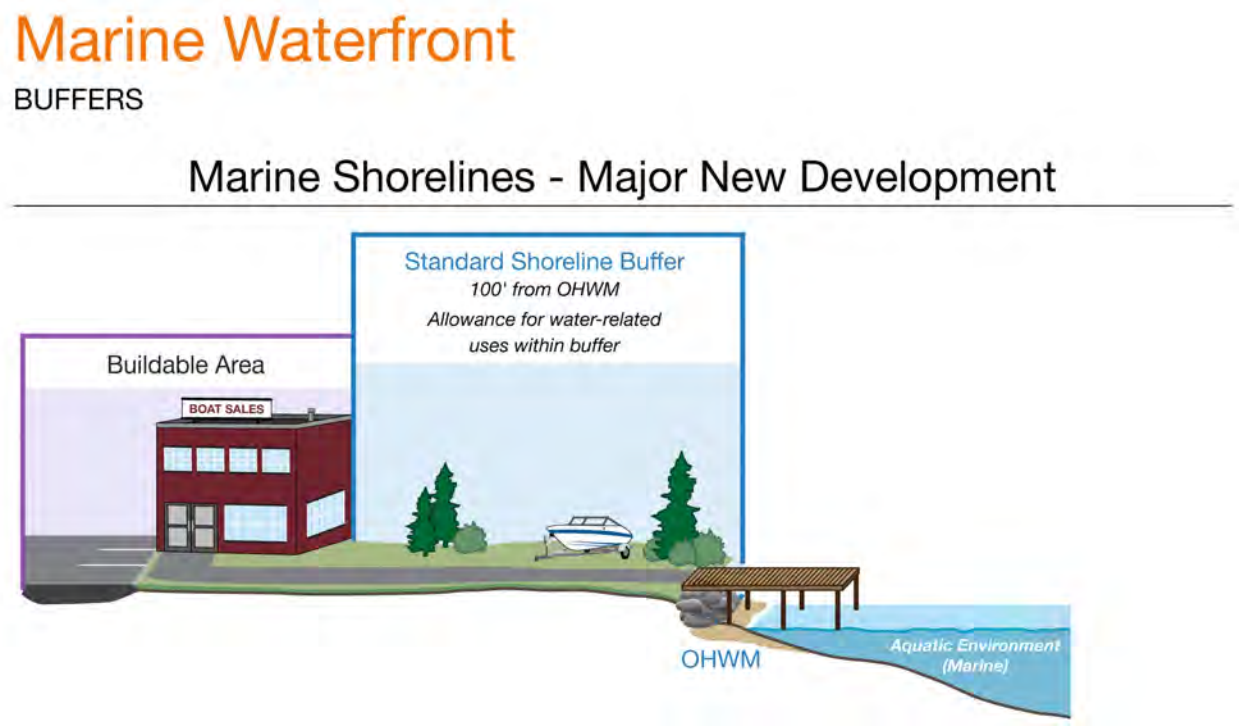
Examples shown are based on "minor new development", the "major new development" standard buffer is 150 feet (see Section 6.3). Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.

Figure 6-4. Buffer widths for the Shoreline Residential - Intensive designation



Examples shown are based on "minor new development", the "major new development" standard buffer is 100 feet (see Section 6.3). Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.

Figure 6-5. Buffer widths for the Marine Waterfront designation



Examples shown are based on "major new development", the "minor new development" standard buffer is either 50 or 75 feet (see Section 6.3). Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.

Figures 6-6 a and b. Common Line buffers within shoreline jurisdiction.

Figure 6-6a

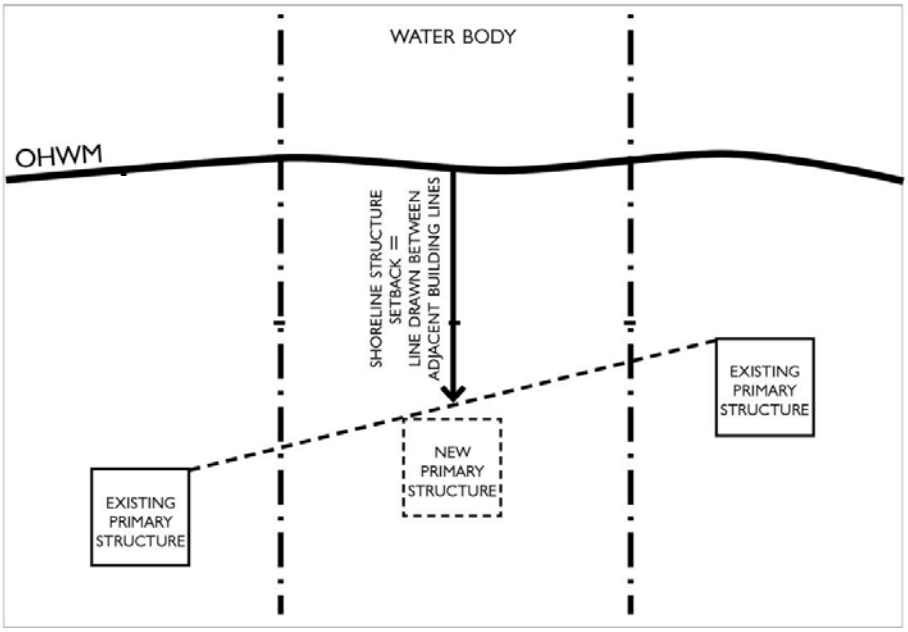
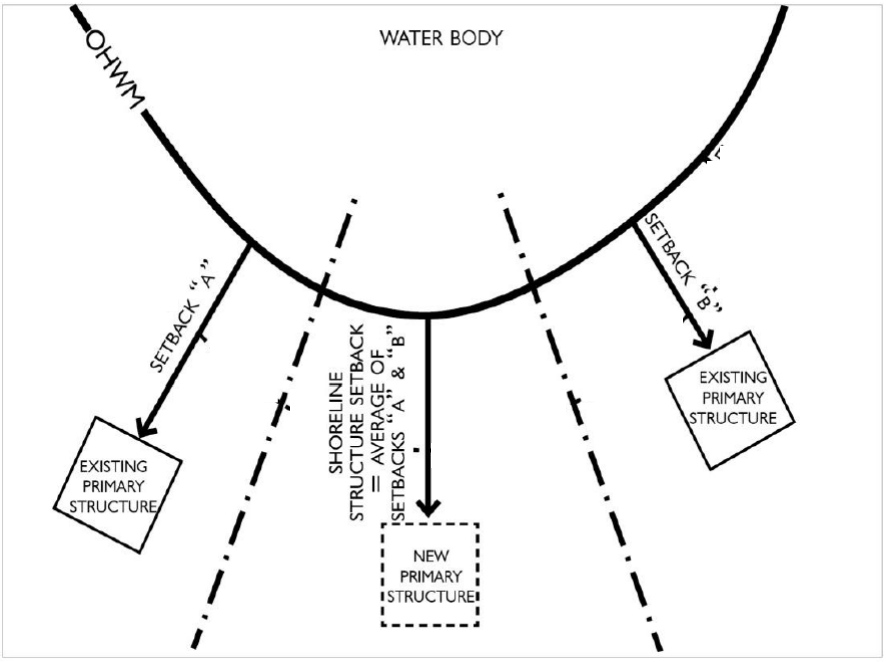


Figure 6-6b



Chapter 7 Critical Areas within Shoreline Jurisdiction

***Note to Users**: This section provides protection for critical areas, including critical saltwater and critical freshwater habitats, located within the jurisdictional limits of the Shoreline Management Act. In accordance with RCW 36.70A.480(4) critical areas within shoreline jurisdiction must be protected such that there is no net loss of shoreline ecological functions. The County's existing critical areas ordinance, in CCC 27.12, applies to critical areas outside of shoreline jurisdiction.*

7.1 Applicability

All new uses and developments shall comply with the applicable policies and regulations for protection of critical areas including critical saltwater and critical freshwater habitats, as classified and designated in this Chapter and defined in Chapter 11. Alterations and land disturbing activities within and adjacent to critical areas within the shoreline jurisdiction shall comply with the provisions of this Chapter and Program.

Critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction shall be regulated according to this Program and not Chapter 27.12 of Clallam County Code. Critical areas outside of shoreline jurisdiction shall be regulated by Chapter 27.12 of Clallam County Code and not this Program. Pursuant to Section 1.8 of this Program, the shoreline jurisdiction extends to include all lands necessary for buffers to protect critical areas that are overlapping or otherwise coincident with the shoreline jurisdiction.

7.2 General Policies for all Critical Areas

1. The beneficial functions of critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction should be protected, and potential dangers or public costs associated with the inappropriate use of such areas should be minimized by reasonable regulation of uses/developments within, adjacent to, or directly affecting such areas.

2. To implement the policy stated above, it is the intent of this section to accomplish the following:

    a. Classify, designate, and regulate critical areas according to the Growth Management Act requirements in RCW 36.70A.

    b. Preserve, protect, manage, or regulate critical areas that have a direct or indirect effect on conserving fish, wildlife, other natural resources and values.

    c. Conserve and protect the environmental attributes of Clallam County that contribute to the quality of life for residents of both Clallam County and the State of Washington.

    d. Protect critical areas, including critical saltwater and critical freshwater habitats, and their functions by regulating use and development within these areas and on adjacent lands.

    e. Guide development proposals to the most environmentally suitable and naturally stable portion of a development site.

    f. Protect people and property from hazards associated with floods, storm surges, rising sea levels, landslides, erosion, migrating river channels, tsunamis, and other natural processes or events.

g. Minimize the costs that the public has to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.

h. Reduce cumulative adverse environmental impacts to water availability, water quality, wetlands, aquatic and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

i. Promote harmonious co-existence between the critical areas and the ongoing use of pre-existing developments in and around critical areas.

j. Maintain and protect both acreage and functions of regulated wetlands in Clallam County through general protection standards, enhancement, restoration, and creation.

k. Protect water quality by controlling erosion, providing guidance in the siting of land uses and activities to prevent or reduce the release of chemical or bacterial pollutants into waters of the State, and maintaining stream flows and habitat quality for fish and marine shellfish.

l. Conserve drainage features that function together or independently to collect, store, purify, discharge, and/or convey waters of the State.

m. Maintain groundwater recharge and prevent the contamination of groundwater resources to ensure water quality and quantity for public and private uses and critical area functions.

n. Promote the restoration of degraded critical areas and their buffers in order to regain lost ecological functions and values and improve the economic health and stability of Clallam County.

o. Protect feeder bluffs ability to provide for essential, long-term supply of sediment to beaches, spits, nearshore habitats, and other important shoreforms.

7.3 Regulations – General Regulations for all Critical Areas

1. This section and Program apply only to critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction. Critical areas outside of shoreline jurisdiction shall be regulated by Chapter 27.12 of Clallam County Code and not this section or Program.

2. This Program and this Chapter apply to activities that are exempt from the requirement to obtain a shoreline permit per RCW 90.58.030(3)(e) and activities listed as exempt in Clallam County Code 27.12.035.

3. Any land, water, or vegetation that meets the critical area designation criteria under this Chapter shall be subject to the provisions of this Program. The location and extent of critical areas within shoreline jurisdiction shall be identified based upon physical evidence and other available information from credible sources and qualified professionals as outlines in this chapter. The location and extent of special flood hazard areas shall be based on mapping provided by the Federal Emergency Management Agency (FEMA).

4. Clallam County shall make available to the public maps or other databases, as appropriate, which show the general location, extent, and classification of regulated critical areas. This information shall be advisory and used by the Administrator in determining the applicability of the standards of this section to a particular location or development site, except that the

location and extent of special flood hazard areas shall be based on mapping provided by the Federal Emergency Management Agency (FEMA). When additional information is required as to the location or extent of a critical area that may be affected by a proposed shoreline use or development, the Administrator may require additional information or may hire a qualified professional to gather the pertinent information at the proponent's expense.

5. Temporary or Permanent Field Identification: Clallam County shall require temporary or permanent field markers delineating the critical area boundary and associated buffer prior to issuance of required permits for any development located within the jurisdiction of a regulated wetland, aquatic habitat conservation area, and landslide hazard area. The type of field markers to be used will be agreed to by the project proponent and the Administrator depending on site conditions and inspection requirements. Field markers shall be spaced at a minimum of every fifty (50) feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field stakes shall remain in place until any required final inspections are completed and approved. Field markers may be waived by the Administrator if an alternative to field staking achieves the same objective and is proposed and approved, or if the development/use activity is located at a sufficient distance so that impacts to the critical area or buffer are unlikely to occur.

6. Construction Fencing: When construction is proposed adjacent to a critical area or buffer, the buffers shall be temporarily protected with a highly visible and durable protective barrier, such as orange construction fencing, during construction to prevent access and protect the critical area and buffer, except where access into/or through the critical area or buffer is expressly allowed by this Program. This requirement may be waived by the Administrator if an alternative to fencing which achieves the same objective is proposed and approved.

7. Signs: For major new development, the Administrator shall require that the common boundary between a regulated wetland, aquatic habitat conservation area, landslide hazard area or associated buffer be identified using permanent signs as approved by the Administrator. In lieu of signs, alternative methods of identification may be approved when such methods are determined by the Administrator to provide adequate protection to the critical area and buffer. The requirement for signs may be waived by the Administrator if the proposed development/use is located at a sufficient distance so that impacts to the critical area or buffer are unlikely to occur.

8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program:

    a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within a wetland, aquatic and terrestrial habitat conservation area, floodplain, or landslide hazard area or their buffers.

    b. All lots meet lot minimum lot area requirements specified by this Program and Clallam County Code Title 33, Zoning Code and other applicable provisions herein.

    c. Regulated wetlands and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards of this Program are met. Only fifty percent (50%) of the permanent open water area of regulated wetlands shall be used in calculating minimum lot area as required by Clallam County Code Title 33, Zoning, for

the proposed lots. This provision shall not apply to the calculation of maximum residential density.

d. Land below the ordinary high water mark of Type S, F, Np, Ns Waters shall not be permitted for use in calculating minimum lot area for the proposed lots.

e. The building envelope, critical areas, and buffers shall be shown on the face of the final plat and/or site plan.

f. New land divisions shall be surveyed by a professional land surveyor.

7.4 Regulations – Wetland Designation, Delineation, Mapping, and Classification

1. Designation: Regulated wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include, but are not limited to, swamps, marshes, bogs, ponds, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 (adoption date of Chapter 36.70A RCW, Growth Management Act) that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands.

2. Mapping: The approximate location and extent of wetlands are shown on the County's critical area maps. These maps are advisory. Definitive information about wetland size or presence requires a field inspection by a qualified professional. The County shall update the maps as new wetlands are identified and as new information from credible sources becomes available.

3. Delineation: In accordance with RCW 90.58.380, wetlands shall be identified in accordance with the requirements of WAC 173-22-035. Unless otherwise provided for in this Program, all areas within the County meeting the criteria in the manual are hereby designated critical areas and are subject to the provisions of this section. The wetland boundary shall be identified and delineated by a biologist with wetlands ecology expertise within the North Olympic Peninsula Region, and who has professional experience in this occupation demonstrated by a minimum of two years' practical experience or is certified as a Professional Wetland Scientist by the Society of Wetland Scientists. This person shall field stake the wetland boundary and this line shall be surveyed by a professional land surveyor if the delineation is required for a land division pursuant to Clallam County Code Title 29.

4. Classification and Rating: Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington (Ecology Publication No. 14-06-029, and revised editions), as determined using the appropriate rating forms contained in that publication. These categories are generally defined as follows:

   a. Category I Wetlands: Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a rating system score of between – 23 and 27 points on the

Ecology rating forms. These are wetland communities of infrequent occurrence that often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

b. Category II Wetlands: Category II wetlands have significant value based on their function as indicated by a rating system score of between 20 and 22 points on the Ecology rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

c. Category III Wetlands: Category III wetlands have important resource value as indicated by a rating system score of between 16 and 19 points on the Ecology rating forms. These wetlands are relatively common.

d. Category IV Wetlands: Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than 16 points on the Ecology rating forms. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high-quality upland habitats.

7.5 Regulations – Wetland Buffers

1. Buffer Widths: Buffers shall be established and maintained to protect all regulated wetlands. The standard wetland buffer width shall be determined according to the regulated wetland classification and category (Section 7.4), wetland characteristics, and the level of impact (Table 7-1) from proposed change in land use. The resulting buffers are shown in Tables 7-2, 7-3 and 7-4 for low, moderate and high impact land uses, respectively. Buffer widths shall be measured along a horizontal line perpendicular to the delineated regulated wetland edge (Section 7.4) as marked in the field.

2. Reduction of High Impact Land Use Buffer Widths: Wetland buffer widths for new high impact land uses (Table 7-4) may be reduced to those required for moderate impact land uses (Table 7-3) under the following conditions:

   a. For wetlands that score moderate or high for habitat (5 points or more for the habitat functions), the width of buffer can be reduced if both of the following conditions are met:

      i. A vegetated corridor at least 100-feet wide is protected between the wetland and any Priority Habitats (see definition) identified on maps by the Washington Department of Fish and Wildlife available to the public. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

      ii. The measures in Table 7-5 are implemented, where applicable, to minimize the impacts of adjacent land uses.

   b. For wetlands that score less than 5 points for habitat, the buffer width can be reduced to that required for moderate impact land uses by implementing the measures in Table 7-5, where applicable, to minimize the impacts of the proposed land uses.

3. Wetland Buffer Condition: Wetland buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. Buffers shall be maintained in a predominantly well-vegetated and undisturbed condition defined as an average density of at least one-hundred fifty (150) trees and/or shrubs per acre or fifty five percent (55 %) areal

cover of woody vegetation, whichever is greater. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated area shall comprise at least 80% of the buffer area. Native vegetation is preferred but existing non-native trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds. Alterations to buffers that are not associated with an allowed use or development shall be prohibited.

4. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.

Table 7-1. Categories of Proposed Land Uses

Level of impact from Proposed Change in Land Use	Land Use Types
High	• Commercial, industrial, and institutional uses • Multi-family residential • Residential (More than 1 unit per acre) • Conversion to high-intensity agriculture (e.g., dairies, nurseries, greenhouses, animal and livestock, and growing and harvesting crops requiring annual tilling.) • High-intensity recreation (golf courses, sport fields, playgrounds, etc.) • Other uses not listed in the moderate or low impact category, or similar expected level of impacts to such uses
Moderate	• Single-family Residential (parcel size 1-acre or greater) • Moderate-intensity recreational open spaces (e.g., parks with biking, jogging, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor right-of-way shared by several utilities and including access/maintenance road
Low	• Forest management • Single-family residential on existing lots of record on parcels five acres (or 1/128 of a standard section) or greater in size meeting the criteria for minor new development in Section 6.3.2 of this Program • Low intensity recreational open spaces (e.g., hiking) with no or minimal vegetation clearing and management • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management

Table 7-2. Wetland Buffers for Low Impact Land Uses

Wetland Category	Wetland Characteristics • Habitat (H)	Standard Buffer Width
Category I ((Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Bogs or High Conservation Value Estuarine & Coastal Lagoons Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	150 feet 125 feet 100 feet 75 feet 50 feet
Category II (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Estuarine Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	150 feet 75 feet 75 feet 50 feet
Category III (Total of scores for all functions is 16 – 19 points)	Moderate level of habitat function (H score 5-7 points) Low habitat function (H score 3-4 points)	75 feet 40 feet
Category IV (Total of scores for all functions is less than 16 points)	Score for all basic functions is less than 16 points	25 feet

Table 7-3. Wetland Buffers for Moderate Impact Land Uses

Wetland Category	Wetland Characteristics • Habitat (H)	Standard Buffer Width
Category I ((Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Bogs or High Conservation Value Estuarine & Coastal Lagoons Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	225 feet 190 feet 150 feet 110 feet 75 feet
Category II (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Estuarine Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	225 feet 110 feet 110 feet 75 feet
Category III (Total of scores for all functions is 16 – 19 points)	Moderate level of habitat function (H score 5-7 points) Low habitat function (H score 3-4 points)	110 feet 60 feet
Category IV (Total of scores for all functions is less than 16 points)	Score for all basic functions is less than 16 points	40 feet

Table 7-4 Wetland Buffers for High Impact Land Uses

Wetland Category	Wetland Characteristics • Habitat (H)	Standard Buffer Width
Category I ((Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Bogs or High Conservation Value Estuarine & Coastal Lagoons Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	300 feet 250 feet 200 feet 150 feet 100 feet
Category II (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form)	High level of habitat function (H score 8 – 9 points) Estuarine Moderate level of habitat function (H score 5-7 points) Not meeting any of above characteristics	300 feet 150 feet 150 feet 100 feet
Category III (Total of scores for all functions is 16 – 19 points)	Moderate level of habitat function (H score 5-7 points) Low habitat function (H score 3-4 points)	150 feet 80 feet
Category IV (Total of scores for all functions is less than 16 points)	Score for all basic functions is less than 16 points	50 feet

Table 7-5 Required Measures to Minimize Impacts

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides and herbicides within 150 ft. of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust

5. Interrupted Buffer: When a wetland buffer contains an existing legally established public or private (does not include driveways) road, the County may allow development on the landward side of the road provided that the development will not have an adverse impact to the wetland. Likewise, in an existing subdivision where there is a legally established residence on a developed lot between the wetland and the proposed lot for development, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

6. Buffer Averaging: The Administrator may allow averaging of the standard wetland buffer widths shown in Tables 7-2 through 7-4. The averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and must be increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent non-water-related developments shall not be eligible for wetland buffer averaging except through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

    a. The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standard width per Tables 7-2 through 7-4, or thirty-five (35) feet, whichever is greater.

    b. The net buffer area (acreage) after averaging is the same as the standard buffer area without averaging.

    c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length. In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of wetland buffer, a reduced buffer width may be applied to no more than forty [40] feet of length.

    d. The area that is added to the buffer to offset the reduction is well-vegetated as defined in Section 7.5.3 above. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets.

7. Mitigation for Buffer Averaging: Prior to approving a request for wetland buffer averaging, the Administrator shall ensure the development and uses adjacent to the reduced buffer is designed to separate and screen the wetland from impacts such as noise, glare, vegetation trampling, etc. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas).

8. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

9. Hazard Tree Removal: Removal of a hazard tree may be allowed in the wetland or buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after the Administrator review of a report prepared by a qualified arborist or forester. Any tree removal shall be the minimum necessary to balance protection of the critical area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator shall require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

10. Increased Wetland Buffers: The Administrator may increase wetland buffer zone widths, not to exceed three hundred (300) feet, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project-related conditions which include, but are not limited to:

    a. Wetland sites with known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species;

    b. The adjacent land is susceptible to severe erosion, and erosion control best management practices will not effectively prevent adverse wetland impacts; and/or

    c. The buffer condition is significantly degraded (e.g., minimal vegetation, lack of native vegetation).

11. Buffer for Wetland Mitigation Sites: Any wetland that is created, restored, or enhanced as compensation for an approved wetland alteration shall have the standard buffer required for the category of the created, restored, or enhanced wetland.

7.6 Regulations – Wetland Protection Standards

1. The following shoreline use and development activities in regulated wetlands or buffers shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:

    a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
    b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater;
    c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table;
    d. The driving of pilings;
    e. The placing of obstructions;
    f. The construction, reconstruction, demolition, or expansion of any structure;
    g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;
    h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or
    i. Activities reducing the functions of buffers.

    ~~a. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:~~

~~a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact.~~

~~b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:~~

~~i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and~~

~~ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.~~

~~c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.~~

~~d. The use or development is specifically allowed by this Program.~~

~~e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.~~

~~f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.~~

~~g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.~~

2. The Administrator may impose conditions on new shoreline use and developments as needed to preserve or, if feasible, increase the acreage, quality, function, and/or values of regulated wetlands within Clallam County. Specific conditions shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the wetland; preserving native vegetation; and other reasonable measures needed to maintain the following wetland functions and values:

   a. Drinking Water: Ability of a wetland to recharge, maintain, and/or enhance surface or groundwater resources that yield potable water in sufficient quantities to be economically useful.

   b. Floodflow Desynchronization: Ability of a wetland to retain/detain floodwaters in the upper watershed, reducing the severity of flooding.

   c. Groundwater Recharge: This wetland function is significant but not in the context that wetlands act as the major locations of groundwater recharge to aquifers. Although some wetlands do provide a significant amount of groundwater recharge, the large areas of river alluvium and unconsolidated glacial deposits and, in the Sequim-Dungeness Valley, the

irrigation network are much more regionally significant. Rather, groundwater recharge is significant because wetlands in contact with the aquifer are most susceptible to carrying pollutants to the aquifer. Conversely, if managed properly, such wetlands could assist in the treatment of pollutants already carried in the drinking water aquifer.

d. Nutrient Removal/Transformation: Ability of a wetland to retain or transform inorganic phosphorus and/or nitrogen into their organic forms, or transform nitrogen into its gaseous form, on either a net annual basis or during the growing season. This can reduce excess nutrients and algal blooms in downstream surface waters.

e. Sediment/Toxicant/Bacterial Retention: Ability of a wetland to retain suspended solids and chemical contaminants such as pesticides, pathogens, and heavy metals absorbed to them, on a net annual basis.

f. Salt Water Intrusion Prevention: Wetlands can act as the boundary between the unconfined aquifer and the marine environment. Loss of water supply or drainage of wetlands will likely increase salt water intrusion to unconfined aquifers supplying drinking water to coastal inhabitants.

g. Streamflow/Channel Maintenance: Wetlands that provide detention or groundwater discharge can supply a significant proportion of streamflow during summer and fall. These areas regulate the amount and timing of stream energy and therefore are crucial to defining the shape of stream channels.

h. Temperature Maintenance: Wetlands can provide thermal refuges during winter and summer months due to influence from springs or contact with the unconfined aquifer. During summer months, wetlands with this function are important as fish habitat for salmonids; during winter months, these wetlands provide waterfowl habitat by maintaining ice-free conditions.

i. Water/Food Availability: The ability of a wetland to provide surface water and foraging resources for migratory and resident species.

j. Habitat: The quality and availability of areas for breeding, nesting, feeding, and resting for wetland-dependent and wetland-associated species.

3. New development and land disturbing activities shall not significantly change wetland hydrology or hydroperiod (i.e., seasonal period and duration of water saturation or inundation).

7.7 Regulations – Aquatic Habitat Conservation Area Designation and Mapping

This section pertains to the subset of Fish and Wildlife Habitat Conservations Areas that are aquatic areas including Type S, F, Np, and Ns Waters. These stream types correspond to the current water typing system used in the state Forest Practices Act. The Type "S" Waters (Shorelines) are those streams (or segments of) and waterbodies that are designated "shorelines of the state" under this Program. Type "F" Waters (Fish) are those streams (or segments of) and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal. Type "Np" Waters (Non-Fish) are those streams (or segments of) that have flow year round and may have spatially intermittent dry reaches downstream of

perennial flow, but do not meet the physical criteria of a Type "F" Water. Type "Ns" Waters (Non-Fish Seasonal) are those streams (or stream segments) that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream. The current versus the historic water type classifications are Type "S" Waters (formerly Type 1), Type "F" Waters (formerly Type 2 and 3), Type Np Waters (formerly Type 4) and Type Ns Waters (formerly Type 5). The SMP in its entirety constitutes the policies and regulations for Type S Waters, which by definition are shorelines of the state.

1. Designation and Classification: Aquatic habitat conservation areas include:
   a. Those streams and lakes which meet the criteria for Type S, F, Np and Ns waters, as defined in the water type classifications in the forest practices rules in WAC 222-16.
   b. Aquatic habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or databases available to Clallam County and its citizens and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
   c. Critical freshwater habitats and critical saltwater habitats as defined in Chapter 11.
2. Mapping: The approximate location and extent of aquatic habitat conservation areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide definitive information about aquatic habitat conservation areas size or presence. The County shall update the maps as new aquatic habitat conservation areas are identified and as new information becomes available.

7.8 Regulations – Aquatic Habitat Conservation Area Buffers

1. Buffer Widths: Buffers shall be established and maintained to protect regulated aquatic habitat conservation areas as shown in Table 7-6 below. The buffer shall not be altered except as authorized by this Program. Buffer distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified unless otherwise specified by this Program. The standard width of the buffer zone for shorelines of the state (Type S Waters) are shown in Table 6-1 and the requirements for shoreline buffers and vegetation conservation are found in Chapter 6 of this Program.

Table 7-6. Aquatic Habitat Conservation Area Buffers for Type S, F, Np, and Ns Waters

Aquatic Habitat Conservation Area	Standard Buffer Width
Type S Waters	See Table 6-1
Type F Waters	100 feet
Type Np Waters	80 feet
Type Ns Waters	50 feet

2. Buffer Condition: Aquatic habitat conservation area buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. Buffers shall be maintained in a predominantly well-vegetated and undisturbed condition defined as an average density of at least 150 trees and shrubs per acre or (55 % areal cover of woody vegetation,

whichever is greater. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated area shall comprise at least 80% of the buffer area. Native vegetation is preferred but existing non-native trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds. Alterations to buffers that are not associated with an allowed use or development shall be prohibited. Buffer conditions for shorelines of the state (Type S waters) shall be consistent with Section 6.3 of this Program.

3. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers and setbacks shall apply.

4. Interrupted Buffer: When an aquatic habitat conservation buffer contains an existing legally established public or private (does not include driveways) road, the County may allow development on the landward side of the road provided that the development will not have an adverse impact to the wetland. Likewise, in an existing subdivision where there is a legally established residence on a developed lot between the aquatic habitat and the proposed lot for development, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

5. Buffer Averaging: Buffer Widths for Type S waters may be reduced through averaging in accordance with Section 6.4 of this Program. Buffer widths for Type F, Np, and Ns Waters may be reduced by the Administrator through buffer averaging in accordance with this section. The buffer averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent non-water-related developments shall not be eligible for buffer averaging except through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

   a. The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standard width per Table 7-6, or thirty-five (35) feet, whichever is greater.

   b. The net buffer area (acreage) after averaging is the same as the standard buffer area without averaging.

   c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of stream/lake, a reduced buffer width may be applied to no more than forty [40] feet of length.

   d. The area that is added to the buffer to offset the reduction is well-vegetated and meets the density and/or cover targets in Section 7.8.2. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets.

6. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

7. Hazard Tree Removal: Removal of a hazard tree may be allowed in the aquatic habitat buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal shall be the minimum necessary to balance protection of the critical area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator shall require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

8. Mitigation for Stream Buffer Averaging or Reduction: Prior to approving a request for buffer averaging, the Administrator shall ensure the development is designed to separate and screen the stream from impacts such as noise, glare, vegetation trampling, etc. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas). Landscaping shall be consistent with Chapter 33.53 Clallam County Code.

9. Increased Buffers: The Administrator may increase buffer widths for Type F, Np and Ns Waters, not to exceed three hundred (300) feet, for a development project on a case-by-case basis when:

   a. The site has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species;

   b. The site is located within landslide or erosion hazard area and there are atypical conditions which indicate that the standard buffer may not adequately protect the aquatic habitat conservation area; and/or

   c. The buffer condition is significantly degraded (e.g., minimal vegetation, lack of native vegetation).

10. Buffer for Aquatic Habitat Conservation Area Mitigation Sites: Any Type F, Np, or Ns Water that is created, restored, or enhanced as compensation for an approved alteration shall have the standard buffer required for the category of the created, restored, or enhanced aquatic habitat conservation area.

7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards

1. The Program in its entirety shall constitute the protection standards for Type S Aquatic Habitat Conservation Areas.

2. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of

buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures.

3. New uses and developments may be allowed in Aquatic HCAs ~~Type F, Np and Ns~~ Waters and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose.

4. The Administrator may impose conditions on any new shoreline uses and developments in Aquatic HCAs ~~Type F, Np and Ns Waters~~ and their buffers as needed to:

   a. Preserve natural flood control, stormwater storage, and drainage or stream flow patterns;

   b. Control siltation, protect nutrient reserves, and maintain stream flows and stream quality for fish and marine shellfish;

   c. Prevent turbidity and pollution of streams and fish or shellfish bearing waters; or

   d. Preserve and protect habitat adequate to support viable populations of native wildlife in Clallam County.

7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas Designation and Mapping

1. Designation: Class I Terrestrial Habitat Conservation Areas shall include the following:

   a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens.

   ~~b. Critical saltwater habitats.~~

2. Designation: Class II Terrestrial Habitat Conservation Areas shall include the following:

   a. Priority species not classified as Endangered, Threatened, Sensitive or Candidate under federal or state law; and

   b. Priority habitats with unique or significant value to a diverse assemblage of species as designated by Washington Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a successional stage (e.g., old-growth forest), or a specific habitat feature (e.g., cliffs); and those land and water areas identified as significant habitat corridors under the Clallam County Comprehensive Plan, Clallam County Code Title 31.

3. Mapping: The approximate location and extent of Class I and II terrestrial habitat conservation areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive critical area designation. The County shall update the maps as new terrestrial habitat conservation areas are identified and as new information becomes available.

7.11 Regulations – Class I and II Terrestrial Habitat Conservation Areas Protection Standards

1. Class I Terrestrial Habitat Conservation Areas: All development within the jurisdiction of designated Class I terrestrial habitat conservation areas shall adhere to the following standards:

    a. New uses and development on sites with known locations of Class I terrestrial habitat conservation areas or sites adjacent to known locations of Class I terrestrial habitat conservation areas shall require a habitat management plan (HMP). The HMP shall meet all of the following requirements:

        i. The HMP shall identify how the development impacts Class I or II terrestrial habitat conservation areas. In the case of bald eagles, a bald eagle management plan approved by the Washington Department of Fish and Wildlife and meeting the requirements and guidelines of the bald eagle protection rules (WAC 220-610-100), as now or hereafter amended, shall satisfy the requirements for an HMP.

        ii. The HMP shall contain a map prepared at a readable scale showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; and a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date of map revision.

        iii. The HMP shall describe the nature and intensity of the proposed development; analyze the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and provide a plan which identifies how the applicant proposes to avoid, minimize and/or compensate for any adverse impacts to wildlife habitats created by the proposed development.

        iv. The HMP shall be prepared by a qualified professional who has been educated in the field of wildlife biology or a closely related field, and has professional experience as a wildlife biologist.

    b. Buffers set forth by other critical area standards in this section have incorporated wildlife habitat and corridor protection measures and shall be considered the minimum to protect Class I terrestrial habitat conservation areas, except when a habitat management plan sets forth additional measures; provided that buffer requirements or related standards set forth by federal or state laws shall prevail over the requirements in this section.

2. Class II Terrestrial Habitat Conservation Areas: All major new development within Class II terrestrial habitat conservation areas may require a HMP meeting the requirements specified in Section 7.11.1 above. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the Administrator.

7.12 Regulations – Geologically Hazardous Areas Designation, Classification, and Mapping

1. Designation: Lands classified as landslide, erosion or seismic hazards are hereby designated as geologically hazardous areas and are subject to the procedures and standards of this Chapter and Program.

2. Classification - Landslide Hazard Areas: Lands potentially subject to mass movement because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. The following classifications shall be designated as landslide hazards:

    a. Areas of historic failures, such as:

        i. Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;

        ii. Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Washington coastal atlas; or

        iii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington department of natural resources.

    b. Areas with all three of the following characteristics:

        i. Slopes steeper than fifteen percent;

        ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

        iii. Springs or groundwater seepage.

    c. Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch.

    d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

    e. Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking.

    f. Feeder bluffs, feeder bluff exceptional, and feeder bluff talus described and mapped in the Clallam County Shoreline Inventory and Characterization Report or in the Washington Department of Ecology Washington Coastal Atlas.

    g. Areas unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones. Channel migration zones are areas within which the stream channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies.

    h. Areas that show evidence of, or are at risk from snow avalanches.

    i. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

j. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of exposed bedrock outcrop at the surface. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

3. Classification - Erosion Hazard Areas: Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazard areas may also include coastal and riverine erosion areas. Lands meeting the following classifications shall be designated as erosion hazard areas:

   a. Areas containing evidence of significant erosion activity caused either by natural or human-made factors that threatens public health, safety and welfare.

   b. Shoreline erosion hazard areas potentially subject to land regression or retreat due to a combination of geologic, seismic, tidally influenced, and/or hydrologic or human-made factors. Shoreline erosion hazard areas can be identified by the presence of any of the following indicators:

      i. Areas with active bluff retreat that exhibit continuing sloughing or calving of bluff sediments, resulting in vertical or steep bluff face with little or no vegetation. These areas include unstable slopes and feeder bluffs mapped in the Clallam County Shoreline Inventory and Characterization Report (ICR) and Washington state coastal atlas available from the Department of Ecology.

      ii. Areas with active land retreat as a result of wave action.

   c. Riverine erosion areas that are mapped subject to lateral erosion related to moving water, including the channel migration zone and the potential slope/bank failures resulting from river channel movement.

   d. Slopes 40% or steeper with a vertical relief of 10 or more feet, except areas composed of exposed bedrock outcrop at the surface.

   e. Soil erosion hazard areas are identified by the presence or absence of natural vegetation cover, soil texture condition, slope, and rainfall patterns, or human-induced changes to such characteristics that create site conditions which are vulnerable to erosion of the upper soil horizon. Soil erosion hazard areas include those areas with slopes of 15% or steeper and that are classified as having severe or very severe erosion potential by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) in the most recent Soil Survey of Clallam County or the NRCS Web Soil Survey.

4. Classification - Seismic Hazard Areas: Areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, surface faulting, or tsunamis. Lands meeting the following classifications shall be designated as seismic hazard areas:

   a. Landslide hazard areas and materials.

   b. Artificial fills especially on soils listed in Section 7.12.4.c below and areas with perched water tables.

   c. Soil types described within the Clallam County Soil Survey as beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.

d. Other areas as determined by the Clallam County Building Official pursuant to the Building and Construction Code, Chapter 21.01 CCC.

5. Mapping: Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards to a property. These maps shall be updated periodically as new information becomes available.

7.13 Regulations – Geologically Hazardous Area Buffers

1. Landslide Hazard Areas (non-channel migration zone): New uses and developments shall maintain minimum buffers from the top, toe and all edges of landslide hazard areas as shown in Table 7-7 below. The buffer shall not be altered except as authorized by this Program.

Table 7-7. Landslide Hazard Areas Standard Buffers

Landslide Hazard Area	Standard Buffer Width (feet)[1]
Marine Bluff – Feeder Bluff Exceptional	150 feet
Marine Bluff—Feeder Bluff or Feeder Bluff Talus	100 feet
Marine Bluff	50 feet
Other Landslide Hazard Areas (Non-channel migration zone)[2]	50 feet
[1]Measured from the top, toe and all edges of the landslide hazard areas. [2]Refer to Section 7.14.10 of this Program for channel migration zone standards.	

2. Buffer Condition: Buffers from landslide hazard areas shall be maintained in a predominantly well-vegetated and undisturbed condition. Alterations to the buffer that are not associated with an allowed use or development shall be prohibited.

3. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.

4. Buffer Averaging: The Administrator may approve, without a shoreline variance, a reduction in the landslide hazard area buffer through buffer averaging contingent upon all of the following:

   a. Total area of buffer remains the same and the buffer has at least one hundred fifty (150) trees and shrubs per acre or fifty-five percent (55%) aerial cover of trees and shrubs. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets;

   b. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length;

   c. The reduced portion of the buffer must be at least thirty-five (35) feet wide;

d. A geotechnical report prepared by a qualified professional indicates that the development site will be stable for the life of the development, assumed to be at least seventy-five (75) years, even if the buffer is reduced;

e. For marine bluffs (includes Feeder Bluffs), the width of the reduced portion of the buffer must be equivalent to the estimated annual rate of erosion times seventy-five (75) (plus any allowance for bank recession equal to largest documented landslide in the vicinity) as determined by a qualified profession pursuant to a geotechnical report;

f. The proposed development incorporates stormwater management best management practices to address drainage, runoff and other slope stability issues; and

g. All other requirements of this Program, including the critical area requirements of Chapter 7, are met.

5. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

6. Hazard Tree Removal: Removal of a hazard tree may be allowed in the landslide hazard area or buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal shall be the minimum necessary to balance protection of the hazard area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator shall require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along marine bluffs and riparian corridors.

7. Increasing Buffer Widths:

a. Feeder Bluff-Exceptional. The Administrator shall require a geotechnical report for all new development and uses within 200 feet of all top and toe of feeder bluffs-exceptional to assess and determine the need for increased buffers beyond the standard buffer widths in Table 7-7. Any increase of buffer shall be based on the findings of a geotechnical report.

b. Other Landslide Hazard Areas. For other landslide hazard areas, the Administrator shall require a geotechnical report for new development and uses that may be at risk within 200 feet of the hazard area, even if located outside of the standard buffer width in Table 7-7, where a site visit shows active landslide activity or significant change in conditions based on recent geological events. Any increase of buffer shall be based on the findings of a geotechnical report.

7.14 Regulations – Geologically Hazardous Areas Protection Standards

1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts to geologically hazardous areas and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; implementing special drainage or runoff

management practices; foregoing construction of accessory structures; preserving native vegetation; and other reasonable measures.

2. New uses and developments may be allowed in geologically hazardous areas and/or their buffers only when specifically allowed by this Program and when all reasonable measures have been taken to avoid adverse impacts on slope stability and protect human health and safety.

3. Critical facilities shall be prohibited in geologically hazardous areas and/or their buffers. Where linear critical facilities must cross geologically hazardous areas and/or their buffers, reasonable and practicable alternative alignments which minimize geologic hazard shall be considered and preferred; any necessary crossing for linear critical facilities shall be sited to minimize hazard and ecological impacts, and otherwise designed and maintained to minimize hazards based on a geotechnical report.

4. No clearing, grading, filling, or other land disturbing activities will be permitted in landslide hazard areas, buffers, or adjacent to such areas during the typically wet winter months. When such activities are proposed between October 1 and April 30, additional technical analysis shall be provided to ensure that no environmental harm, threat to adjacent properties, or safety issues would result, and include recommendations and plans for temporary erosion control and mitigation measures. The technical analysis shall be addressed in a geotechnical report.

5. Development and alterations within erosion and landslide hazard areas (including channel migration zones) and any required buffers shall require a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Section 5.4 of this Program.

6. Surface drainage shall not be directed across the face of a marine bluff, feeder bluff, or other landslide hazard area. The applicant must demonstrate that the stormwater discharge cannot be accommodated on site or upland by evidence of a geotechnical report. If there is not alternative to discharge across a landslide hazard area, storm water runoff shall be collected above the face of the landslide hazard area and directed across the hazard area by tight line drain and provided with energy dissipating device at the outlet, above the OHWM.

7. Geotechnical Report (non-channel migration zone): The Administrator's approval of a new use, development, or land division creating a new lot for development in a landslide hazard area or buffer shall be contingent upon the findings of a geotechnical report prepared by either an engineering geologist, a geotechnical engineer, or a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide hazard evaluation. The geotechnical report shall certify that the proposed development will not adversely affect slope stability, be subject to risk of landslide, or impact adjacent properties or resources. Such certification shall be supported by clear documentation of all of the following:

    a. Site Plan: A site plan and/or engineered drawings drawn to an appropriate scale to clearly depict existing conditions and proposed development including:

        i. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, or that are likely to impact or influence the proposal or be influenced by the proposal, including properties and critical areas upslope and downslope of the subject site;

        ii. The location of existing and proposed structures, fill, access roads, storage of materials, drainage facilities, sewage facilities and other improvements;

iii. The existing site topography and land cover; and

iv. Proposed clearing and grading limits.

b. Contents: The report shall include a description and analysis of:

i. Geologic conditions, soils, hydrology, vegetation, topography, and critical areas in the vicinity of the site.

ii. An analysis of bluff and slope erosion and recession rates shall be presented in those cases where stability is impacted or influenced by wave cutting, stream meandering, or other forces acting on the slope. For marine bluffs (including all feeder bluffs), this analysis shall include the medium and long-term quantitative erosion rates and description of the methods used to quantify the erosion rate (past erosion rates over a minimum of 40 years or as far back as earliest available aerial photos, and a projection of future rates over the next several decades).

iii. Physical evidence of past erosion or landslide activity in the vicinity of the proposed development.

iv. Available information and mapping related to the hazard areas including, but not limited to, the Clallam County Shoreline Inventory and Characterization Reports, Washington Coastal Atlas, and Washington Department of Natural Resources landslide hazard maps concerning stability of the site and land adjacent to the site.

v. Analysis of slope stability for both the existing and developed condition and mechanisms for slope failure in the vicinity, including discussion of types, likely instigating factors, and general sizes of past landslides in the area. For marine bluffs (including all feeder bluffs), this analysis shall also include:

A. Evidence of landslide activity such as: a mid-slope bench or low bank in an area of high banks, a slight seaward bow in an otherwise straight shoreline, a seaward bow of the cobble/boulder beach lag, lateral elevation changes (uplift) on the beach or subtidal, tilted silt or peat beds exposed among beach gravels, benches on which the vegetation is of a uniform age, areas with jack-strawed trees, groups of trees with kinked trunks-particularly conifers, a bowl-shaped indentation in the bluff edge or hummocky topography on the bluff face.

B. Location of the intersection of the projected failure plane and the bluff top.

C. Angle of repose of the upper bluff and distance for bluff to "lay back" without threatening the residence.

D. Estimate of when the proposed new development (e.g., residence) or use would be undermined (to include allowance for bank recession equal to largest documented landslide in the vicinity).

vi. Description of the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on neighboring property) and/or the impacts of landslide run-out on downslope properties and critical areas.

vii. The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions.

viii. Conclusions regarding the effect of the proposed development on soil and geologic conditions.

c. Recommendations and Conclusions:

i. Recommendations on how to adequately protect the proposed development/use and minimize risk of erosion or landslides.

ii. Methods and practices that avoid and/or reduce slope and shore impacts such as upland and slope drainage control, groundwater control, site vegetation retention and management, revegetation; clearing and grading limitations, and erosion control.

iii. Identifying minimum buffer and building setback areas at the top or toe of slope based on geotechnical site constraints and the impacts of proposed construction methods on the erosion and landslide potential of the slope.

iv. There is not significant risk of run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on downslope properties and critical areas.

v. All newly created building sites will have a suitable building envelope and will be stable under normal geologic and hydrogeologic conditions.

vi. Recommendations and conclusions on whether further analysis is necessary such as subsurface exploration and testing, additional slope stability or coastal process analysis, additional engineering design analysis, or other testing or analysis.

d. Inspection: The County shall require a final inspection report stating that construction has or has not implemented the design recommendations of the geotechnical report, and evaluating of any deviation from the design recommendations. If the final inspection report is done by someone other than the qualified professional that prepared the geotechnical report, it must be done by a qualified professional. The Administrator may waive this requirement if the results of the geotechnical report concluded that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards.

e. Effectiveness of Geotechnical Report: A geotechnical report for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during the five-year period, the applicant may be required to submit an amendment to the geological assessment.

f. Revisions to Geotechnical Report: Further recommendations shall be provided by the engineer of record should there be additions or exceptions to the original recommendations based on the plans, site conditions, or other supporting data. If the qualified professional who revises the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the County, express his or her agreement or disagreement with the recommendations in the geotechnical report and state whether the plans and specifications conform to his or her recommendations.

8. The Administrator may impose conditions on any new shoreline use and developments in geologically hazardous areas and their buffers as needed to:

a. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;

b. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine nearshore ecosystems;

c. Minimize the potential for property damage related to seismic events, erosion and/or landslides;

d. Protect human health and safety; and

e. Reduce public liabilities for damages associated with seismic events, erosion and/or landslides.

9. Seismic Hazard Protection Standards: Development may be allowed in seismic hazard areas when all of the following apply:

a. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the Clallam County Building and Construction Code, Title 21 CCC.

b. Public roads, bridges, and utilities shall be allowed when there is no feasible alternative locations and geotechnical analysis and design by a qualified professional are provided that ensure the roadway, bridge and utility structures and facilities will not be susceptible to damage from seismically induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

c. Construction of commercial, industrial or any publicly owned buildings within a seismic hazard area shall require a geotechnical report by a qualified geotechnical engineer or engineering geologist licensed in the State of Washington in accordance with Section 7.14 of this Program. The results or conclusions of the evaluation shall be considered a condition of development approval.

10. Channel Migration Zone Protection Standards:

a. Channel Migration Zone (CMZ) Mapping. Clallam County shall make available to the public maps and supporting documents (e.g., methodology) of the potential CMZ based on best available information. These maps currently include the following:

i. Delineation of the Dungeness River Channel Migration Zone-River Mouth to Canyon Creek; by Byron Rot and Pam Edens, Jamestown S' Klallam Tribe, October 1, 2008.

ii. Final Washington Department of Ecology Channel Migration Assessments for Clallam County: Puget Sound WRIAs 18-19 (April 2018) .

iii. Final Washington State Department of Ecology Channel Migration Assessments for Clallam County: Pacific WRIA 20 (April 2018).

iv. Washington State Department of Ecology Revised Channel Migration Assessment and Boundaries for Lower Morse Creek, Clallam County (January 2013).

These maps and supporting documentation shall be advisory and used by the Administrator to provide guidance in determining the applicability of the standards of this Program to a property. These maps shall be updated as new information becomes available.

b. CMZ Checklist and Review. Applicant's that propose new shoreline uses and development in the mapped potential CMZ within the shoreline jurisdiction shall submit a

completed CMZ checklist available from the Administrator with their shoreline application. The Administrator will perform and document the results of the following steps to determine whether to require the applicant to prepare a CMZ assessment report:

i. Review the submitted CMZ checklist and any other supporting information provided by the applicant;

ii. Consult maps and related supporting data bases and reports on the location and extent of the potential CMZ that are available to the public;

iii. Review whether any significant channel movement has occurred between available County aerial photo series spanning at least 30 years where available ~~orthophoto data layers since Year 2000~~;

iv. Consult with state resource agencies of jurisdiction and/or expertise such as Department of Natural Resources, Department of Ecology and Department of Fish and Wildlife; and

v. Conduct a site visit to observe and document (e.g., photos) current conditions and evidence of channel migration.

c. CMZ Assessment Report. If required by the Administrator, the CMZ assessment report shall be prepared by a geologist, engineering geologist, professional engineer licensed in the state of Washington, or other qualified professional that demonstrates the following:

i. The parcel on which the development or use is proposed is effectively protected (disconnected) from the channel movement due to the existence of permanent levees maintained by public agencies (not all roads and levees will be considered disconnection points); or

ii. The proposed use or development site has minimal risk of channel migration as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies); whether channel movement has occurred between an aerial photo series spanning at least 30 years where available; and other available information. The assessment shall include a review of existing CMZ maps and studies; available data (e.g., aerial photos) regarding historical channel locations at the site; available topographic data (e.g., LiDAR, USGS topographic maps); identification of the site within a broader geomorphic reach of the river system, and the general characteristics of that reach; description of existing channel type, existing channel alterations and likelihood of future alterations with changes in land cover; surficial geology, soils and erosion potential; and geotechnical setbacks relating to erosion at the toe of adjacent slope(s). The approach to assessing local migration shall be generally equivalent to the methods detailed in "A Framework for Delineating Channel Migration Zones" (Ecology Publication # 03-06-027), or similar method approved or sanctioned by Ecology.

The determination of minimal risk shall also consider the typical lifespan of the proposed use and development (e.g., 100 years for a single-family home); the ability and ease of moving the use or development (e.g., RV or mobile home); whether the use or development is temporary or permanent; and the likely effectiveness of applicable shoreline and critical area (e.g., wetlands) buffers between the stream and the proposed location of the use and development. The CMZ assessment shall also evaluate the risk of whether it would be reasonably foreseeable that the proposed use or development would require new shoreline stabilization or interrupt the process of channel migration.

d. CMZ Field Determination. If a qualified professional determines that the proposed use or development is at risk to channel migration based on the CMZ assessment above, a field review is required to confirm the presence of a CMZ, and field observations shall be documented in the CMZ assessment report. Field observation finding shall include:

   i. Date of the site visit;

   ii. Who conducted the field review and their title/position;

   iii. Distance and location of channel walked;

   iv. Length and location of CMZ boundary delineated;

   v. Presence of avulsion hazard and/or erosion hazard areas;

   vi. Description of method(s) used to determine CMZ presence, CMZ outer edge delineation and marking (flagging, other);

   vii. Description and location of required shoreline and critical area buffers (e.g., wetlands) pursuant to Chapter 6 and 7 of this Program between the ordinary high water mark and the proposed use and development; and

   viii. Other applicable information.

e. New Uses and Development Inside CMZ. Based on the results and recommendations of the channel migration zone assessment, the Administrator shall prohibit or limit use or development within a channel migration zone when such uses or development would likely be subject to channel migration or when it would be reasonably foreseeable that the use or development would require shoreline stabilization or interrupt the process of channel migration. In addition, based on the findings and recommendations of the CMZ assessment report, or a habitat management plan required by this Program, the Administrator may require a buffer of undisturbed natural vegetation from the edge of the channel migration zone to retain both a safety and habitat buffer if and when the channel migrates to the channel migration zone edge. The exception would be new uses and development that may be appropriate (e.g., water dependent uses, restoration projects, etc…) and/or may be necessary (e.g., roads, utilities) within the CMZ that are otherwise authorized and consistent with this Program, including providing mitigation to address impacted ecological functions and processes.

7.15 Regulations – Frequently Flooded Area Designation and Mapping

1. Designation and Mapping: All lands classified as floodway, floodplain or special flood hazard areas in the Federal Emergency Management Agency report titled “The Flood Insurance Study for Clallam County” dated February 23, 2001, as now or hereafter amended, with

accompanying Flood Insurance Rate and Boundary Maps, are designated as frequently flooded areas. The study and maps are on file at Clallam County. When base flood elevation data has not been provided in the Flood Insurance Study, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from the Federal Emergency Management Agency, Washington State Department of Ecology, or other qualified source. Where base flood elevation data and floodway delineation are not available either through the Flood Insurance Study or from a qualified source, historical data, high water marks, photographs of past flooding, etc., shall be used to determine base flood elevations. Special Flood Hazard Areas shall be delineated by engineering studies that meet the specifications 44 CFR § 65 and approved by FEMA and then adopted by Clallam County. The only method to alter data or maps related to special flood hazard areas is through an officially processed map change, through a physical map revision, a county-wide remapping, or a Letter of Map Change (LOMC) submitted to FEMA and approved. Qualified professionals may submit these studies to FEMA to alter the location of the Special Flood Hazard Areas through the Letter of Map Change (LOMC) process, with the concurrence of the Administrator.

7.16 Regulations – Frequently Flooded Area Protection Standards

1. The standards of this Program, including this section, shall be implemented along with the International Building Code and Clallam County Code 21.01.040 to protect frequently flooded areas because the jurisdiction of the shoreline master program covers the full extent of the floodplain and is therefore coincident with the frequently flooded areas.

2. The standards of this section and other applicable provisions of this Program shall apply to all new uses and developments occurring within the floodway, floodplain or special flood hazard areas, including flood control structures regulated in Section 4.4 of this Program.

3. Critical facilities shall be prohibited within areas designated as frequently flooded. Where linear critical facilities must cross frequently flooded areas, reasonable and practicable alternative alignments which minimize flood hazard shall be considered and preferred; any necessary crossing for linear critical facilities shall be elevated and/or flood-proofed, sited to minimize hazard and ecological impacts, and otherwise designed and maintained to minimize flood hazards.

4. Where base flood elevation data pertaining to a proposed development site is not available from an authoritative source, it shall be generated through studies provided by the development proponent in order to assess and mitigate flood risks.

5. Land Divisions – New land divisions containing frequently flooded areas shall be consistent with the requirement to minimize flood damage; shall have utilities and common facilities located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage.

6. Land Disturbing Activities within Floodways: Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in any increase in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood at any point. Certification by a civil engineer licensed in the State of Washington who is

qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.

7. Recreational Vehicles – Recreational vehicles placed within the frequently flooded areas area shall comply with all of the following conditions:

   a. The recreational vehicle shall be located on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, be on its wheels or jacking system, be not obstructed (i.e., no blocking or skirting), be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

   b. Any structures temporarily attached to recreational vehicles must comply with applicable provisions of this chapter.

   c. Recreational vehicles shall not be located within shoreline or critical area buffers required pursuant to this Program.

8. Protection Standards for Structures in Frequently Flooded Areas – In addition to the shoreline and critical area buffer requirements and other applicable protection standards of this Program and the standards set forth in Chapter 21.01 CCC, Clallam County Code, as amended, the following conditions shall apply to structures constructed within designated frequently flooded areas.

   a. Floodways – Consistent with RCW 86.16.041.(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent.

   b. Residential, commercial and/or industrial buildings. Buildings are prohibited within frequently flooded areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980, for the Dungeness and Elwha Rivers and the effective date (June 16, 1992) of the Clallam County Critical Areas Code, Chapter 27.12 CCC, for all other frequently flooded areas. If a portion of the pre-existing lot lies outside the frequently flooded area, building shall be directed to the nonhazard portion to the maximum extent feasible.

7.17 Regulations – Critical Aquifer Recharge Areas Designation, Mapping, and Classification

1. Designation: Critical aquifer recharge areas are geographical areas which contain hydrogeologic conditions that provide recharge to one or more aquifers that are a current or potential potable water source and, due to their geological properties, are highly susceptible to the introduction of pollutants, or because of special circumstances, have been designated by Clallam County as a critical aquifer recharge area in accordance with WAC 365-190-080. All lands and shorelands classified as having high aquifer recharge potential and aquifer susceptibility are hereby designated as areas with a critical recharging effect on aquifers used for potable water. Critical aquifer recharge areas may be designated due to special

circumstances, including areas with a high level of susceptibility or vulnerability to contamination, or known wellhead protection areas for Class A water systems. A wellhead protection area is the surface and subsurface area surrounding a well or wellfield that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Safe Drinking Water Act.

2. Mapping: Critical aquifer recharge areas shall be delineated on maps available at the Clallam County Department of Community Development.

3. Classification: All Clallam County lands and shorelands shall be classified as having either a high, moderate, or low aquifer recharge potential. At a minimum, classification shall be based on soil permeability and recharge potential as described within the Soil Survey of Clallam County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, presence or absence of restrictive layers, surface and groundwater monitoring data, wellhead protection areas, depth to groundwater, topography (i.e., slopes), and locally adopted groundwater protection plans and studies. Lands classified as having a high, moderate, or low aquifer recharge potential shall also be classified as having a high, moderate, or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest.

7.18 Regulations – Critical Aquifer Recharge Area Protection Standards

1. Protection standards for critical aquifer recharge areas have been incorporated into the water quality regulations in Section 5.4 of this Program and into the provisions for specific shoreline uses in Chapter 3. Such standards shall be considered the minimum necessary to protect critical aquifer recharge areas.

2. Aboveground/underground storage tanks or vaults for the storage of hazardous substances, animal wastes, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with WAC 173-303, as a risk to groundwater quality, shall be designed and constructed so as to:

    a. Prevent the release of such substances to the ground, groundwaters, or surface waters;

    b. Be contained or enclosed by an impervious containment area with a volume greater than the volume of the storage tank or vault to avoid an overflow of the containment area;

    c. Provide for release detection;

    d. Provide written spill response and spill notification procedures to the local fire district;

    e. Use material in the construction or lining of the storage containment area which is compatible with the substance to be stored to protect against corrosion or leakage, or otherwise designed in a manner to prevent the release or threatened release of any stored substance; and

    f. Comply with Chapters 173-303 and 173-360 WAC.

3. The Administrator may grant a waiver from one or more of the requirements in Section 7.18.2 upon a finding that the aboveground storage activity would not create a significant risk to groundwater quality. Aboveground or underground storage facilities designed and maintained according to an approved plan from the Natural Resources Conservation Service or Clallam Conservation District are exempt from these requirements but remain under the jurisdiction of the County to ensure compliance with the protective features of this section and for enforcement purposes.

4. The use of fertilizers, herbicides, pesticides or other chemicals for vegetation management within critical aquifer recharge areas shall adhere to best management practices to prevent impacts to water quality and water supply. Where the application of such chemicals covers five (5) or more acres, a mitigation plan shall be required pursuant to Section 8.3 of this Program.

5. Land divisions in critical aquifer recharge areas shall be evaluated for their impact on groundwater quality. The following measures may be required by the Administrator as a part of the review of the proposed land division based on site conditions after consideration of available data:

    a. An analysis of the potential nitrate loading to the groundwater shall be required to assess the impact on groundwater quality.

    b. Alternative site designs, alternative sewage disposal system design (e.g., denitrification), phased development and/or groundwater quality monitoring shall be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

    c. Open spaces shall be required on development proposals overlying areas highly susceptible to groundwater contamination.

    d. Community/public water systems and community drainfields shall be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources.

    e. Site work to create the lots does not create significant erosion or landslide hazard or reduce slope stability.

6. In designated critical aquifer recharge areas, utility facilities which carry oil, gas or any other hazardous substance as defined in Chapter 173-303 WAC shall provide hydrologic information in addition to spill prevention measures and an emergency spill management plan.

7. New sewage and sludge disposal, except on-site sewage systems releasing less than fourteen thousand (14,000) gallons per day and approved consistent with Chapter 246-272 WAC and local health codes, shall be prohibited in critical aquifer recharge areas within the shoreline jurisdiction. This standard does not apply to individual, on-site sewage systems sited consistent with this Program and compliant with all local and state health regulations and maintenance requirements.

Chapter 8 Mitigation and No Net Loss

Note: The policies and regulations in this section provide a framework for ensuring that impacts of shoreline use and development are mitigated to achieve no net loss. State rules in WAC 173-26-186(8) state: "Local master programs shall include regulations and mitigation standards ensuring that each permitted development ***will not cause a net loss*** *of ecological functions of the shoreline… local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property." It is important to note that the policies and regulations of the Program as a whole are structured to help achieve the no net loss requirement. This section outlines actions that apply to individual development projects. The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy ~~(see Exhibit B)~~ to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met.*

8.1 Applicability

No net loss means the maintenance of the aggregate total of the County's shoreline ecological functions over time. The no net loss standard requires that the impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated on a project-by-project basis, so that as development occurs shoreline functions stay the same. No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated.

Mitigation means measures taken to avoid, minimize, lessen, and/or compensate for adverse impacts of a development project. Mitigation, as defined in Chapter 11, includes the following steps in order of preference: (1) avoiding an impact altogether by not developing a project or parts of a project; (2) minimizing impacts by limiting the extent or magnitude of a project; (3) rectifying impacts by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating an impact over time by preservation and maintenance operations during the life of the project; (5) compensating for an impact by replacing or providing substitute resources or habitats; and (6) monitoring the mitigation and taking remedial action when necessary.

8.2 Policies

1. This Program should be implemented in a manner that achieves no net loss of shoreline ecological functions. In assessing the potential for new uses and developments to contribute to net loss of ecological functions, all of the following factors shall be taken into account:

    a. The functions and processes at risk at each proposed development site; and

    b. The effects that development could likely have on downstream, down-gradient, or down-drift resources; and

    c. The cumulative effects that development would have when added to other past, present, and reasonably foreseeable future development; and

    d. The likely effectiveness of proposed compensatory mitigation measures designed to offset adverse impacts of a given development action and/or use; and

e. The ability of any unmitigated development impacts to be offset through voluntary restoration actions.

2. Development proponents should seek the least environmentally damaging, practicable alternatives for site design, construction, and maintenance.

3. The County should work cooperatively with shoreline property owners and with other local, state, federal, and Tribal resource management agencies to track new development and redevelopment subject to this Program, violations and remediation of violations of SMP permits issued under this Program, and collect information pertaining to environmental indicators. ~~monitor the effects of development and track gains and losses in ecological functions using a set of specific environmental indicators.~~The following ~~S~~specific environmental indicators ~~that~~ should be ~~measured~~ tracked ~~on frequent and regular basis~~ at least once every five years and compared to ~~2012~~ previous baseline levels when data is reasonably obtainable and publically available from either governmental sources, the scientific community or aerial imagery ~~include~~:

   a. Percent of mapped feeder bluffs with armoring (percent classified as modified);

   b. Status of salmon stocks;

   c. Status of shellfish beds (frequency of closures);

   d. Length of stream bordered by/confined by levees, excluding setback levees;

   e. Number of overwater structures per mile of shore and number of overwater structures per mile of sediment transport zone;

   f. Length ~~Number~~ of shoreline tidal barriers;

   g. Percent of aquatic area supporting submerged aquatic vegetation (e.g., kelp, eelgrass);

   h. Percent closed canopy forest within two hundred (200) feet of the ordinary high water mark;

   i. Percent impervious surface within two hundred (200) feet of the ordinary high water mark; and

   j. Area of undeveloped floodplains/channel migration zone.

4. The County should use the checklist ~~in Exhibit B~~ to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales.

5. The County should work with other local, state, and federal regulatory agencies and resource management agencies to ensure that efforts to mitigate adverse impacts and restore degraded areas are successful and achieve beneficial ecological outcomes. This includes assisting applicants/proponents in planning, designing, and implementing projects to be consistent with the Program and working cooperatively with stakeholders to implement restoration projects that improve conditions overall.

8.3 Regulations – General Mitigation Requirements

1. Proponents of new shoreline use and development shall employ measures to mitigate unavoidable adverse impacts to ensure no net loss of shoreline ecological functions and to sustain shoreline ecosystem processes. Required mitigation shall not exceed a level necessary to assure that proposed uses or development will result in a no net loss of shoreline ecological functions.

2. Mitigation shall include the following actions in order of priority (referred to as the mitigation sequence):

   a. Avoiding the impact altogether by not taking a certain action or parts of an action;

   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by adhering to the dimensional requirements, performance standards and design criteria in this Program and using other technologies or steps, as needed, to avoid or reduce impacts;

   c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

   d. Reducing or eliminating the impact over time by preservation and maintenance operations;

   e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

   f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

3. The Administrator shall require compensatory mitigation for development proposals that:

   a. Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or

   b. Result in measureable adverse impacts ~~damage~~, loss and/or displacement of shoreline ecological functions including a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area or geologic and hydraulic processes; or

   c. Result in measureable ~~damage~~ adverse impacts, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.

4. When compensatory mitigation is required, it shall occur directly and in the immediate vicinity of the impact to ensure no net loss of ecological functions. Off-site, compensatory mitigation within the same watershed or appropriate section of marine shoreline (e.g., reach or drift cell)may be authorized when on-site mitigation to fully mitigate unavoidable adverse impacts is not possible. When determining whether to authorize offsite mitigation, the Administrator or Hearing Examiner shall consider limiting factors, critical habitat needs, and other factors (e.g., provides equivalent or greater and more sustainable ecological functions) identified by the County's adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. Authorization of compensatory mitigation

measures shall require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

The Administrator or Hearing Examiner may also approve use of alternative mitigation programs such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been adopted by the County following a public review process and obtaining any required approvals by the appropriate state and federal agencies with jurisdiction. Clallam County shall consult with state and federal agencies with jurisdiction and Tribes in the development, adoption and administration of such alternative mitigation programs.

5. To prevent cumulative impacts that could lead to a net loss of ecological functions, the Administrator shall consider the following factors when assessing whether individual development proposals are consistent with this Program:

   a. Current ecological functions and human factors influencing shoreline natural processes; and

   b. Reasonably foreseeable future use and development of the shoreline; and

   c. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and

   d. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce, and/or compensate for adverse impacts.

6. The Administrator shall prohibit any use or development that will result in unmitigated cumulative impacts.

7. When compensatory mitigation is required pursuant to this Program, all of the following shall apply:

   a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and

   b. The mitigation site and associated vegetative planting shall be nurtured and maintained in perpetuity such that healthy native plant communities grow and mature over time; and

   c. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan, and other background studies prepared in support of this Program; and

   d. The mitigation shall replace the functions as quickly as possible following the impacts; and

   e. Mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values; and

   f. The mitigation site will be protected through a conservation easement or similar mechanism to ensure that it is maintained and protected in perpetuity; and

   g. The Administrator shall require the applicant/proponent to post a bond or provide other financial surety equal to one hundred and fifty percent (150%) of the estimated cost of the mitigation to ensure the mitigation is carried out successfully. The bond/surety shall be

refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.

8. Compensatory mitigation plans shall be prepared by qualified professionals with education, training and experience in the applicable field:

   a. Wetland mitigation plans shall be prepared by a qualified professional who is educated/trained in wetland biology or a closely related field, and has demonstrated experience in mitigation plan design, implementation, and monitoring. The overall goal of any such mitigation plan shall be no net loss of wetland functions, acreage, and values.

   b. Mitigation plans for impacts to aquatic and wildlife habitat conservation areas shall be prepared by a qualified professional with education/training in wildlife biology or a closely related field, and professional experience in habitat mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991 or as thereafter amended, may serve as guidance for preparing mitigation plans to protect wildlife habitat conservation areas.

   c. Mitigation plans for geologically hazardous areas shall be prepared by a qualified professional who is either a geologist and a geotechnical engineer, a geotechnical engineer, or a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation, mitigation plan design, implementation, and monitoring.

   d. Mitigation plans for development within frequently flooded areas shall be prepared by a civil engineer licensed in the State of Washington.

   e. Mitigation plans for impacts to critical aquifer recharge areas shall be prepared by a person(s) with professional experience in mitigation plan design, implementation, and monitoring, hydrogeologic assessment, and professional experience in hydrogeology or a related field. The person(s) shall also be knowledgeable in the effect of the proposed development on groundwater quality and quantity.

9. The applicant shall pay for or reimburse the County for the costs incurred in the review of a mitigation plan and for any costs incurred by the County to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the proponent consistent with Section 10.2.10, Fees, and Section 10.3.6, Third Party Review.

10. When there is a conflict between the findings of a special report and the findings of the Administrator in review of the special report, the applicant or affected party may appeal such decisions of the Administrator pursuant to the procedures in this section and Chapter 26.10 Clallam County Consolidated Development Permit Process Code.

8.4 Regulations – Compensatory Mitigation Plan Contents

1. Compensatory mitigation plans required by this Program shall include the following information:

   a. Baseline Information: A written assessment and accompanying maps of the following:

i. Impacted critical area including, at a minimum, existing wetland/stream acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions; and topographic elevations.

ii. Mitigation site, if different from the impacted site, including at a minimum: existing acreage; vegetative, invasive plant inventory, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions; topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.

iii. Identify potential impacts (e.g., water supply) beyond the project site or control of the applicant that could compromise the success of the mitigation project. Mitigation site selection shall consider and address the potential for "risk of failure" of the mitigation site, including both off-site factors and the risk that third party actions could compromise the success of the mitigation project.

b. Environmental Goals and Objectives: The mitigation plan shall identify goals and objectives and include:

i. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind, the type of critical area to be emulated.

ii. A review of the available literature and/or experience to date in restoring or creating the type of critical area proposed. An analysis of the likelihood of success of the compensation project at duplicating the original resource shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored resources shall be provided based on such factors as surface and groundwater supply and flow patterns, dynamics of the ecosystem, sediment or pollutant influx and/or erosion, periodic flooding and drought, presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

c. Performance Standards: Specific and measureable criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, in-stream habitat conditions, species abundance and diversity targets, habitat diversity indices, measures for removal invasive plants, or other ecological, geological, or hydrological criteria.

d. Detailed Construction Plans: Written specifications and descriptions of compensation techniques shall be provided, including the proposed construction sequence; grading and excavation details; erosion and sediment control features needed for construction and long-term operation; a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; soil, mulch or material source; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydroperiod characteristics; etc. These written

specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

e. Monitoring Program: A program outlining the timing of and approach for monitoring construction of the compensation project and for assessing that a completed project is achieving the mitigation plan goals, objections and performance standards shall be provided. Monitoring may include, but is not limited to:

   i. Establishing vegetation plots to track plant establishment/survival, and changes in plant species composition and density, including invasive plant species and likelihood of persistence, over time;

   ii. Using photo stations to evaluate vegetation community response;

   iii. Measuring physical parameters such as wetland size, stream dimensions, channel characteristics, buffer width;

   iv. Monitoring shallow groundwater levels to document hydrologic regimes/hydroperiods;

   v. Sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals);

   vi. Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;

   vii. Measuring sedimentation rates, if applicable; and

   viii. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.

f. Monitoring and Reporting: Following construction, the mitigation site shall be monitored consistent with approved monitoring program in sub-part "e" above. Monitoring results shall be made available to the County upon request, and a final close-out monitoring report shall be submitted to the County documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. Mitigation projects that are intended to establish forested conditions (e.g., forested wetland or forested riparian area) shall be monitored for up to fifteen (15) years with a minimum of seven (7) years.

g. Contingency Plan: Identification of potential courses of action, and any corrective measures, to be taken when monitoring or evaluation indicates project performance standards are not being met. If remedial action or contingency actions are not working, the applicant/proponent may seek amendment of the mitigation plan to consider adaptive management alternatives to achieve successful mitigation.

h. Performance Bonds and Demonstration of Competence: A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise,

training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in the amount of one hundred and fifty percent (150%) of the expected cost of compensation. The bond shall be held until monitoring indicates that the performance standards have been achieved and the site is fulfilling its intended goals as defined in the mitigation plan. The Administrator may release portions of the bond at specific performance milestones provided the site is meeting the milestone objectives set forth in the approved mitigation plan and provided that sufficient funds to complete the monitoring remain. Administration costs incurred by Clallam County that are associated with bond administration and/or enforcement shall be paid for by the applicant.

i. Additional information as specified in Sections 8.5 through 8.8, as applicable.

8.5 Regulations – Wetland Mitigation Plans

1. The overall goal of a wetland mitigation plan shall be no net loss of wetland functions, acreage, and values.

2. To achieve no net loss, wetland impacts shall be replaced according to the minimum area ratios shown in Table 8-1. The Administrator may increase the ratios by twenty-five percent (25%) when there is a high likelihood that the proposed mitigation will be unsuccessful in fully replacing the wetland functions and values lost at the impact site. The Administrator shall solicit input from the Department of Ecology and the U.S. Army Corps of Engineers when assessing the likelihood of mitigation success.

3. Those persons proposing or required to compensate for wetland impacts shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be preserved in perpetuity by accomplishing the following:

   a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;

   b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals; and

   c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.

Table 8-1. Wetland Mitigation Ratios

Category & Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only[1]	Enhancement Only[1]
All Category IV	1.5:1	3:1	6:1
All Category III	2:1	4:1	8:1
Category II Estuarine	Case-by-case	4:1	Case-by-case
All Other Category II	3:1	6:1	12:1
Category I Forested	6:1	12:1	24:1
Category I Based on Score for Functions	4:1	8:1	16:1
Category I Natural Heritage Site	Not considered possible[2]	6:1	Case-by-case
Category I Coastal Lagoon	Not considered possible[2]	6:1	Case-by-case
Category I Bog	Not considered possible[2]	6:1	Case-by-case
Category I Estuarine	Case-by-case	6:1	Case-by-case

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[2] Natural heritage sites, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average.

8.6 Regulations – Aquatic and Wildlife Habitat Conservation Areas Mitigation Plans

1. Mitigation plans for impacts to terrestrial habitat conservation areas shall be addressed in a habitat management plan pursuant to Section 7.11.

2. Mitigation plans for impacts to aquatic habitat conservation areas shall include the following information in addition to the information listed in Section 8.4:

    a. Description of buffer zones needed to protect the species/habitat;

    b. Measures for preserving and/or restoring critically important habitat elements including plants and other features;

    c. Limits on access to habitat areas, if needed;

    d. Seasonal restrictions on construction activities;

    e. Establishment of phased development requirements and/or a timetable for periodic review of the plan; and

f. Other information the Administrator determines is necessary to address the expected impacts of development.

8.7 Regulations – Frequently Flooded Areas Mitigation Plans

1. Mitigation plans for development within frequently flooded areas shall include the following information in addition to the information listed in Section 8.4:

   a. Potential that materials may be swept during flooding onto other lands to the detriment of others;

   b. Actual danger to life and property if flooding or erosion occurs;

   c. Susceptibility of the proposed development and its contents to flood damage;

   d. Availability of alternative locations for the proposed use which are not subject to flood or erosion damage;

   e. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

   f. Safety of access to the property in times of flood for ordinary and emergency vehicles;

   g. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action at the site;

   h. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities;

   i. Location and extent of storage area for floodwater which will be displaced by the proposed development; and

   j. The risk to public and private property and public health, safety and welfare due to rising of water levels, shifting of stream channels (including related erosion) as well as costs to individuals and the general public for items which are not insured such as loss of productivity due to closed roads, risk to emergency response workers, loss of uninsured property (cars, landscaping, etc.) and habitat damage as a result of loss of riparian zones and floodplain function.

8.8 Regulations – Critical Aquifer Recharge Areas Mitigation Plans

1. Mitigation plans for impacts to critical aquifer recharge areas shall include the following information in addition to the information listed in Section 8.4:

   a. Geologic setting and soils information for the site and surrounding area;

   b. Water quality data, including pH, temperature, dissolved oxygen, conductivity, nitrates, salinity, and bacteria;

   c. Location and depth of perched water tables;

   d. Recharge potential of facility site (permeability/transmissivity);

   e. Hydrologic budget;

f. Local groundwater flow, direction and gradient;

g. Location, depth, and other water quality data on the three shallowest wells or springs located within one thousand (1,000) feet of the site;

h. Impacts on wellhead protection areas located within the development proposal;

i. Surface water locations within one thousand (1,000) feet of the site;

j. Discussion of the effects of the proposed project on groundwater quality and quantity;

k. Recommendations on appropriate mitigation, if any, to assure that there shall be no measurable exceedance of minimum state groundwater quality standards or measurable reduction in available quantity of groundwater;

l. Emergency management plan; and

m. Contaminant release detection.

Chapter 9 Shorelines of Statewide Significance

Note: The Washington State Legislature designated certain shorelines as "Shorelines of Statewide Significance" from which all of the people of the state derive benefit, and that these shorelines should, therefore, be managed with the interest of all of the people in mind.

9.1 Adoption of Policy

1. In accordance with RCW 90.58.020, the County shall manage shorelines of statewide significance in accordance with this section and in accordance with the Program as a whole. Preference shall be given to uses that are consistent with the statewide interest in such shorelines. Uses that are not consistent with this section or do not comply with other applicable policies and regulations of this Program shall not be permitted on shorelines of statewide significance.

2. In managing shorelines of statewide significance consistent with the policy contained in RCW 90.58.020, the County in developing, amending, and administering this Program, shall give preference to uses in the following order of preference which:

    a. Recognize and protect the statewide interest over local interest;

    b. Preserve the natural character of the shoreline;

    c. Seek long-term benefits over short-term benefits;

    d. Protect the resources and ecology of the shoreline;

    e. Increase public access to publicly owned areas of the shoreline;

    f. Increase recreational opportunities for the public in the shoreline; and

    g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

9.2 Designation of Shorelines of Statewide Significance

1. In accordance with RCW 90.58.030(2)(f), the following Clallam County shorelines are designated shorelines of statewide significance:

    a. Those areas of the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide; and

    b. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets; and

    c. Shorelines of natural rivers or segments thereof, including portions of the Bogachiel, Calawah, Elwha, Quillayute, and Sol Duc Rivers, downstream from a point where the mean annual flow equals 1,000 cubic feet per second or more.

9.3 Additional Policies for Shorelines of Statewide Significance

Implementation of the policy under Section 9.1 of this Program above shall include:

1. Consistent with RCW 90.58.020, the County shall for shorelines of statewide significance administer and update this Program to consider the following:

    a. Permitted uses or developments in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

    b. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall interest of the state and people generally.

    c. Uses shall be consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

    d. Alterations of the natural condition of the shoreline of the state, in those limited instances when authorized, shall be given priority for single-family residences and their accessory structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial development which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.

2. Consistent with WAC 173-26-251, the County shall for shorelines of statewide significance administer and update this Program to consider the following:

    a. Recognize and take into account existing state agency policies, programs, and recommendations.

    b. Preserve the shorelines for both current and future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited.

    c. Where natural resources of statewide importance are being diminished over time, incorporate provisions to contribute to the restoration of those resources.

    d. Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources.

    e. Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

    f. Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

g. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments.

h. Consider incremental and cumulative impacts of permitted development and insure no net loss of shoreline ecosystems and ecosystem-wide processes.

i. Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.

j. Provide for the right of the public to use, access, and enjoy public shoreline resources of state wide importance.

3. Review new shoreline uses and developments within shorelines of statewide significance for consistency with the purpose and management policies of the applicable shoreline environmental designations of this Program.

4. Review new shoreline uses and developments within shorelines of statewide significance for consistency with the general, specific shoreline uses/developments, shoreline modifications, shoreline buffers/vegetation conservation, critical areas, and mitigation and no net loss, polices and regulations of this Program.

5. When shoreline development or redevelopment occurs, it shall include restoration and/or enhancement of ecological functions and ecosystem processes impaired by prior development activities.

6. State and federal resource agencies, co-managers, and tribes, shall be consulted for development proposals that affect anadromous fish, shellfish, marine birds, and other shoreline resources.

7. Areas that are subject to commercial timber harvest pursuant to the Forest Practices Act and RCW 90.58.150 should be reforested as soon as possible and in accordance with the Forest Practices Act and the Forest and Fish Report.

8. Uses that are sustainable, that do not deplete natural resources, and that are compatible with other approved uses shall be preferred over uses that do not have these qualities.

9. Potential short term economic gains or convenience should be measured against potential long-term and/or costly impairment of natural features.

10. Protection or enhancement of aesthetic qualities should be actively promoted in design review of new or expanding development.

11. Uses that require a shoreline location shall be preferred over non-water-related uses. Non-water-related uses should be located outside the shoreline jurisdiction or in areas where they will not interfere with or displace preferred uses or public access.

12. Commercial and recreational shellfish beds, areas that support recreation and tourism, and other economic resources of statewide importance shall be protected.

13. Uses that have the potential to cause erosion and sedimentation due to excavation, land clearing, or other activities shall be strictly regulated to prevent adverse impacts to shoreline functions and processes.

14. All public access and recreation use and development shall be designed to protect the ecological resources upon which such activities depend.

15. Public and private development should be encouraged to provide trails, viewpoints, water access points and water-related recreation opportunities where conditions are appropriate for such uses. Such development is recognized as a high priority use.

Chapter 10 Administrative Procedures

10.1 Administrative Authority and Responsibility

1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to:

   a. Recommend to the Hearing Examiner approval, approval with conditions, or denial of any shoreline permit applications or revisions in accordance with the policies and regulations of this Program and the provisions of the Clallam County Code;

   b. Consistent with the Shoreline Management Act and Section 10.2.5 of this Program grant exemptions from shoreline substantial development permit requirements of this Program;

   c. Determine compliance with the State Environmental Policy Act (Chapter 43.21C RCW; Chapter 197-11 WAC);

   d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, including formal written interpretations in consultation with Ecology per WAC 173-26-140;

   e. Provide technical and administrative assistance to the Hearing Examiner as required for effective and equitable implementation of this Program and RCW 90.58;

   f. Provide a summary report of the shoreline permits issued in the past calendar year to the Clallam County Board of County Commissioners;

   g. Investigate, develop, and propose amendments to this Program as deemed necessary to more effectively and equitably achieve its goals and policies;

   h. Seek remedies for alleged violations of this Program, the provisions of RCW 90.58, or of conditions of any approved shoreline permit issued by the County;

   i. Coordinate information with affected agencies; and

   j. Forward any decision on any shoreline permit, conditional use permit or variance to the Washington State Department of Ecology for filing or action as required by law.

   k. Conduct a site visit to verify and assess current conditions prior to requiring a mitigation plan, geotechnical report, channel migration assessment, wetland delineation and classification, habitat management plan, or other special report required by this Program.

   l. Consult the Countywide Shoreline Restoration Plan and both the state Habitat Work Schedule (HWS) and Project Information System (PRISM) online data bases for listed completed, pending/in-progress or identified restoration opportunities that occur on or adjacent to the lot associated with the proposed development, or that may be impacted by the proposed development.

2. The Clallam County Hearing Examiner is vested with authority to:

   a. Approve, condition, or deny shoreline substantial development permits, variance permits, and conditional use permits after considering the findings and recommendations of the Administrator;

   b. Decide local administrative appeals of the Administrator's actions and interpretations, as provided in this Program and the County Code; and

   c. Conduct public hearings on appeals of the Administrator's actions, interpretations, and decisions.

3. The Board of County Commissioners and Ecology must approve any revisions or amendments to this Program in accordance with the applicable requirements of RCW 90.58 and the Washington Administrative Code Chapter 173-26.

10.2 Permit Provisions and Review

10.2.0 General Requirements

1. To be authorized, all uses and developments shall be planned and carried out in a manner that is consistent with this Program and the policy of the Shoreline Management Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

2. Determinations of the Administrator regarding the geographic applicability of this Program, permit exemptions and application submittal requirements shall be processed as Type I decisions pursuant to Clallam County Code Chapter 26.10.

3. Whenever the Administrator issues a determination or recommendation and/or conditions of approval on a proposal which will result in the denial or substantial alteration of a proposed action, such determinations will be provided in writing stating the relationship(s) between the ecological factors, the proposed action and the condition(s).

10.2.1 Substantial Development Permits

1. Developments that meet the definition of substantial development in RCW 90.58.030 shall not be undertaken on the shoreline of the state without first obtaining a substantial development permit. A substantial development permit shall be required for any development that is not specifically defined as an exempt use from a substantial development permit under WAC 173-27-040 or a specified conditional use/development/modification under this Program.

2. Applications for shoreline substantial development permits shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

3. A substantial development permit shall be granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Shoreline Management Act and this Program, as well as criteria in WAC 173-27-150.

10.2.2 Conditional Use Permits

1. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of this Program in a manner consistent with the policies of RCW 90.58.020.

2. In authorizing a conditional use, special conditions may be attached to the permit by the Hearing Examiner or the Department of Ecology to control any undesirable effects of the proposed use. Final authority for conditional use permit decisions rests with the Department of Ecology.

3. Applications for shoreline conditional use permits shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

4. A use that is specifically classified or set forth in this Program as conditional uses may be authorized provided the applicant/proponent can demonstrate all of the following:

    a. That the proposed use will be consistent with the policies of RCW 90.58.020 and this Program.

    b. That the proposed use will not interfere with normal public use of public shorelines.

    c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.

    d. That the proposed use will not cause adverse impacts to the shoreline environment in which it is to be located.

    e. That the public interest suffers no substantial detrimental effect.

5. In the granting of all conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for similar actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the conditional uses and their impacts should also remain consistent with the policies of RCW 90.58.020 and should not produce an adverse impact to the shoreline ecological functions and ecosystem processes or other users.

10.2.3 Variances

1. The purpose of a shoreline variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

2. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. Applications for shoreline variances shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

4. Variance permits for shoreline development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

5. Variance permits for shoreline development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

b. That the proposal is consistent with the criteria established under subsection (4)(b) through (f) of this subsection; and

c. That the public rights of navigation and use of the shorelines will not be adversely impacted.

6. In the granting of all shoreline variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse impacts to the shoreline environment.

7. Variances from the use regulations of the master program are prohibited.

10.2.4 Unclassified Uses

1. Other uses not specifically classified or set forth in this Program may be authorized as conditional uses provided the applicant/proponent can demonstrate that the proposal will satisfy the criteria set forth in this chapter, and that the use clearly requires a specific site location on the shoreline not provided for under the Program, and extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this Program.

10.2.5 Exemptions from Shoreline Substantial Development Permit

1. Activities and uses that are exempt from the requirement to obtain a shoreline substantial development permit are listed in RCW 90.58.030(3)(e) and WAC 173-27-040.

2. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions in RCW 90.58.030(3)(e) and WAC 173-27-040 may be granted exemptions from the substantial development permit process.

3. An exemption from the substantial development permit process is not an exemption from compliance with RCW 90.58 or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Program and RCW 90.58.

4. A use or development that is listed as a conditional use pursuant to this Program, or is an unlisted use or development, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

5. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

6. The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development/use.

7. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

8. Exempt activities shall not be conducted until a statement of exemption has been obtained from the Administrator.

9. All statements of exemption shall be in writing on forms attached to this Program ~~(Exhibit B)~~. As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

10. The Administrator's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to the appeal provisions listed in this chapter.

11. No statement of exemption is required for emergency development pursuant to WAC173-27-040(2)(d), but after the fact permitting and/or removal of temporary structure may be required once the emergency situation is over.

12. Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.

10.2.6 Permit Conditions

1. In granting, revising, or extending a shoreline permit, the review authority may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of RCW 90.58 and this Program as well as the supplemental authority provided in RCW 43.21C as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with RCW 90.58 and this Program.

2. When permit or permit exemption approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a non-structural activity; provided that an alternative compliance limit may be specified in the permit or permit exemption.

10.2.7 Expiration of Permits and Permit Exemptions

1. The following time requirements shall apply to all permit exemptions, substantial development permits, and to any development authorized pursuant to a variance permit or conditional use permit:

    a. Construction shall be commenced or, where no construction is involved, the use or development activity shall be commenced within two (2) years of the effective date of the permit or permit exemption, provided that the review authority may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

    b. Authorization to conduct development activities shall terminate five (5) years after the effective date of a permit or permit exemption; provided that the Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

10.2.8 Permits and Permit Exemptions - Effective Date

1. The effective date of a shoreline permit or permit exemption shall be the date of the last action required on the shoreline permit or permit exemption and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval.

2. It is the responsibility of the project proponent to inform the Administrator of the permit applications filed with agencies other than Clallam County and of any related administrative and legal actions on any permit or approval. If no notice of the permits or approvals is given to the Administrator prior to the date established by the shoreline permit, permit exemption, or the provisions of this section, the expiration of a permit shall be based on the shoreline permit or permit exemption.

3. The Administrator shall notify the Department of Ecology in writing of any change to the effective date of a substantial development permit, variance permit, or conditional use permit as authorized by this section, with an explanation of the basis for approval of the change. Any

change to the time limits of a permit or permit exemption other than those authorized by this section shall require a new permit application.

10.2.9 Permit Revisions

1. A permit revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program or RCW 90.58. Changes that are not substantive in effect do not require a permit revision.

2. An application for a revision to a shoreline permit shall be submitted to the Administrator. The application shall include detailed plans and text describing the proposed changes. The County decision maker that approved the original permit may approve the request upon a finding that the proposed changes are within the scope and intent of the original permit, and are consistent with this Program and RCW 90.58.

3. "Within the scope and intent of the original permit" means all of the following:

   a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by five hundred (500) square feet or ten percent (10%) over that approved under the original permit, whichever is less;

   b. Ground area coverage and/or height may be increased a maximum of ten percent (10%) over that approved under the original permit provided that the revised permit does not authorize development to exceed the height, lot coverage, setback or any other requirements of this Program except as authorized under a variance granted for the original development;

   c. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Program;

   d. The use authorized pursuant to the original permit is not changed; and

   e. The revision will not cause adverse environmental impacts beyond those originally authorized in the permit.

4. Revisions to shoreline permits may be authorized after the original permit authorization has expired. Revisions made after the expiration of the original permit shall be limited to changes that are consistent with this Program and that would not require a permit under this Program. If the proposed change is a substantial development as defined by this Program, then a new permit is required. The provisions of this paragraph shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original permit.

5. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original permit.

6. Upon approval of a permit revision, the decision maker shall file with the Department of Ecology a copy of the revised site plan and a detailed description of the authorized changes to the original permit, together with a final ruling and findings supporting the decision based on

the requirements of this section. In addition, the decision maker shall notify parties of record of the action.

a. If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this paragraph. Under the requirements of WAC 173-27-100(6), the Department of Ecology shall render and transmit to the decision maker and the applicant/proponent its final decision within fifteen (15) days of the date of the Department of Ecology's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department of Ecology's final decision. Appeals of a decision of the Department of Ecology shall be filed in accordance with the provisions of WAC 173-27-100(8).

10.2.10 Fees

1. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, pre-application conferences, review of required mitigation plans and critical area reports (e.g., wetland delineation/classification, habitat management plans, geotechnical reports, other) under this Program, and other required reviews and approvals shall be paid to the County at the time of application in accordance with the Clallam County Consolidated Fee Schedule, CCC 5.100, in effect at that time.

10.2.11 Transfer of Permits

1. An approved substantial development permit, conditional use permit, or variance permit may be transferred from the original project proponent to any successor in interest to the project proponent provided that all of the conditions and requirements of the approved permit or variance shall continue in effect as long as the use or activity is pursued or the structure exists unless the terms of the substantial development permit, conditional use permit, or variance permit are modified in accordance with the relevant provisions of this Program.

10.2.12 Permit Criteria for All Development

1. No authorization to undertake use or development on shorelines of the state shall be granted unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and this Program.

2. No permit shall be issued for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

10.3 Permit Application Process

10.3.0 Minimum Permit Application Requirements

1. A complete application for a substantial development, conditional use, or variance permit shall contain, as a minimum, all of the information required in any applicable section of this

Program, all of the information required in Clallam County Code Chapter 26.10.310, and any other information the Administrator deems pertinent, including at a minimum:

a. The name, address, and phone number of the applicant/proponent, applicant's representative, and/or property owner if different from the applicant/proponent.

b. The property address and identification of the section, township and range to the nearest quarter, quarter section, or longitude and latitude to the nearest minute.

c. The name of the shoreline (water body) that the site of the proposal is associated with.

d. A general description of the property as it exists at the time of application including its use, physical and ecological characteristics, improvements and structures.

e. A general description of the project vicinity including adjacent uses, structures and improvements, development intensity, and physical characteristics.

f. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

g. A site plan and/or engineered drawings identifying existing conditions, consisting of photographs, text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all required information.

h. Location of the ordinary high water mark of all water bodies within or adjacent to the project boundary. For any development that requires a precise location of the ordinary high water mark, the applicant/proponent shall provide a survey and describe the biological and hydrological basis for the location as indicated on the plans. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the plan shall indicate the distance and direction to the ordinary high water mark of the adjacent shoreline.

i. Existing land contours at intervals sufficient to accurately determine the existing character of the property. Areas within the project boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

j. A summary characterization of the effects of the project on existing ecological functions and processes in the vicinity of the project. If the project is likely to have adverse impacts on shoreline ecological functions or processes, a mitigation plan meeting the requirements of Section 8.3 shall be provided demonstrating measures that will be taken to offset impacts and achieve no net loss.

k. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and use.

l. On all conditional use permit applications, the proponent shall provide information demonstrating that the proposal meets the conditional use permit criteria listed in Section 10.2.2 of this Program.

m. Identify known restoration sites and any listed restoration project opportunities within the Countywide Shoreline Restoration Plan (as amended), and also any proposed, pending/in-

progress or completed restoration projects listed on the state Habitat Work Schedule for (HWS) and Project Information System (PRISM) online data bases, that either occur on or adjacent to the lot associated with the proposed development, or that may be impacted by the proposed development.

2. Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the Administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this Program.

10.3.1 Burden of Proof

1. Permit applicants/proponents have the burden of proving that the proposed development is consistent with the criteria set forth in RCW 90.58 and this Program.

10.3.2 Pre-application Meeting

1. In accordance with Clallam County Code Chapter 26.10.230, all prospective applicants for Type I – III permits may apply for an optional pre-application meeting. Pre-application meetings are strongly encouraged.

2. As stated in Clallam County Code Chapter 26.10.230(2), the purpose of the pre-application meeting is to provide the applicant with the best available information regarding the application requirements and development information necessary for review prior to expenditure of the application fees and scheduling of the application review process.

10.3.3 Notice of Application and Permit Application Review

1. Public notice requirements shall occur in accordance with Clallam County Code Chapter 26.10 and the following:

   a. Type I permits (Statements of Exemption) shall not require notice of application or open record hearing consistent with Clallam County Code Chapter 26.10.210. However, if a Type I permit is not categorically exempt under SEPA, then a notice may be required.

   b. The County shall issue a notice of application on all Type II and Type III project permit applications in accordance with Clallam County Code Chapter 26.10.410.

2. Permit application review shall occur in accordance with Clallam County Code Chapter 26.10.340.

10.3.4 Public Hearings

1. Public hearings shall occur in accordance with Clallam County Code Chapter 26.10 CCC.

2. Public hearing requirements for permit appeals shall be processed according to Clallam County Code Chapter 26.10 Part Six, provided that appeals of a determination regarding a statement of exemption shall occur in accordance with Clallam County Code Chapter 26.10.610. The fee for such appeal shall be as set forth in the Clallam County fee schedule and must be paid by the appellant at the time of filing the appeal.

10.3.5 Notice of Decision, Reconsideration, and Appeal

1. A notice of decision for action on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in accordance with the procedures of Clallam County Code Chapter 26.10 and at least ten (10) days prior to filing such decisions with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of Ecology shall contain all of the following information:

    a. A copy of the complete application;

    b. Findings and conclusions that establish the basis for the decision, including but not limited to identification of shoreline environment designation, applicable Program policies and regulations, and the consistency of the project with appropriate review criteria for the type of permit(s);

    c. The final decision of the local government;

    d. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under RCW Chapter 43.21C; and

    e. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.

2. A notice of decision for shoreline statements of exemption shall be provided to the applicant/proponent and any party of record. Such notices shall also be filed with the Department of Ecology, pursuant to the requirements of WAC 173-27-050. Statements of exemption shall be required for all exempt developments as indicated in Section 10.2.5.

3. This Program shall only establish standing for parties of record for shoreline substantial development permits, shoreline variances, or shoreline conditional use permits. Standing as a party of record is not established by this Program for exempt actions; provided that, in such cases standing may be established through an associated permit process that provides for public notice and provisions for parties of record.

4. The applicant/proponent or any party of record may request reconsideration of any final action by the decision maker within ten (10) days of notice of the decision in accordance with requirements for reconsideration under Chapter 26.10 CCC, Consolidated Development Permit Process. Such requests shall be filed on forms supplied by the County and include the required review fee as specified in Chapter 5.100.300. Grounds for reconsideration must be based upon the content of the written decision. The procedure of reconsideration shall not preempt or extend the appeal period for a permit or affect the date of filing with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit appeal period.

5. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of filing the final decision by Clallam County with the Department of Ecology.

10.3.6 Third-party Review

1. The Administrator may consult with qualified local, state or federal agency with outside expertise and jurisdiction to review a submitted mitigation plan, critical area report, or other technical information provided by the project proponent to comply with this Program.

2. The Administrator shall determine when third-party review shall be required. Third-party review allows any technical studies or inventories provided by the project proponent to be reviewed by an independent third party, paid for by the project proponent, but hired by the Administrator. The Administrator shall require third party review when he/she determines that such review is necessary to adequately evaluate a proposal's potential impacts and accordance with the relevant provisions of this Program. A qualified professional shall conduct third-party review. The project proponent may appeal the Administrative determination to require an independent third party review to the Hearing Examiner pursuant to CCC 26.10.

10.3.7 Initiation of Development

1. Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use shall not begin and shall not be authorized until twenty one (21) days after the "date of filing" or until all review proceedings before the Shoreline Hearings Board have terminated.

2. "Date of filing" of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology. The "date of filing" for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology, is transmitted by the Department of Ecology to the County and the applicant/proponent.

10.4 Remedies and Enforcement

10.4.0 Permit Rescission and Modification

1. Any shoreline permit granted pursuant to this Program may be rescinded or modified upon a finding by the Hearing Examiner that the permittee or his/her successors in interest have not complied with conditions attached thereto. A specific monitoring plan may be required as a condition of a permit with specific reporting requirements. If the monitoring plan is not implemented, the permittee may be found to be non-compliant. The results of a monitoring plan may show a development to be out of compliance with specific performance standards, which may be the basis for findings of non-compliance.

2. The Administrator shall initiate rescission or modification proceedings by serving written notice of non-compliance to the permittee or his/her successors and notifying parties of record at the original address provided in application review files.

3. The Hearing Examiner shall hold a public hearing no sooner than fifteen (15) days following such service of notice, unless the applicant/proponent files notice of intent to comply and the Administrator grants a specific schedule for compliance. If compliance is not achieved, the Administrator shall schedule a public hearing before the Hearing Examiner. Upon considering written and oral testimony taken at the hearing, the Hearing Examiner shall make a decision in accordance with the above procedure for shoreline permits.

4. These provisions do not limit the Administrator, the Prosecuting Attorney, the Department of Ecology, or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by law, or from abatement or other remedies.

10.4.1 Violations and Penalties

1. Shoreline violations and penalties shall be processed in accordance with this Program and Title 20 CCC, Code Compliance.

2. In addition to incurring civil liability under Clallam County Code Title 20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of RCW 90.58 or of this Program, or other regulations adopted pursuant thereto, shall be punished by:

   a. A fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000);

   b. Imprisonment in the County jail for not more than ninety (90) days; or

   c. Both such fine and imprisonment; provided that, the fine for the third and all subsequent violations in any five (5) year period shall not be less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). Provided further that fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under RCW 90.58.560.

3. Any person who willfully violates any court order or regulatory order of injunction issued pursuant to this Program shall be subject to a fine of not more than five thousand dollars ($5,000), imprisonment in the County jail for not more than ninety (90) days, or both.

10.4.2 Remedies

1. The Clallam County Prosecuting Attorney, or Administrator, where authorized, shall bring such injunctive, declaratory, or other actions as are necessary in accordance with this Program and Title 20 CCC, Code Compliance to ensure that no uses are made of the shorelines of the state located within Clallam County in conflict with the provisions of this Program, RCW 90.58, or other regulations adopted pursuant thereto, and to otherwise enforce the provisions of this Program.

2. Any person subject to the regulatory provisions of this Program or RCW 90.58 who violates any provision thereof, or permit or permit condition issued pursuant thereto, shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its conditions prior to violation. The Clallam County Prosecuting Attorney shall bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

3. A person who fails to conform to the terms of a substantial development permit, conditional use permit, or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order, may be subject to a civil penalty. The penalty shall be imposed pursuant to

the procedure set forth in WAC 173-27-280 and become due and recovered as set forth in WAC 173-27-290(3) and (4). Persons incurring a penalty may appeal the same to the Shoreline Hearings Board pursuant to WAC 173-27-290(1) and (2).

10.4.3 Inspections

1. Whenever it is necessary to make an inspection to enforce any of the provisions of this Program, or whenever the Administrator has reasonable cause to believe that there exists in any building, or upon any premises, any condition that constitutes a violation of this Program, the Administrator shall take any action authorized by law. The Clallam County Prosecuting Attorney shall provide assistance to the Administrator in obtaining administrative search warrants or other legal remedies when necessary.

10.4.4 Abatement

1. Structures or development on shorelines considered by the Administrator to present a hazard or other public nuisance to persons, properties, or natural features may be abated by the County under the applicable provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition or successor as adopted by Clallam County, or by other appropriate means.

10.5 State Environmental Policy Act (SEPA) Compliance

1. Whenever an application for shoreline substantial development permit, shoreline variance, shoreline conditional use permit, or statement of exemption is subject to the rules and regulations of SEPA (RCW 43.21C), the review requirements of SEPA, including time limitations, shall apply, where applicable.

2. Applications for shoreline permit(s) or approval(s) that are not categorically exempt shall be subject to environmental review by the responsible official of Clallam County pursuant to the State Environmental Policy Act (WAC 197-11).

3. As part of SEPA review, the responsible official may require additional information regarding the proposed development in accordance with WAC 197-11.

4. Failure of the applicant/proponent to submit sufficient information for a threshold determination to be made shall be grounds for the responsible official to determine the application incomplete.

10.6 Master Program Amendments

1. Pursuant to RCW 90.58.190 and RCW 36.70A.280, a decision by the Clallam County Board of County Commissioners to amend this Program shall not constitute a final appealable decision until the Department of Ecology has made a decision to approve, reject, or modify the proposed amendment. Following the decision of the Department of Ecology regarding the proposed amendment, the decision may be appealed to the Western Washington Growth Management Hearings Board.

Chapter 11 Definitions

Many of the terms and concepts used in this Program have definitions established by the SMA (RCW 90358) or implementing rules (WAC 173-18, -20, -26, and -27). In the event of a conflict between the definitions provided herein and those established by statute and rule, the RCW and WAC definitions shall prevail.

A

1. Abandon means to terminate the use of a structure by an affirmative act such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction. Land uses that have been discontinued for eighteen (18) or more consecutive months are considered abandoned and no longer vested under this Program; except that agriculture, which has been discontinued for five (5) consecutive years, is considered abandoned and will no longer be vested under this Program. Subsequent uses of the property must be in conformance with this Program and the County Code, as they apply.

2. Abutting means adjoining with a common boundary line or any portion thereof.

3. Accessory dwelling unit or "ADU" means a separate dwelling unit within a single-family dwelling or a separate structure associated with a single-family dwelling which is incidental and subordinate to the primary residential use of the property. Accessory dwelling units are further defined as follows:

    a. Detached. Those accessory dwelling units that are lawfully constructed within existing outbuildings, or stand alone, where the ADU does not share a common wall with the primary residential dwelling unit.

    b. Attached. Those accessory dwelling units that share a common wall or floor/ceiling with the primary dwelling unit and do not meet the definition of detached accessory dwelling unit.

4. Accessory use or structure means any legally established use or structure ~~which is necessary for the full use and enjoyment of the primary use of the property,~~that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory ~~use~~.

5. Accretion means the slow addition of land by the deposition of water-borne sediment through the net effect of wave action and longshore drift.

6. Act means the Shoreline Management Act of 1971 (RCW 90.58) as amended.

7. Adequate means acceptable but not excessive.

8. Adjacent means (in addition to abutting) that which is near or close; for example, an industrial district across the road or highway from a commercial district shall be considered as adjacent.

9. Adjacent lands, shoreline means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). See RCW 90.58.340.

10. Administrator means the Director of the Department of Community Development or his/her designee, who is responsible for carrying out the administrative duties set forth in this code.

11. Adverse impact means a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions or substantially degrades ecological functions or processes.

12. Advertising means publicly displayed messages or signs, billboards, placards, or buildings that direct attention to promotion of a business, service, or product.

13. Aggrieved party means a party of record who can demonstrate the following:

    a. The land use decision will prejudice the person;

    b. The asserted interests are among those the County is required by County code, federal or state law or regulation to consider in making a land use decision; and

    c. A decision on appeal in favor of the person would substantially eliminate or redress the prejudice alleged to be caused by the land use decision.

14. Agriculture or Agricultural activities means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

15. Agricultural equipment and agricultural facilities means to include, but is not limited to:

    a. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

    b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

    c. Farm residences and associated equipment, lands, and facilities; and

    d. Roadside stands and on-farm markets for marketing fruit or vegetables. WAC 173-26-020.

16. Agricultural land means those specific land areas on which agriculture activities are conducted. ~~as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.~~

17. Agricultural products means to include, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock

including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products. WAC 173-26-020. ~~Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.~~

18. Allowed use means uses allowed subject to the provisions of this Program, including meeting applicable performance and development standards; if a building permit or other development permit (e.g., stormwater permit) is required, the use is subject to the project review and approval process.

19. Alteration means any human induced change in an existing condition of a shoreline and/or its buffer. Alterations include, but are not limited to grading; filling; channelizing; dredging; clearing (vegetation); draining; constructing structures; compaction, excavation, or any other activity that changes the character of a site.

20. Alteration, nonconforming use means the expansion, modification or intensification of a use that does not conform to the land use regulations of this Program.

21. Anadromous fish means fish species that spend part of their lifecycle in saltwater, but return to freshwater to reproduce.

22. Appeal means a request by an applicant or citizen that a decision made pursuant to this Program be reviewed for its correctness and legality by another person, agency or court of law having jurisdiction to hear such an appeal.

23. Applicant means the owner or owners of record of the property subject to a project permit application under this Program, or authorized representative thereof.

24. Application means the forms, plans and accompanying documents required for any project permit approval under this code.

25. Appurtenant structures are structures that are necessarily connected to the use and enjoyment of a single-family residence and are located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading (per WAC 173-27-040(2.g.), but do not include bulkheads and other shoreline modifications or overwater structures (per RCW 90.58.620(2)).

~~25.~~26. Aquatic Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 365395-190-130(2~~1~~) that occur in the water.

~~26.~~27. Aquaculture means the culture or farming of fish, shellfish, or other aquatic plants or animals Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. WAC 173-26-020.

~~27.~~28. Aquaculture activity means actions directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

~~28.~~29. Aquaculture facility or farm means any facility or tract of land used to culture aquatic products. Each geographically separate facility or tract of land used for aquaculture shall

constitute a separate facility/farm, provided that adjoining farms/facilities with separate operators shall be considered separate facilities/farms.

~~29.~~30. Archaeological means having to do with the scientific study of material remains of past human life and activities.

~~30.~~31. Archaeological resource/site means a geographic locality including, but not limited to, submerged and submersible lands and the bed of the sea that contains physical evidence of an indigenous and subsequent culture including material remains of past human life, monuments, symbols, tools, facilities, graves, skeletal remains and technological byproducts:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

b. That are associated with the lives of significant persons in our past; or

c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. That have yielded or may be likely to yield, information important in history or prehistory.

~~31.~~32. Archaeologist or Professional Archaeologist means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archeologist. During this four-year period, the professional archeologist is responsible for all findings. The four-year period is not subject to renewal. (RCW 27.53.030). The Federal Secretary of the Interior's "Professional Qualification Standards" , as amended, can be found at the National Park Service web site: https://www.nps.gov/history/local-law/arch_stnds_9.htm

~~32.~~33. Associated wetlands means wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the 100-year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

~~33.~~34. Average grade level means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the proposed structure. In the case of structures to be built over the water, the average grade level shall be the elevation of the ordinary high water mark.

B

~~34.~~35. Beach means the zone of accumulated, unconsolidated sediment that is moved by waves, wind and tidal currents.

~~35.~~36. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood, as shown on the FIRM maps.

~~36.~~37. Base flood elevation means the elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it.

~~37.~~38. Beach access structure means a structural pathway/walkway for purposes of providing pedestrian access to a beach or shoreline area, not for motorized vehicle access. It often includes a stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means.

~~38.~~39. Bedrock means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

~~39.~~40. Berm means one or several accreted linear mounds of sand and gravel generally paralleling the shore on a beach in the vicinity of the mean higher high water and the ordinary high water mark. Natural berms are normally composed of a variety of sediment sizes and may be vegetated on the landward portion, and are naturally formed by net shore drift. Also, a linear mound used to screen an adjacent activity (e.g., a parking lot) from transmitting excess noise and glare.

~~40.~~41. Best management practices (BMPs) means systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.

~~41.~~42. Bioengineering means the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of soft structural methods such as bundles of stems, root systems, or other living plant material, soft gabions, fabric or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include habitat enhancement measures (e.g., anchored logs, root wads, etc.) and/or beach enhancement/nourishment (e.g., replenish sand or other sediments). Such techniques may be applied to creeks, rivers, lakes, reservoirs, and marine waters. Bioengineering may also be applied in upland areas away from the immediate shoreline.

~~42.~~43. Board (BOCC) means the Board of County commissioners for Clallam County.

~~43.~~44. Boating facilities means any public or private facility for launching or wet storage of vessels or watercraft, including such facilities that additionally provide landing for water dependent recreation. This includes marinas, open water moorage and anchorage areas, boat launch ramps, boat lifts, mooring buoys, piers, floats and docks or any other similar single-user or shared-use facility for public recreational use or private residential use. For purposes of this Program, upland boathouses, boat repair shops, and other upland (dry) boat storage structures are not considered boating facilities.

~~44.~~45. Boathouse means an enclosed structure on land designed and used exclusively for the storage of boats and boating equipment and not used as a dwelling unit.

~~45.~~46. Boat launch or boat ramp means a slab, pad, plank, rail, or graded slope used for launching boats by means of a trailer, hand, or mechanical device.

~~46.~~47. Boat lift is an in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water periodically. A boat lift as herein defined is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a

manufactured unit without a canopy cover and may be placed in the water adjacent to a dock/pier or as a stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels.

~~47.~~48. Breakwater means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. Most breakwaters in the Pacific Coast are rip-rap mound construction.

~~48.~~49. Buffer means the area abutting to a shoreline or critical area that separates and protects the area from adverse impacts associated with adjacent land uses.

~~49.~~50. Building means any structure used or intended for supporting or sheltering any use or occupancy as defined in the International Building Code.

~~50.~~51. Building envelope means:

a. A three-dimensional space in which a building or structure may be built meeting septic requirements;

b. A plat restriction for the purpose of defining building coverage areas for individual lots, or for describing shoreline building setbacks; and

c. The buildable area of a lot, tract or parcel after applicable setbacks, buffers, easements and other restrictions on the lot, tract or parcel are taken into account.

~~51.~~52. Bulkhead means a wall usually constructed parallel to the shore with the primary purpose of containing and preventing the loss of soil caused by erosion or wave action. Bulkheads are usually constructed of rock, poured-in-place concrete, steel or aluminum sheet piling, wood or wood and structural steel combinations. They may be either thin structures penetrating deep into the ground, or more massive structures resting on the surface.

C

~~52.~~53. Campground and camping facilities means a facility in which sites are offered for persons using tents or other personal, portable overnight shelters, recreational vehicles, or other recreational shelters, such as cabins, yurts or platform tents, specifically designated and operated for temporary overnight camping. Campgrounds are for short-term stays and do not include trailer parks.

~~53.~~54. Certificate of occupancy or use means a document issued by the Clallam County building official as the final approval acknowledging that all conditions and requirements have been met and that the occupancy or use of a development is allowed.

~~54.~~55. Channel means an open waterway either naturally or artificially created to convey water.

~~55.~~56. Channel migration zone means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such areas are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age,

structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies.

~~56.~~57. Channelization means the straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

~~57.~~58. Chemical means any synthetic substance or mixture of such substances used as a cleaner, solvent, adhesive, paint, varnish, or other coating layer, or for a fertilizer, herbicide, pesticide, insecticide, or rodenticide.

~~58.~~59. Clearing means the destruction or removal, by hand or with mechanical means, of vegetative ground cover, shrubs or trees. Clearing may or may not include removing root material or topsoil.

~~59.~~60. Cluster development means a development design technique that groups or clusters buildings in specific areas on a site to minimize environmental impacts related to impervious surface, clearing and other impacts.

~~60.~~61. Commercial development means any premises devoted primarily to the wholesaling or retailing of a product or service for the purpose of generating an income. Examples of commercial development include, but are not limited to, restaurants, resorts, and retail shops.

~~61.~~62. Commercial fish means those species of fish that are classified under the Washington Department of Fish and Wildlife Food Fish Classification as commercial fish (Title 220 WAC).

~~62.~~63. Commercial recreational facility means a place designed and equipped for sports and leisure-time activities that is operated as a business and open to the public for a fee.

~~63.~~64. Commercial sign means a sign that is used for attracting attention to a business or profession; to a commodity or service sold, offered or manufactured; to an entertainment offered; or to any other commercial use, product, service, or activity offered to the public with the intent to make a profit.

~~64.~~65. Commercial use means a business use or activity at a scale greater than a home business involving retail or wholesale marketing or selling of goods and services.

~~65.~~66. Community dock means a dock that serves multiple residential properties including upland and waterfront lots in a subdivision or similar community setting.

~~66.~~67. Compatible means uses or activities capable of existing together or in the vicinity of one another without disharmony or without generating effects or impacts which are disruptive to the normal use and enjoyment of surrounding property.

~~67.~~68. Compensatory mitigation means replacing resources or functions, at an equivalent or greater level, to offset unavoidable impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, creation, restoration, enhancement, preservation, and rehabilitation of wetlands, buffers, and other habitats or resources.

~~68.~~69. Comprehensive Plan means the Clallam County Comprehensive Plan.

69.70. Conditional use (or shoreline conditional use) means a use, development, or substantial development which is classified as being permitted only as a conditional use, or is not classified in this Program.

70.71. Conforming means any real property, parcel, lot, structure, proposal, use, development or submission which is fully compliant with the policies and regulations of this Program. Conforming is also defined to include those structures deemed 'conforming' by Section 5.1.0.(2) of this Program in accordance with RCW 90.58.620.

71.72. Conservation means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

72.73. Conservation district means a special purpose district, like a fire district or school district, organized in accordance with Chapter 89.08 RCW for the purpose of providing assistance to landowners for the conservation of renewable resources.

73.74. Conservation easement means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

74.75. Contaminant means any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs as a result of direct or indirect actions at concentrations greater than those in the natural levels (Chapter 173-200 WAC).

75.76. County means Clallam County, Washington, its board, commissions, and departments.

76.77. Covered moorage means boat moorage, with or without walls, that has a roof (made of wood, metal, fiberglass, plastic, canvas, or other material) to protect the vessel.

77.78. Creek. See Stream.

78.79. Critical areas mean the following areas as designated in CCC 27.12 and this Program:

a. Wetlands

b. Aquatic and Wildlife Habitat Conservation Areas

c. Critical Aquifer Recharge Areas

d. Geologically Hazardous Areas

e. Frequently Flooded Areas

79.80. Critical habitat means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating) as defined through rules promulgated by the Washington Department of Fish and Wildlife as identified in WAC 220-200 or 220-610; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

~~80.~~81. Critical facilities means a facility for which even a slight chance of flooding or destruction caused by a geologic hazard would be too great. They include, but are not limited to: schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads, and major highways.

~~81.~~82. Critical freshwater habitats includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(31~~29~~), have a primary association.

~~82.~~83. Critical saltwater habitats means all kelp beds and eelgrass beds; stream mouths; spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; priority habitat areas for marine shellfish, including but not limited to pandalid shrimp, Dungeness crab, geoduck, hardshell clam, subtidal hardshell clam, and red sea urchin; mudflats; intertidal habitats with vascular plants; and areas with which marine priority species, as defined by WAC 173-26-020(29), have a primary association.

~~83.~~84. Culvert means a section of pipe placed in a stream and filled over in order to provide a stream crossing.

~~84.~~85. Cumulative impacts or Cumulative effects means the combined impacts of a proposed development action along with past impacts and impacts of reasonably foreseeable future development actions.

D

~~85.~~86. Dam means a barrier across a stream or river to confine or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, or power.

~~86.~~87. Dedicate means to set aside a piece of real property, a structure, or a facility for public or private use or ownership.

~~87.~~88. Delta or river delta means those lands formed as an aggredational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels.

~~88.~~89. Density means the quantity per unit area, such as the number of dwelling units per acre.

~~89.~~90. Development or Development Activities means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

~~90.~~91. Developed shorelines means those shoreline areas that are characterized by existing uses or structures located within shoreline jurisdiction.

~~91.~~92. Dike means an artificial embankment placed at a stream mouth or delta to hold back sea water.

~~92.~~93. Director means, unless otherwise specified, the director of the County's Community Development Department or the director's designee.

~~93.~~94. Division of land means the creation of any new lot or lots for the purpose of sale, lease, or transfer of ownership.

~~94.~~95. Dock means a fixed platform structure anchored in and floating upon a water body that abuts the shore to provide landing for water dependent recreation or moorage for vessels or watercraft and does not include above water storage.

~~95.~~96. Drainage means surface water runoff; the removal of surface water or ground water from land by drains, grading, or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

~~96.~~97. Dredge material disposal means the depositing of dredged materials on land or into water bodies.

~~97.~~98. Dredging means the removal of earth from the bottom of a stream, river, lake, bay, or other water body. This does not include the minimal and insignificant removal of sediment during harvest of geoduck, clams or other shellfish.

~~98.~~99. Drift cell, net shore drift cell, drift sector, or littoral cell refers to the long-term, net effect along a coastal sector in which directionally uniform shore drift occurs, depending on wave energy and currents, without significant interruption; each drift cell, net shore drift cell, drift sector, or littoral cell typically includes one or more sources of sediment, such as a feeder bluff or stream mouth, a transport zone within which the sediment drifts along the shore, and an accretion area such as a spit, bar or hook.

~~99.~~100. Driveway means a strip of land which provides vehicular access from a public way to a building or other development on abutting grounds.

E

~~100.~~101. Ecological functions or Shoreline functions means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem processes. See WAC 173-26-201(2)(c). Functions include, but are not limited to, habitat diversity and food chain support for fish and wildlife, ground water recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and flood water attenuation and flood peak desynchronization, and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

~~101.~~102. Ecology means the Washington State Department of Ecology.

~~102.~~103. Ecosystem processes or Ecosystem-wide processes means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

~~103.~~104. Eelgrass means a marine plant that grows in coastal waters and brackish inlets. For the purposes of this Program, eelgrass includes the native *Zostera marina* species and not non-native species such as *Zostera japonica*.

~~104.~~105. Endangered species means a species which is in danger of extinction throughout all or a significant portion of its range, as classified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, or the federal Endangered Species Act.

~~105.~~106. Enhancement means actions performed within an existing degraded shoreline and/or buffer to intentionally increase or augment one or more ecological functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, or removing human-made structures or fill that are degrading ecological functions or values.

~~106.~~107. Erosion means the detachment and transport of soil or rock by water, wind, ice, or gravity.

~~107.~~108. Erosion Hazard Areas. Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazards may also include coastal and riverine erosion areas. Lands meeting the following classifications shall be designated as erosion hazard areas:

a. Areas containing evidence of significant erosion activity caused either by natural or human-made factors that threatens public health, safety, and welfare.

b. Shoreline erosion hazard areas potentially subject to land regression or retreat due to a combination of geologic, seismic, tidally influenced, and/or hydrologic or human-made factors. Shoreline erosion hazard areas can be identified by the presence of any of the following indicators:

   i. Areas with active bluff retreat that exhibit continuing sloughing or calving of bluff sediments, resulting in vertical or steep bluff face with little or no vegetation. These areas include unstable slopes and feeder bluffs mapped in the Clallam County Shoreline Inventory and Characterization Report (ICR) and Washington State Coastal Atlas available from the Department of Ecology.

   ii. Areas with active land retreat as a result of wave action.

c. Riverine erosion areas subject to lateral erosion related to moving water, including the channel migration zone and the potential slope/bank failures resulting from river channel movement.

d. Slopes 40 percent or steeper with a vertical relief of 10 or more feet, except areas composed of exposed bedrock outcrop at the surface.

e. Soil erosion hazard areas are identified by the presence or absence of natural vegetation cover, soil texture condition, slope, and rainfall patterns, or human-induced changes to such characteristics that create site conditions which are vulnerable to erosion of the upper soil horizon. Soil erosion hazard areas include those areas with slopes of 15% or steeper and that are classified as having a severe or very severe erosion hazard potential by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) in the most recent Soil Survey of Clallam County or the NRCS Web Soil Survey. Essential

public facilities means those important and necessary facilities which provide essential services that are typically difficult to site, such as airports, state educational facilities, state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance-abuse facilities, mental health facilities, and group homes (RCW 36.70A.200). They do not necessarily include all public facilities or services; they may be, but are not necessarily, publicly owned.

~~108.~~109. Estuary means a semi-enclosed coastal waterbody connected to a larger body of salt water with one or more rivers or streams flowing into it. Estuaries are typically the mouths of rivers and have brackish water.

~~109.~~110. Excavation means the mechanical removal of earth, including soil, rocks, bedrock, and/or root material from areas landward of the ordinary high water mark of a waterbody.

~~110.~~111. Exempt development means development that is exempt from the requirement to obtain a substantial development permit as defined by RCW 90.58.030 and WAC 173-27-040, but which must otherwise comply with applicable provisions of this Program as demonstrated by obtaining a statement of exemption from the Administrator. Exempt development or uses may still require conditional use and/or variance permits.

~~111.~~112. Existing use means the use of a lot or structure or improvements at the time of the enactment of this code, unless otherwise specified.

~~112.~~113. Experimental aquaculture means an aquaculture activity that uses genera that have not previously been regularly cultivated in the state of Washington.

~~113.~~114. Extraction means the commercial removal of naturally occurring materials from the earth, excluding water.

~~114.~~115. Extreme low tide means the lowest line of the land reached by a receding tide. This is the line as estimated by the federal government below which it might reasonably be expected that the tide would not ebb. In the Puget Sound area generally, this point is estimated by the federal government to be a point in elevation 4.50 feet below the datum plane of mean lower low water (0.0). Along the Pacific Ocean and in the bays fronting thereon and the Strait of Juan de Fuca, the elevation ranges down to a minus 3.5 feet in several locations.

F

~~115.~~116. Fair market value means the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

~~116.~~117. Feasible means, for the purpose of this Program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

b. The action provides a reasonable likelihood of achieving its intended purpose; and

c. The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

~~117.~~118. Feasible alternative means an alternative that:

a. Meets the requirements of federal, state, and local laws and regulations;

b. Attains most or all of the basic objectives of the project;

c. Is technically and technologically possible;

d. Can be accomplished at a reasonable cost;

e. Can be accomplished in a reasonable amount of time;

f. Adverse environmental, health, and safety effects are no greater than those of the original proposal; and

g. A determination of what is reasonable or feasible is made by the Administrator on a case-by-case basis, taking into account the:

i. Probable intensity, severity, and cumulative impacts of the original proposal and alternative approaches, and opportunity for the avoidance or reduction in the number, intensity, or severity of impacts, or of the aggregate adverse impact;

ii. Risk of upset conditions (i.e., the risk that the control and mitigation measures will fail, be overwhelmed, or exceed allowed limits) and the potential severity of the impact should control or mitigation measures be ineffective or fail;

iii. Capital and operating costs;

iv. Period of time to accomplish, costs of additional time or delay, and time constraints for completion; and

v. Location and site-specific factors, such as seasonal or topographic constraints, environmentally sensitive areas and habitats, site accessibility, and local community concerns.

~~118.~~119. Feeder bluff or erosional bluff means any marine bluff or cliff active erosion and/or mass wasting which periodically supplies moderate volumes of sediment input with a longer recurrence interval than feeder bluff exceptional segments. The bluff face typically has vegetation indicative of disturbance with evidence of landslides and toe erosion. These natural sources of beach sediment are limited and vital for the long-term maintenance of beaches and accretion shoreforms (e.g., spits, bars, and hooks) and the nearshore habitats therein.

~~119.~~120. Feeder bluff exceptional means a feeder bluff with active erosion and/or mass wasting which periodically supplies substantial volumes of sediment input to the nearshore in greater quantities with a shorter recurrence interval than feeder bluffs. The bluff face typically has little to no vegetation with active landslides and toe erosion, and may include colluvium and toppled large woody debris. These bluffs play a critical role in sediment erosion and

deposition and transport processes, which are key determinants of the health of many of the County's marine beaches, spits, bars and hooks.

~~120.~~121. Feeder bluff talus means a feeder bluff characterized by coastal bluffs/sea cliffs that are actively receding and have a history of erosion/landslides but are primarily found within areas mapped as bedrock. These areas function as bedrock sediment sources (typically marine sedimentary units such as sandstone and conglomerate). These bluffs likely recede/erode at a slower rate than typical feeder bluffs and therefore are distinctively different from the unconsolidated, glacially deposited bluffs that the term feeder bluffs typically represents. Feeder bluff talus units provide beach sediment in the form of shallow landslides and/or large deep-seated landslides that deliver soil and large woody debris with boulders, cobbles, sand and gravel (often via sandstone and conglomerate talus with soil) to beaches.

~~121.~~122. Fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.~~solid or semi-solid material such as soil, sand, rock, gravel, sediment, wood chips, mining overburden, earth retaining structure, or other material used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.~~

~~122.~~123. Fill material means any solid or semi-solid material such as soil, sand, rock, gravel, sediment, wood chips, mining overburden, earth retaining structure, or other material from mining or other excavation activities, and materials used to create any structure or infrastructure, that when placed, changes the grade or elevation of the receiving site.

~~123.~~124. Filling means the act of placing by any manual or mechanical means fill material from, to, or on any soil surface, including temporary stockpiling of fill material.

~~124.~~125. Fish habitat means a complex of physical, chemical, and biological conditions that provide the life supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, and nearshore areas include, but are not limited to, the following:

a. Clean water and appropriate temperatures for spawning, rearing, and holding;

b. Adequate water depth and velocity for migrating, foraging, spawning, rearing, and holding, including off-channel habitat;

c. Abundance of bank and instream structures to provide hiding and resting areas and stabilize stream banks and beds (freshwater);

d. Appropriate substrates for spawning and embryonic development. For stream and lake dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;

e. Presence of riparian vegetation as defined in this Program. Riparian vegetation creates a transition zone, which provides shade, and food sources of aquatic and terrestrial insects for fish; and

f. Unimpeded passage (suitable gradient and lack of barriers) for upstream and downstream migrating anadromous juveniles and adults (freshwater); areas upstream of partial or full

fish passage barriers are still frequently fish habitat, and may provide additional fish habitat if artificial barriers are removed.

~~125.~~126. Float means a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water-dependent recreation or moorage for vessels or watercraft, and that does not include above water storage.

~~126.~~127. Floating aquaculture means aquaculture systems that suspend aquatic organisms in the water column using buoys, rafts, docks, piers or other structure. Floating aquaculture is synonymous with hanging aquaculture.

~~127.~~128. Floating house or floating home means single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed per RCW 90.58.270.

~~128.~~129. Flood or flooding means the temporary inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface waters.

~~129.~~130. Flood control means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, weirs, flood and tidal gates. Excluded are water pump apparatus.

~~130.~~131. Floodplain is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of inundation being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Shoreline Management Act.

~~131.~~132. Floodplain management means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.

~~132.~~133. Floodway means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps. The floodway does not include those lands that can reasonably be epected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

~~133.~~134. Forest land means all land that is capable of supporting a merchantable stand of timber and is not being actively used, developed, or converted in a manner that is incompatible with timber production.

~~134.~~135. Forest management means forest practices pertaining to protecting, producing, and harvesting timber for economic use.

~~135.~~136. Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate;

precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

~~136.~~137. Forest practice, conversion means the conversion of land to an active use incompatible with timber growing and where future nonforest uses will be located on currently forested land.

~~137.~~138. Frequently flooded areas means lands subject to a one percent or greater chance of flooding in any given year.

G

~~138.~~139. Gabions means works composed of masses of rock, rubble, or masonry tightly enclosed usually by wire mesh so as to form massive blocks. They are used to form walls on beaches to retard wave erosion or as foundations for breakwaters or jetties.

~~139.~~140. Geologically hazardous areas means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

~~140.~~141. Geotechnical report or Geotechnical analysis means a scientific study or evaluation that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local geology.

~~141.~~142. Grade, existing means the elevation of the ground or site prior to any work being done or any changes being made to the ground or site.

~~142.~~143. Grade, finished means the final elevation of the ground level after development.

~~143.~~144. Gradient means a degree of inclination, or a rate of ascent or descent, of an inclined part of the earth's surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio (vertical to horizontal), a fraction (such as meters/ kilometers or feet/miles), a percentage (of horizontal distance), or an angle (in degrees).

~~144.~~145. Grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including, stripping, cutting, filling, or stockpiling earth to create new grade.

~~145.~~146. Grandfathered uses or developments means legally established uses, buildings, structures and/or lots of record that do not meet the specific standards of this Program but which existed on the effective date of initial adoption of the Program (August 5, 1976), or any subsequent amendment thereto, or was authorized under a permit, variance or conditional use approval, or is otherwise vested to the Program.

~~146.~~147. Groin means a wall-like structure extending on an angle waterward from the shore into the intertidal zone. Its purpose is to build or preserve an accretion shoreform or berm on its

updrift side by trapping littoral drift. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes built in series as a system, and may be permeable or impermeable, high or low, and fixed or adjustable.

~~147.~~148. Ground water means all water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

~~148.~~149. Growth Management Act (GMA) means the State of Washington Growth Management Act, Chapter 36.70A RCW, as amended.

~~149.~~150. Guidelines means those regulations adopted under Chapter 173-26 WAC, as amended, or any successor regulations thereof, that serve as standards for implementation of the policy of Chapter 90.58 RCW for regulations of uses of the shorelines, and that provide criteria to local governments and the Department of Ecology in developing shoreline master programs (including this Program).

H

~~150.~~151. Habitat means the place or type of site where a plant or animal naturally or normally lives and grows.

~~151.~~152. Hanging aquaculture. See Floating aquaculture.

~~152.~~153. Harbor area means the area of navigable tidal waters as determined in Section 1 of Article 15 of the Washington State Constitution, which is forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. Harbor areas exist between the inner and outer harbor lines as established by the state harbor line commission. Harbor areas are managed by the Department of Natural Resources for the conveniences of navigation and commerce.

~~153.~~154. Hazard tree means any tree with a high probability of falling due to a debilitating disease, a structural defect, a root ball more than fifty percent exposed, or having been exposed to wind throw within the past ten years. To be considered hazardous, there must be a residence or residential accessory structure within a tree length of the base of the trunk. Hazard trees also means any tree with a high probability of falling that will cause a landslide. Where not immediately apparent to the Administrator, the hazard tree determination shall be made after review of a report prepared by an arborist or forester.

~~154.~~155. Hazardous area means any shoreline area which is hazardous for intensive human use or structural development due to inherent and/or predictable physical conditions; such as but not limited to geologically hazardous areas, frequently flooded areas, and channel migration zones.

~~155.~~156. Hazardous materials means any substance containing such elements or compounds which when discharged in any quantity in shorelines present an imminent and/or substantial danger to public health or welfare; including, but not limited to: fish, shellfish, wildlife, water quality, and other shoreline features and property.

~~156.~~157. Hazardous waste means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States Environmental Protection Agency.

~~157.~~158. Hearings Board means the State Shorelines Hearings Board referenced in RCW 90.58.170.

~~158.~~159. Height is measured from average grade level to the highest point of a structure: Provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation. ~~, building means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).~~

~~159.~~160. Historic means having considerable importance or influence in history; historical.

~~160.~~161. Historic preservation professionals means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

a. At least two (2) years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

~~161.~~162. Historic site, structure or landmark means a site, structure or building of outstanding archaeological, historical or cultural significance. This is shown by its designation as such by the National or Washington State Register of Historic Places, designation as an historic landmark, or any such structure or feature for which the State Historic Preservation Officer has made a determination of significance pursuant to Section 106 of the National Historic Preservation Act.

~~162.~~163. Hydraulic Project Approval (HPA) means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 77.55 RCW.

~~163.~~164. Hydroelectric generating facility means an in-stream facility or device requiring the diversion, impoundment or use of water in order to produce, generate and transmit electrical power.

I

~~164.~~165. Illegal use means any use of land or a structure which is inconsistent with current codes and/or was inconsistent with previous codes in effect when the use or structure was established. An illegal use is different than a nonconforming use. (See also Nonconforming.)

~~165.~~166. Impervious surface means a hard surface area that either prevents or retards the entry of water into the soil mantle. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and other surfaces. Open, uncovered retention/detention facilities shall not be considered impervious surfaces for purposes of this

Program. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

167. Important, Sensitive and Unique Areas (ISUs) are specific areas in state waters that meet one or more of the following criteria:

a. Areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures [RCW 43.372.040(6)(c)].

b. Areas with known sensitivity and where the most current, accurate, complete, available and applicable science indicates the potential for offshore development to cause irreparable harm to the habitats, species, or cultural resources.

c. Areas with features that have limited, fixed and known occurrences.

d. Areas with inherent risk or infrastructure (e.g. buoys or cables) that are incompatible with new ocean uses.

~~166.~~168. Incidental means subordinate to, minor in significance, and bearing a reasonable relationship with the primary use.

~~167.~~169. Incompatible means uses and activities that are not compatible.

~~168.~~170. Industry means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.

~~169.~~171. Industrial development means facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

~~170.~~172. Infiltration means the downward entry of water into the immediate surface of soil.

~~171.~~173. Infrastructure means facilities and services including capital facilities such as water supply, sewage disposal, and storm drainage systems, and transportation facilities such as public roads.

~~172.~~174. Instream structure means a human-made structure placed within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment, or the diversion, obstruction, or modification of water flow. Instream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service, transmission, fisheries enhancement, or other purposes.

~~173.~~175. Intensive means highly concentrated, very large, or considerable, in terms of Clallam County standards and environment.

~~174.~~176. International Building Code means the building code officially adopted by Clallam County.

~~175.~~177. Intertidal means the marine area waterward of the ordinary high water mark and landward of the line of extreme low tide.

~~176.~~178. Invasive species means a species that is 1) non-native (or alien) to Clallam County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

J

~~177.~~179. Jetty means a structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are of rip-rapped mound construction.

L

~~178.~~180. Lake means a body of standing water in a depression of land or expanded part of a stream, of twenty acres or greater in total area. A lake is bounded by the ordinary high water mark, or where a stream enters the lake, the extension of the lake's ordinary high water mark within the stream. A lake is generally distinguished from marshes, bogs, and swamps by its greater depth.

~~179.~~181. Land disturbing activity means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, compaction, and excavation.

~~180.~~182. Landslide means a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence, of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

~~181.~~183. Landslide Hazard Areas means lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards:

a. Areas of historic failures, such as:

   i. Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;

   ii. Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Washington coastal atlas; or

   iii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources.

b. Areas with all three of the following characteristics:

   i. Slopes steeper than fifteen percent;

   ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

   iii. Springs or groundwater seepage.

c. Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch.

d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

e. Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking.

f. Feeder bluffs, feeder bluff exceptional, and feeder bluff talus described and mapped in the Clallam County Shoreline Inventory and Characterization Report or in the Washington Department of Ecology Washington Coastal Atlas.

g. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones. Channel migration zones are areas within which the stream channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies.

h. Areas that show evidence of, or are at risk from snow avalanches.

i. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

j. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of exposed bedrock outcrop at the surface. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

~~182.~~184. Landward means to or toward the land.

~~183.~~185. Levee means a natural or artificial embankment on the bank of a river or stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

~~184.~~186. Liberal construction means an interpretation that tends to effectuate the spirit and purpose of the writing. For purposes of this Program, liberal construction means that the Planning Director shall interpret the regulatory language of this Program in relation to the broad policy statement of RCW 90.58.020, and make determinations which are in keeping with those policies as enacted by the Washington State Legislature.

~~185.~~187. Live-aboard means a seaworthy vessel that was designed primarily for navigation but is used as a residence. A boat or other floating structure is a residence if it is occupied 30 out of 45 days or 90 out of 365 days while moored or anchored in the same area, or if the local government, the marina, or the occupant of the boat defines it as a residence. The phrase 'in the same area' means within a radius of one mile of any location where the same vessel previously moored or anchored. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered a recreational or transient vessel (WAC 332-30-106).

~~186.~~188. Logging means activities related to and conducted for purposes of harvesting or processing timber.

~~187.~~189. Long-term commercial significance means lands with the growing capacity, productivity, soil composition, and economic viability for long-term agricultural, mineral or silvicultural production.

~~188.~~190. Lot means a designated tract, parcel or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, and utilized. The area below the ordinary high water mark shall not be considered a part of the lot area.

~~189.~~191. Lot of record means a lot, tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of real property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot. The term lot of record does not imply that the lot was created in conformity with the legal regulatory requirements for subdivision of property in accordance with Chapter 58.17 RCW or CCC Title 29.

~~190.~~192. Low intensity land use means a land use that has limited impact upon the land, resources and adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse impacts.

~~191.~~193. Low impact development (LID) means site design techniques aimed at reducing or eliminating the adverse impacts of development on the environment. LID seeks to preserve or mimic natural hydrologic processes to avoid increases in runoff volumes and peak flow rates, prevent or reduce pollutant loadings in runoff, and recharge ground water. LID practices include protecting native vegetation; reducing impervious surfaces; and using permeable pavements, green roofs, bioretention areas (rain gardens), topsoil amendment, and cisterns to collectively preserve or restore the processes of evaporation, transpiration, and infiltration. LID stormwater practices can be selected for flow control and/or water quality treatment depending on site-specific conditions.

M

~~192.~~194. Maintenance and repair means work required to keep existing improvements in their existing operational state. This does not include any modification that changes the character, scope, or size of the original structure, facility, utility or improved area.

~~193.~~195. Marina means a wet moorage and/or dry storage facility for multiple pleasure crafts and/or commercial crafts where goods or services related to boating may be sold

commercially. Launching facilities and covered moorage may also be included. Marinas may be open to the general public or restricted on the basis of property ownership or membership.

~~194.~~196. Marine bluff means a steep, nearly vertical slope bordering the Strait of Juan de Fuca marine shore that is at least 20 feet high.

197. Marine Spatial Plan for Washington's Pacific Coast (MSP) is a planning document designed to address new ocean use development off Washington's Pacific coast that had not been previously permitted or approved prior to the adoption of the plan in June 2018. The MSP uses a series of data, maps, and analyses in combination with management framework to evaluate potential impacts from new ocean use projects on existing resources, based on the principles and criteria outlined in the Ocean Resources Management Act (ORMA) [RCW 43.143.030(2)] and the Ocean Management Guidelines [WAC 173-26-360]. It applies a coordinated decision-making process between various governments, tribes, and stakeholders, and includes additional siting recommendations and fisheries protection standards. These princiles have been incorporated into this SMP. See Ecology Publication No. 17-06-027, Revised June 2018 (https://fortress.wa.gov/ecy/publications/documents/1706027.pdf; and https://msp.wa.gov/).

~~195.~~198. Mass wasting means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

~~196.~~199. May means the action is allowable, provided it conforms to the provisions of this Program.

~~197.~~200. Mean annual flow means the average flow of a river or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous ten (10) years should be used in determining mean annual flow.

~~198.~~201. Mineral extraction means the removal of naturally occurring materials from the earth for economic use. Extraction materials include nonmetallic minerals such as sand, gravel, clay, coal, and various types of stone. This shall not include the following:

a. Excavation and grading at building construction sites where such construction is authorized by a valid building permit; or

b. Excavation and grading in public rights-of-way for the purpose of on-site road construction, or in private rights-of-way for the same purpose if authorized by the County; or

c. Excavation and grading for the purpose of developing ponds or manure lagoons for agricultural purposes; or

d. Excavation and grading in connection with and at the site of any creek, river, or flood-control or storm drainage channel for the purpose of enlarging hydraulic capacity or changing the location or constructing a new channel or storm drain where such work has been approved by the County; or

e. Excavation and grading where the excavated material will be used on the same property or on property contiguous to and under the same ownership as the excavation.

~~199.~~202. Mineral processing means activities accessory to mineral extraction that include material washing, sorting, crushing or more intensive modification or alteration to a mineral resource through mechanical or chemical means after it has been removed from the earth. This does not include asphalt or concrete batch plants.

~~200.~~203. Mining means mineral extraction and mineral processing.

~~201.~~204. Mitigate/Mitigation means measures to avoid, minimize, lessen, or compensate for adverse impacts of development projects. Mitigation includes the following actions in order of preference (mitigation sequence):

a. Avoiding an impact altogether by not taking a project or parts of a project;

b. Minimizing impacts by limiting the extent or magnitude of a project;

c. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the project;

e. Compensating for an impact by replacing or providing substitute resources or habitats; and

f. Monitoring the mitigation and taking remedial action when necessary.

~~202.~~205. Mitigation plan means a detailed plan indicating actions necessary to mitigate adverse impacts to shorelines and/or critical areas.

~~203.~~206. Mixed use means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

~~204.~~207. Monitoring means evaluating the effects of a development action on the biological, hydrological, pedological, and geological elements of systems and/or assessing the performance of required mitigation measures through data collection, analysis and reporting.

~~205.~~208. Moorage or Moorage Facility means piers, docks, floats and buoys and their associated pilings, ramps, lifts, and other structures to which a vessel may be secured.

~~206.~~209. Mooring buoy means an anchored floating device in a water body used for the landing or storage of a vessel or water craft.

~~207.~~210. Must means a mandate; the action is required.

~~208.~~211. Multi-family residence means for the purposes of this Program a building containing 2 or more dwelling units.

N

~~209.~~212. National Register of Historic Places means the official federal list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history and prehistory, or whose artistic or architectural value is unique.

~~210.~~213. Native vegetation means plant species that are indigenous to Clallam County.

~~211.~~214. Navigable waters of the United States means a water body that in its ordinary condition, or by being united with other water bodies, forms a continued route over which commerce is or may be carried on with other states or foreign countries in the customary modes in which such commerce is conducted by water.

~~212.~~215. Net pens are finfish culturing systems that generally consist of one or more nets that are typically anchored to the waterbody floor and suspended from the surface with a floatation structure. Net pens that are connected at the surface, tied into the same anchoring network, or located in close proximity to each other and operated together shall be considered a single aquaculture facility. Net pen structures solely and directly established and managed for purposes of Pacific salmon enhancement and/or restoration are not considered net pens for purposes of this Program.

216. New Ocean Uses are uses and developments that have not occurred or were not permitted within Washington's Coastal waters prior to the completion of the Marine Spatial Plan for Washington's Pacific Coast, as revised June 2018. New uses, as defined by the MSP, are in-water uses, with potential adverse impacts to renewable resources or existing uses that have not been previously reviewed or authorized/permitted within the MSP study area. The MSP anticipates new ocean use proposals for activities such as renewable energy, dredged material disposal, mining, marine product harvesting, and offshore aquaculture operations. Se also "Ocean Uses".

~~213.~~217. No net loss means the maintenance of the aggregate total of the County shoreline ecological functions over time. The no net loss standard requires that the impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated on a project-by-project basis, so that as development occurs there is not an aggregate loss of shoreline functions. No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated.

~~214.~~218. Noise means any sound not occurring in the natural environment which causes or tends to cause an adverse psychological or physiological effect on humans. This includes sounds arising from the amplification of noises generated by expected or permitted uses of a lot or structure.

~~215.~~219. Nonconforming use means a legal use or development which conformed to the applicable codes in effect on the date of its creation but which no longer complies because of changes in code requirements. Nonconforming is different than and not to be confused with illegality (see Illegal use).

~~216.~~220. Nonconforming lot means a legal lot of record in existence prior to the effective date of this Program and any amendments thereto, on which it is not possible to construct a structure outside of/landward of the shoreline buffer or which does not otherwise meet the minimum lot size requirements as set forth in this Program.

~~217.~~221. Nonconsumptive use means a use which does not permanently deplete, degrade, or destroy the resource involved.

O

222. Ocean Disposal Uses involve the deliberate deposition or release of material at sea, such as solid wastes, industrial waste, radioactive waste, incineration, incinerator residue, dredged materials, vessels, aircraft, ordinance, platforms, or other man-made structures.

223. Ocean Energy Production Uses involve the production of energy in a usable form directly in or on the ocean rather than extracting a raw material that is transported elsewhere to produce energy in a readily usable form. Examples of these ocean uses are facilities that use wind, wave action, or differences in water temperature to generate electricity.

224. Ocean Mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.

225. Ocean Oil and Gas Uses and Activities involve the extraction of oil and gas resources from beneath the ocean.

226. Ocean Salvage Uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage which combines aspects of recreation, exploration, research, and mining is an example of such a use.

227. Ocean Transportation includes such uses as: shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports.

228. Ocean Uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and includes their associated off shore, near shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity. See also "New Ocean Uses".

~~218.~~229. Off-premise sign means a sign situated on premises other than those premises to which the sign's message is related.

~~219.~~230. Off-shore wind energy systems means devices in waterbodies that convert kinetic energy from the wind into mechanical energy, usually for purposes of generating electricity.

~~220.~~231. Offshore means the sloping subtidal area seaward from the low intertidal.

~~221.~~232. Off-site mitigation means to replace shoreline resources at a location away from the site that is impacted by development.

~~222.~~233. On-premise sign means a sign situated on the premises to which the sign's message is related.

~~223.~~234. On-site sewage systems means any one of several means for disposal of sanitary waste on the property from which it is generated (e.g., septic tank and drainfield).

~~224.~~235. Open record hearing means a hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information under procedures prescribed by ordinance or resolution. An open record hearing may be held prior to the decision on a project permit and is to be known as an open record predecision hearing. An open record hearing may be held on an appeal, and is to be known as an open record appeal hearing, if no open record predecision hearing has been held on the project permit.

~~225.~~236. Open space means lands committed to farming and forestry uses and any parcel, lot, or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

~~226.~~237. Ordinary high water mark or OHWM means on all lakes, streams, and tidal water that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by Clallam County or the Department of Ecology. On a site-specific basis, Department of Ecology has the final authority on determining where the ordinary high water mark is located. The following criteria clarify this mark on tidal waters, lakes, and streams:

a. Tidal waters:

   i. In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide; and

   ii. In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand.

b. Lakes: Where the ordinary high water mark cannot be found, it shall be the line of mean high water.

c. Streams: Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs. WAC 173-22-030.

~~227.~~238. Owner means an individual, firm, business entity, trust, association, syndicate, partnership, or corporation having sufficient property interest to seek development of land.

P

~~228.~~239. Park means a tract of land designated and used by the public for recreation.

~~229.~~240. Parking facilities means off-street, ground-level open areas or structures used for the temporary storage of motor vehicles. Parking facilities do not include driveways for single-family residences.

~~230.~~241. Parties of record means all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit who have provided an address for delivery of such notice by mail. ~~the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).~~

~~231.~~242. Penstocks means a sluice or gate or intake structure that controls water flow, or an enclosed pipe that delivers water to hydraulic turbines.

~~232.~~243. Performance standard means a set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

~~233.~~244. Permitted use or development means a use that is allowed when consistent with the Program. Permitted uses/development shall require a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance, or a statement from the County Community Development Department that the use/development is exempt from a shoreline substantial development permit. Permitted uses are the same as allowed uses/developments and the opposite of prohibited uses/developments.

~~234.~~245. Permittee means the entity to whom a permit is granted.

~~235.~~246. Person means any individual, owner, contractor, tenant, partnership, corporation, business entity, association, organization, cooperative, public or municipal corporation, agency of a state or local governmental unit however designated, public or private institution, or an employee or agent of any of the foregoing entities.

~~236.~~247. Pervious means a surface that absorbs water.

~~237.~~248. Pier means a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above water storage.

~~238.~~249. Plat means a map or representation of a subdivision or short subdivision of land showing the division of a parcel of land into lots, roads, dedications, common areas, restrictions and easements, as regulated by Chapter 58.17 RCW and this Program.

~~239.~~250. Pollutant or Pollution means contamination or other alteration of the physical, chemical or biological properties of waters of the state that does not comply with state water quality standards under RCW 90.48.

~~240.~~251. Powerhouse means a plant where electric energy is produced by conversion from other forms of energy by means of suitable apparatus. This includes all generating station auxiliaries and other associated equipment required for the operation of the plant.

~~241.~~252. Ports are legal entities established for purposes of acquiring, constructing, maintaining, operating, developing and regulating harbor improvements, rail or motor vehicle transfer and

terminal facilities, water transfer and terminal facilities, air transfer and terminal facilities, or any combination of such transfer and terminal facilities, and other commercial transportation, transfer, handling, storage and terminal facilities, and industrial improvements.

~~242.~~253. Predecision hearing, open record means a hearing, conducted by the hearing examiner, that creates the County's record through testimony and submittal of evidence and information, under procedures prescribed by the County by ordinance or resolution. An open record predecision hearing may be held prior to the County's decision on a project permit (RCW 36.70B.020).

~~243.~~254. Preservation means actions taken to ensure the permanent protection of existing, ecologically important areas that the County has deemed worthy of long-term protection.

~~244.~~255. Primary association means the use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.

~~245.~~256. Primary use means the principal use of a property. For example, on a lot of record developed with only a single-family residence and accessory uses the primary use would be residential.

~~246.~~257. Primary structure means the structure(s) that comprise the primary use of the property.

~~247.~~258. Priority habitat means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important fish and wildlife breeding habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020).

~~248.~~259. Priority species means wildlife species of concern due to their population status and their sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.

~~249.~~260. Prohibited use means any use or activity which is specifically not allowed by this Program. A prohibited use cannot be authorized through a variance or conditional use permit.

~~250.~~261. Project means any proposed or existing activity regulated by Clallam County.

~~251.~~262. Proof of ownership means a photocopy of a recorded deed to property and/or a current title insurance policy insuring the status of an applicant as the owner in fee title to real property.

~~252.~~263. Proponent means the owner, sponsor, authorized agent and/or permit applicant of any proposed use or development on or affecting shorelines of the state.

~~253.~~264. Provision means any written language contained in this Program, including without limitation any definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

~~254.~~265. Public access means physical shoreline access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual shoreline access facilitated by scenic roads and overlooks, viewing towers and other facilities. Public access can be established by easement or other means and may not always include a facility or structure. Public access is one goal of the Shoreline Management Act that supports the public's right to get to view and use the State's public waters, both saltwater and freshwater, the water/land interface and associated shoreline area.

~~255.~~266. Public facilities (and services) means facilities which serve the general public including streets, roads, ferries, sidewalks, street and road lighting systems, traffic signals, community water systems, community sewage treatment systems, storm sewer systems, parks and recreational facilities, and libraries (see RCW 36.70A.030). Some public facilities are essential public facilities.

~~256.~~267. Public interest means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from adverse impacts of a use or development.

~~257.~~268. Public transportation systems means public facilities for air, water, or land transportation.

~~258.~~269. Public use means the use of any land, water, or building by a public agency for the general public, or by the public itself.

~~259.~~270. Public utility means a use owned or operated by a public or publicly licensed or franchised agency that provides essential public services such as telephone exchanges, electric substations, radio and television stations, wireless communications services, gas and water regulation stations and other facilities of this nature.

Q

~~260.~~271. Qualified professional or qualified consultant means a person with experience and training and expertise appropriate for the relevant subject. A qualified professional/consultant must have obtained a B.S. or B.A. degree, a professional license/certification and/ or have appropriate education and experience in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field.

~~261.~~272. Qualified geotechnical engineer means a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.

R

~~262.~~273. RCW means the Revised Code of Washington.

~~263.~~274. Reach means a segment of shoreline and associated planning area that is mapped and described as a unit due to relatively homogenous characteristics that include land use and/or natural features, such as a drift cell location and other factors.

~~264.~~275. Recharge means the hydrologic process involved in the absorption and addition of water downward from surface waters and subsurface areas above the ground water table into ground water.

~~265.~~276. Recording means the filing of a document(s) for recordation with the County auditor.

~~266.~~277. Recreational development means development that includes commercial and public facilities designed and used to provide recreational opportunities to the public. ~~, but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.~~

~~267.~~278. Recreational use means an experience or activity that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements. ~~in which an individual engages for personal enjoyment and satisfaction.~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

~~268.~~279. Reestablishment means measures taken to intentionally restore an altered or damaged natural feature or process including:

a. Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their buffers to the functioning condition that existed prior to an unauthorized alteration;

b. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or other events; and

c. Restoration can include restoration of wetland functions and values on a site where wetlands previously existed, but are no longer present due to lack of water or hydric soils.

~~269.~~280. Rehabilitation means a type of restoration action intended to repair natural or historic functions and processes. Activities could involve breaching a dike to reconnect wetlands to a floodplain or other activities that restore the natural water regime.

~~270.~~281. Residential development means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also ~~Dwelling unit and~~ Accessory dwelling unit). Residential development also includes multifamily development and the creation of new residential lots through land division.

~~271.~~282. Resource lands means agricultural, forest, and mineral lands that have long-term commercial significance as identified in Chapter 33.07 CCC (Clallam County Zoning).

~~272.~~283. Restoration means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of fill, removal of intrusive shoreline structures and removal or

treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

~~273.~~284. Restriction means a limitation placed upon the use of parcel(s) of land.

~~274.~~285. Revetment means a sloped wall constructed of rip-rap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement.

~~275.~~286. Rip-rap means dense, hard, angular rock free from cracks or other defects conducive to weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.

~~276.~~287. Riparian corridor or Riparian zone means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian zones include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration. Buffers are specified by this Program to provide protection for riparian zones.

~~277.~~288. River means a large natural stream of water emptying into any ocean, lake, or other body of water, and usually fed along its course by converging tributaries.

~~278.~~289. Road means an improved and maintained public or private right-of-way which provides vehicular access to abutting properties, and which may also include provision for public utilities, pedestrian access, cut and fill slopes, and drainage.

~~279.~~290. Runoff means that portion of rainfall and other precipitation that becomes surface flow and interflow and that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

~~280.~~291. Rural lands means the class of land use designations which are intended to preserve the rural character of the County. Rural land designations in the Comprehensive Plan and Title 33 CCC (Clallam County Zoning) include the following: rural residential, rural commercial and rural industrial.

~~281.~~292. Rural residential designation means the land use designation in the Comprehensive Plan designed to recognize existing residential development patterns of the rural landscape and provide for a variety of residential living opportunities at densities which maintain the primarily rural residential character of an area.

S

~~282.~~293. Sale means the conveyance for consideration of legal or beneficial ownership.

~~283.~~294. Salt water intrusion means the underground flow of salt water into wells and aquifers.

~~284.~~295. Scientific and educational facilities means those sites, structures, or facilities that provide unique insight into our natural and cultural heritage.

~~285.~~296. Screening means a method of visually shielding or obscuring a structure or use from view by fencing, walls, trees, or densely planted vegetation.

~~286.~~297. Seaward means to or toward the sea.

~~287.~~298. Seawall means a structure whose primary purpose is to protect the shore from erosion by water waves. Seawalls are similar but typically more massive than bulkheads because they are designed to resist the full force of waves.

~~288.~~299. Sedimentation means the process by which material is transported and deposited by water or wind.

~~289.~~300. Sediment input means the delivery of sediment from bluff, stream, and marine sources into the nearshore. Depending on landscape setting, inputs can vary in scale from acute, low-frequency episodes (hillslope mass wasting from bluffs) to chronic, high-frequency events (some streams and rivers). Sediment input interacts with sediment transport to control beach structure.

~~290.~~301. Sediment transport means bedload and suspended transport of sediments and other matter by water and wind along (longshore) and across (cross-shore) the shoreline. The continuity of sediment transport strongly influences the longshore structure of beaches.

~~291.~~302. Segment means a section of shoreline and associated planning area that is mapped and described as a unit due to relatively homogenous characteristics that include land use and/or natural features, such as a drift cell location and other factors. Segment is synonymous with reach.

~~292.~~303. Seismic Hazard Areas means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, surface faulting, or tsunamis. Lands meeting the following classifications shall be designated as seismic hazard areas:

a. Landslide hazard areas and materials.

b. Artificial fills especially on soils listed in subsection (c) of this definition and areas with perched water tables.

c. Soil types described within the Clallam County soil survey as beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.

d. Other areas as determined by the Clallam County Building Official pursuant to the Building and Construction Code, Chapter 21.01 CCC.

~~293.~~304. Setback means the distance a building structure is placed behind a specified limit such as a lot line or shoreline buffer.

~~294.~~305. Shall means a mandate; the action must be done.

~~295.~~306. Shellfish means invertebrate organisms of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

~~296.~~307. Shellfish habitat conservation areas are all public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington

Department of Ecology as designated as Shellfish Habitat Conservation Areas pursuant to Chapter 365-190-80 WAC. Any area that is or has been designated as a Shellfish Protection District created under RCW 90.72 is also a Shellfish Habitat Conservation Area.

~~297.~~308. Shoreline armoring or structural shoreline armoring refers to the placement of bulkheads and other hard structures on the shoreline to provide stabilization and reduce or prevent erosion caused by wave action, currents and/or the natural transport of sediments along the shoreline. Groins, jetties, breakwaters, revetments, sea walls are examples of other types of shoreline armoring.

~~298.~~309. Shorelands or Shoreland areas means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter 173-22 WAC, as may be amended; the same to be designated as to location by the Department of Ecology, as defined by RCW 90.58. For the purposes of this Program, shorelands also includes the full-extent of the mapped 100-year floodplain pursuant to RCW 90.58.030 (2)(d)(i), and also extends to all lands necessary for buffers to protect critical areas that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).

~~299.~~310. Shorelines means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:

a. Shorelines of statewide significance;

b. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second (20 cfs) or less and the wetlands associated with such upstream segments; and

c. Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

~~300.~~311. Shoreline conditional use permit means a permit issued by Clallam County and approved by Ecology stating that the land uses and activities meet all criteria set forth in this Program, and all conditions of approval in accordance with the procedural requirements of this Program.

~~301.~~312. Shoreline jurisdiction means the jurisdiction of this Program as described in Section 1.8 of this Program.

~~302.~~313. Shoreline Management Act means the Shoreline Management Act of 1971 (Chapter 90.58 RCW), as amended.

~~303.~~314. Shoreline Master Program (SMP or Program) means the Clallam County Shoreline Master Program Chapter Title 35 of the Clallam County Code.

~~304.~~315. Shoreline modification activities means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a bulkhead, dock or other shoreline structure. They can include other actions, such as clearing, grading, or filling.

~~305.~~316. Shoreline permit means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by Clallam County pursuant to RCW 90.58.

~~306.~~317. Shoreline stabilization means hard and soft structural and non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches and/or influence wave action, currents and/or the natural transport of sediments along the shoreline. This includes use of bulkheads and concrete walls as well as bioengineering and other forms of vegetative stabilization. See also Bioengineering definition.

~~307.~~318. Shorelines of statewide significance with respect to Clallam County are identified as follows:

a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands.

~~b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.~~

~~c.~~b. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets.

~~d.~~c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.

~~e.~~d. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more.

~~f.~~e. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.

~~308.~~319. Shorelines of the state means the total of all shorelines and shorelines of statewide significance within Washington State.

~~309.~~320. Short plat means a neat and accurate drawing of a short subdivision, prepared for filing for record with the County auditor, and containing all elements and requirements set forth in CCC Titles 29 (Subdivisions) and 33 (Zoning).

~~310.~~321. Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this Program, against taking the action.

~~311.~~322. Sign means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. Excluded from this definition are signs required by law, such as handicapped parking signs, and the flags of national and state governments. This definition includes commercial signs.

~~312.~~323. Significant vegetation removal means the removal or alteration of multiple trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical, or other means, where the amount, extent or nature of the removal activity causes an adverse impact on shade, slope

stability, habitat, water quality or other ecological functions provided by vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

~~313.~~324. Single-family residence means a detached dwelling ~~unit~~ designed for and occupied by no more than one family, ~~including accessory uses (see definition). Accessory uses include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.~~ Including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

~~314.~~325. Slope means:

a. Gradient.

b. The inclined surface of any part of the earth's surface, delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

~~315.~~326. Small-scale means of a size or intensity which does not substantially degrade the surrounding area and which makes minimal demands on the existing infrastructure.

~~316.~~327. Soil means all unconsolidated materials above bedrock described in the Soil Conservation Service Classification System or by the Unified Soils Classification System.

~~317.~~328. Solid waste means all putrescible and non-putrescible solid and semi-solid wastes, except wastes identified in WAC 173-304-015, including, but not limited to, junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations shall be considered solid waste.

~~318.~~329. Solid waste handling and disposal facilities means any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as an accessory to the handling and disposal of garbage and refuse.

~~319.~~330. Special Flood Hazard means the land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on National Flood Insurance Program (NFIP) rate maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

~~320.~~331. Spit means an accretion shoreform that is narrow in relation to length and extends parallel to or curves outward from shore; spits are also characterized by a substantial wave-built sand and gravel berm on the windward side, and a more gently sloping silt or marsh shore on the lagoon or leeward side; curved spits are called hooks.

~~321.~~332. Statement of exemption means a written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is consistent with this Program (see also definition of substantial development).

~~322.~~333. Stormwater means rain or snow melt that does not naturally infiltrate into the ground but runs off surfaces such as rooftops, streets, or lawns, directly or indirectly, into streams and other water bodies or through constructed infiltration facilities into the ground.

~~323.~~334. Stream means an area where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. This definition includes drainage ditches or other artificial water courses where natural streams existed prior to human alteration, and/or the waterway is used by anadromous or resident salmonid or other fish populations.

~~324.~~335. Strict construction means an interpretation that considers only the literal words of a writing.

~~325.~~336. Structure means a permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030). Retaining walls, bulkheads, fences, landscaping walls/decorative rockeries, mussel racks, and similar improvements to real property are examples of structures. Geoduck harvest tubes are not considered structures for purposes of this Program.

~~326.~~337. Subdivision means the division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership.

~~327.~~338. Substantial development means any development of which the total cost or fair market value exceeds the inflation-adjusted value threshold set by the Washington State Office of Financial Management at the time of permit application, or any development which materially interferes with the normal public use of water or shorelines of the State; except the classes of development specifically listed under RCW 90.58.030(3)(e) and WAC 173-27-040.

~~328.~~339. Substantially degrade means to cause noticeable damage or harm to an area's ecological condition or function. An action is considered to substantially degrade the environment under any of the following criteria:

a. The change in condition or function is considerable in size or area relative to the pre-existing condition/function; or

b. The change in condition or function will have long-term implications on the viability of the affected habitat or species that depend on the affected habitat; or

c. The change in condition will create a human health or safety hazard or cause a threat to people or property in the foreseeable future; or

d. The change in condition or function has indirect effects on the environment that extend beyond the immediate footprint of the damaged/degraded area; or

e. The change in condition or function may contribute to damage or harm to ecological functions as part of cumulative impacts from similar permitted development on nearby shorelines.

~~329.~~340. Subtidal means the area waterward of the line of extreme low tide.

~~330.~~341. Sustainable means actions or activities which preserve and enhance resources for future generations.

T

~~331.~~342. Terrestrial Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 365~~395~~-190-130 that occur on land.

~~332.~~343. Threatened species means a species that is likely to become an endangered species within the foreseeable future, as classified by the Washington Department of Fish and Wildlife, the Department of Natural Resources, Washington Natural Heritage Program, or the federal Endangered Species Act.

~~333.~~344. Threshold determination means the decision by the responsible official of the lead agency under the State Environmental Policy Act (SEPA)whether or not an environmental impact statement (EIS) is required for a proposal that is not categorically exempt (WAC 197-11-310 and 197-11-330 (1)(b)).

~~334.~~345. Toe means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

~~335.~~346. Transportation uses and developments means roads, rails, trails, and other surfaces and facilities designed to accommodate movement of motorized and non-motorized vehicles and pedestrians.

~~336.~~347. Type "F" Water means streams and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal (formerly type 2 or 3).

~~337.~~348. Type "Np" Water means streams that have flow year round, but do not meet the physical criteria of a Type F stream. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13 (formerly type 4).

~~338.~~349. Type "Ns" Water means streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream (formerly type 5).

~~339.~~350. Type "S" Water means streams and waterbodies that are designated “shorelines of the state” as defined in chapter 90.58.030 RCW (formerly type 1).

U

~~340.~~351. Unavoidable means adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

~~341.~~352. Uplands means dry lands landward of ordinary high water mark.

~~342.~~353. Urban growth area means an area designated by the County within which urban growth is to be encouraged and outside of which growth is not intended to be urban in nature. (Chapter 36.70A RCW.)

~~343.~~354. Use means the purpose that a parcel of land, a building or a structure now serves or may serve in the future. This includes the purpose for which such parcel, building or structure is or may be occupied, maintained, arranged, designed, or intended.

~~344.~~355. Utility means a fixed improvement which produces, conveys, stores or processes power, gas, sewage, communications, oil, waste, water, stormwater, and communication signals.

~~345.~~356. Utility lines means pipes, wires, and associated structural supports.

~~346.~~357. Utility facilities means facilities directly used for the distribution or transmission of services to an area, excluding utility service offices.

V

~~347.~~358. Variance (or shoreline variance) permit means a type of permit that can provide relief from the specific bulk, dimensional, or performance standards of this Program, but not available as a means to vary from the uses allowed on a shoreline. A variance may only be granted when all of the criteria listed at WAC 173-27-170 are met. The variance is intended to allow only a minimum degree of variation from setback or other standards, just enough to afford relief and to allow a reasonable use of a property. Variances approved by Clallam County must also be approved, denied, or approved with conditions by Ecology.

~~348.~~359. Vessel means a floating structure that is designed primarily for navigation, is normally capable of self propulsion and used as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency as per WAC 332-30-103.

~~349.~~360. View protection means protection of the visual quality of the shoreline resource and maintenance of view corridors to and from waterways and their adjacent shoreland features.

W

~~350.~~361. WAC means the Washington Administrative Code.

~~351.~~362. Water-dependent use means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water-dependent uses. Residential development is not a water-dependent use but is a priority ~~preferred~~ use of shorelines of the state (RCW 90.58.020).

~~352.~~363. Water-enjoyment use means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. A restaurant or similar use may qualify as a water-enjoyment use provided it includes public access to the shoreline.

~~353.~~364. Water-oriented use means any one or a combination of water-dependent, water-related or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the Act.

~~354.~~365. Water quality means the physical, chemical and biological characteristics of water. Water quality is a measure of the condition of water relative to the requirements of humans and other biotic species. Water quality is typically assessed in terms of specific standards for drinking water, shellfish harvest, recreation, fish production, and other beneficial uses.

~~355.~~366. Water-related use means a use or portion of a use that is not intrinsically dependent on a waterfront location but depends upon a waterfront location for economic viability because of one of the following:

a. A functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Water-related uses include manufacturers of ship parts large enough that transportation becomes a significant factor in the product’s cost; professional services for primarily water-dependent activities and storage of water-transported foods. Other examples of water-related uses may include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage for water-borne transportation.

~~356.~~367. Watershed means a geographic region within which water drains into a particular river, stream or body of water.

~~357.~~368. Wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created for non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands intentionally created from non-wetland areas as mitigation (e.g., to mitigate the conversion of wetlands) and wetlands modified for approved land use activities shall be considered as wetlands for the purposes of this Program.

~~358.~~369. Weir means a structure in a stream or river for measuring or regulating stream flow and/or for directing fish movement for passage, fisheries, or scientific research purposes.

~~359.~~370. Wind energy system (WES) means a wind energy conversion system, consisting of: wind turbine, tower, base and associated control or conversion electronics, as well as all anchors, guy cables and hardware.

~~360.~~371. Wind throw means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

EXHIBIT A
Clallam County Shoreline and Shoreline Environmental Designation (SED) Maps

This Exhibit A contains maps of marine and freshwater water bodies and their associated Shoreline Environmental Designations (SED) subject to the Clallam County Shoreline Master Program (SMP).

SMP Shoreline Jurisdiction

The shoreline jurisdiction as specified in Section 1.8 of the SMP corresponds to the following areas:

1. Reaches of rivers and streams where the mean annual flow is more than 20 cubic feet per second;
2. Lakes 20 acres or larger;
3. Marine waters of the Strait of Juan de Fuca [extending waterward from the ordinary high water mark (OHWM) to the state boundary with British Columbia];
4. Marine waters of the Pacific Ocean [extending waterward of the OHWM to the state boundary (the 3 nautical-mile limit), excluding the area between the OHWM and extreme low water located in Olympic National Park]; and
5. Shorelands adjacent to the above water bodies that include:
    a. Uplands areas extending for 200 feet in all directions as measured on a horizontal plane from the OHWM;
    b. Floodways and contiguous floodplain areas landward two hundred feet from such floodways;
    c. All associated wetlands and river deltas;
    d. The full-extent of the mapped 100-year floodplain pursuant to RCW 90.58.030(2)(d)(i); and
    e. Critical areas and their associated buffers when overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).

The Clallam County SMP does not apply within the Olympic National Park or lands held in trust by the U.S. for Indian Tribes. The cities of Port Angeles, Sequim, and Forks adopt SMP's for land and waters in their jurisdictions.

Shoreline Environmental Designations (SED)

Each segment of the shoreline subject to the SMP has a shoreline environment designation (SED) that reflects its existing ecological condition, land use pattern, zoning, the types of health and safety hazards that are present (flooding, landslides, for example), geology, and other characteristics. The SED's provide a framework for tailoring County SMP shoreline policies and regulations to different shoreline segments based on their characteristics.

All lands and waters within the jurisdiction of the Clallam County SMP have one or more of the following shoreline environment designations (SED):

1. Aquatic
2. Natural
3. Resource Conservancy
4. Shoreline Residential – Conservancy
5. Shoreline Residential – Intensive
6. Marine Waterfront

Chapter 2 of the SMP explains the designations including the criteria for determining where each environment designation is applied and the overall management polices of each designation.

Shoreline Environmental Designation (SED) Maps

The SED Maps in this Exhibit A apply to each segment of marine and freshwater shorelines that are subject to the Clallam County SMP and are represented by the following four map formats (sized for 11" x 17" printing):

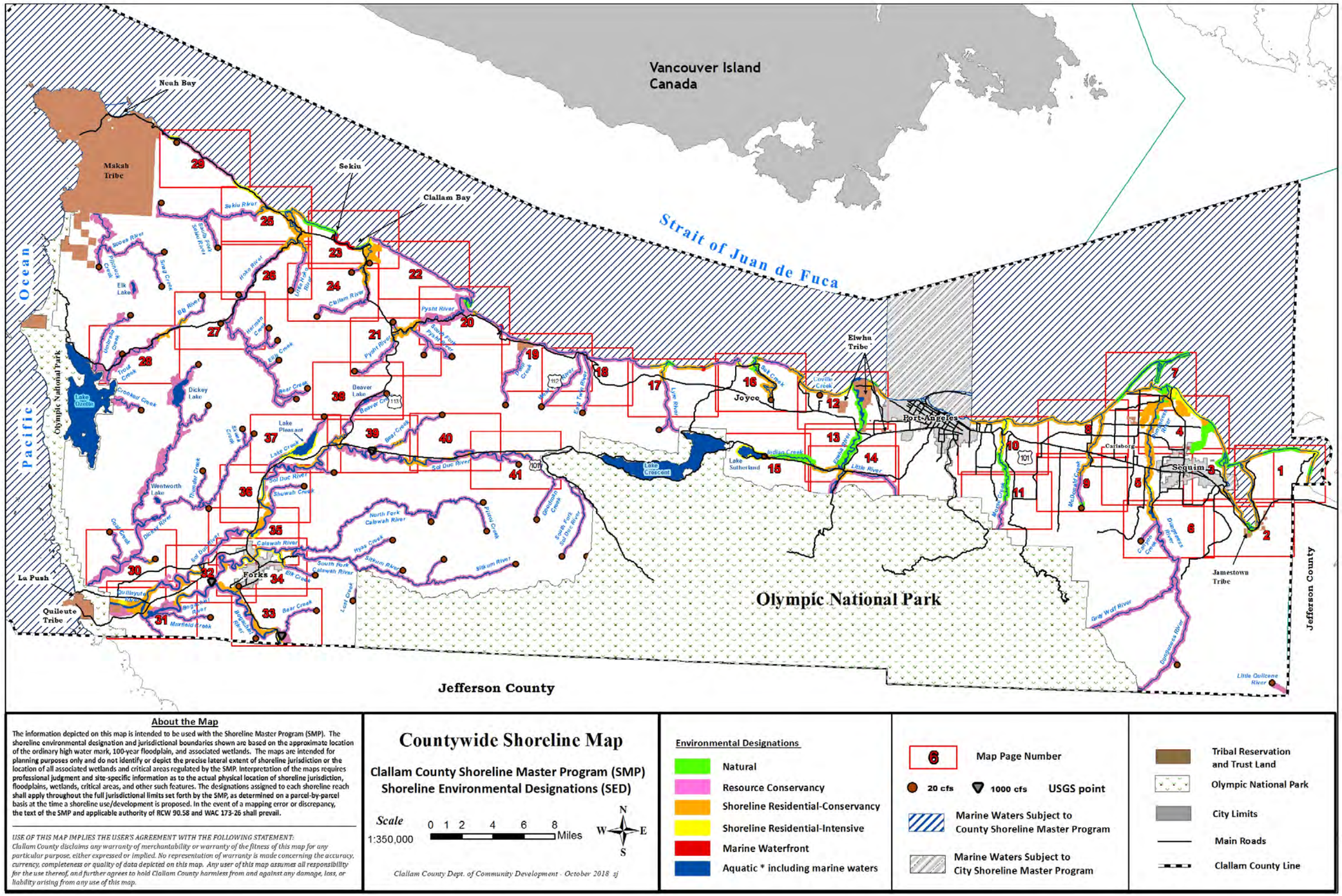
1. Countywide SED Index Map (Map Scale 1:350,000).

2. Western-Half Clallam County SED Index Map (Map Scale 1:225,000)

3. Eastern-Half Clallam County SED Index Map (Map Scale 1:225,000)

4. 41 higher resolution maps (Map Scale: 1:24,000) on a 2011 aerial photo base. Refer to the Countywide, Eastern-half and Western-Half Index Maps for the specific map of interest. ***Not all shoreline areas are mapped on the higher resolution maps. For the more remote reaches of rivers, streams, and lakes subject to the SMP that are predominantly characterized by undeveloped private and public forestlands refer to the Countywide, Eastern-Half Clallam County, and Western-Half Clallam County SED Index Maps.***

About the Maps: *The shoreline environmental designation (SED) and jurisdictional boundaries depicted on the maps shown in Exhibit A are based on the approximate location of the ordinary high water mark (OHWM), 100-year floodplain, and associated wetlands. The maps are intended for planning purposes only and do not identify or depict the precise lateral extent of shoreline jurisdiction or the location of all associated wetlands and critical areas regulated by the SMP. Interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of shoreline jurisdiction, floodplains, wetlands, critical areas, and other such features. The designations assigned to each shoreline reach shall apply throughout the full jurisdictional limits set forth by this SMP as determined on a parcel-by-parcel basis at the time a shoreline use or development is proposed. In the event of a mapping error or discrepancy, the text of this SMP and applicable authority of RCW 90.58 and WAC 173-26 shall prevail.*



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USE OF THIS MAP IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
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Countywide Shoreline Map

Clallam County Shoreline Master Program (SMP)
Shoreline Environmental Designations (SED)

Scale 1:350,000 — 0 1 2 4 6 8 Miles — N W E S

Clallam County Dept. of Community Development - October 2018 sj

Environmental Designations

- Natural
- Resource Conservancy
- Shoreline Residential-Conservancy
- Shoreline Residential-Intensive
- Marine Waterfront
- Aquatic * including marine waters

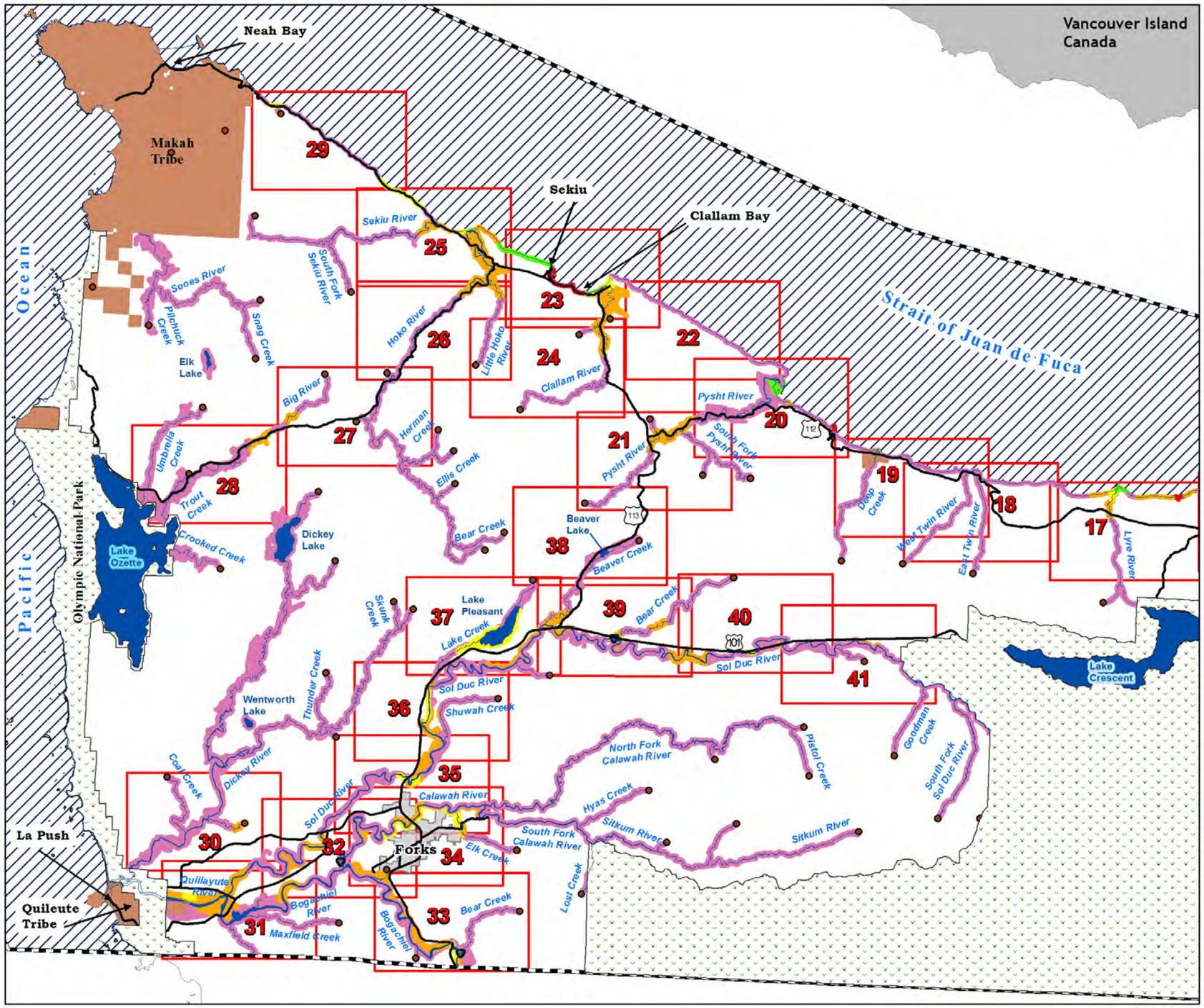
6 — Map Page Number

20 cfs — 1000 cfs — USGS point

Marine Waters Subject to County Shoreline Master Program

Marine Waters Subject to City Shoreline Master Program

- Tribal Reservation and Trust Land
- Olympic National Park
- City Limits
- Main Roads
- Clallam County Line



Western Layout - Shoreline Map

Clallam County Shoreline Master Program (SMP)
Shoreline Environmental Designations (SED)

Scale
1:225,000

N W E S

Clallam County Dept. of Community Development - October 2018 sj

0 1 2 3 4 5 Miles

About the Map

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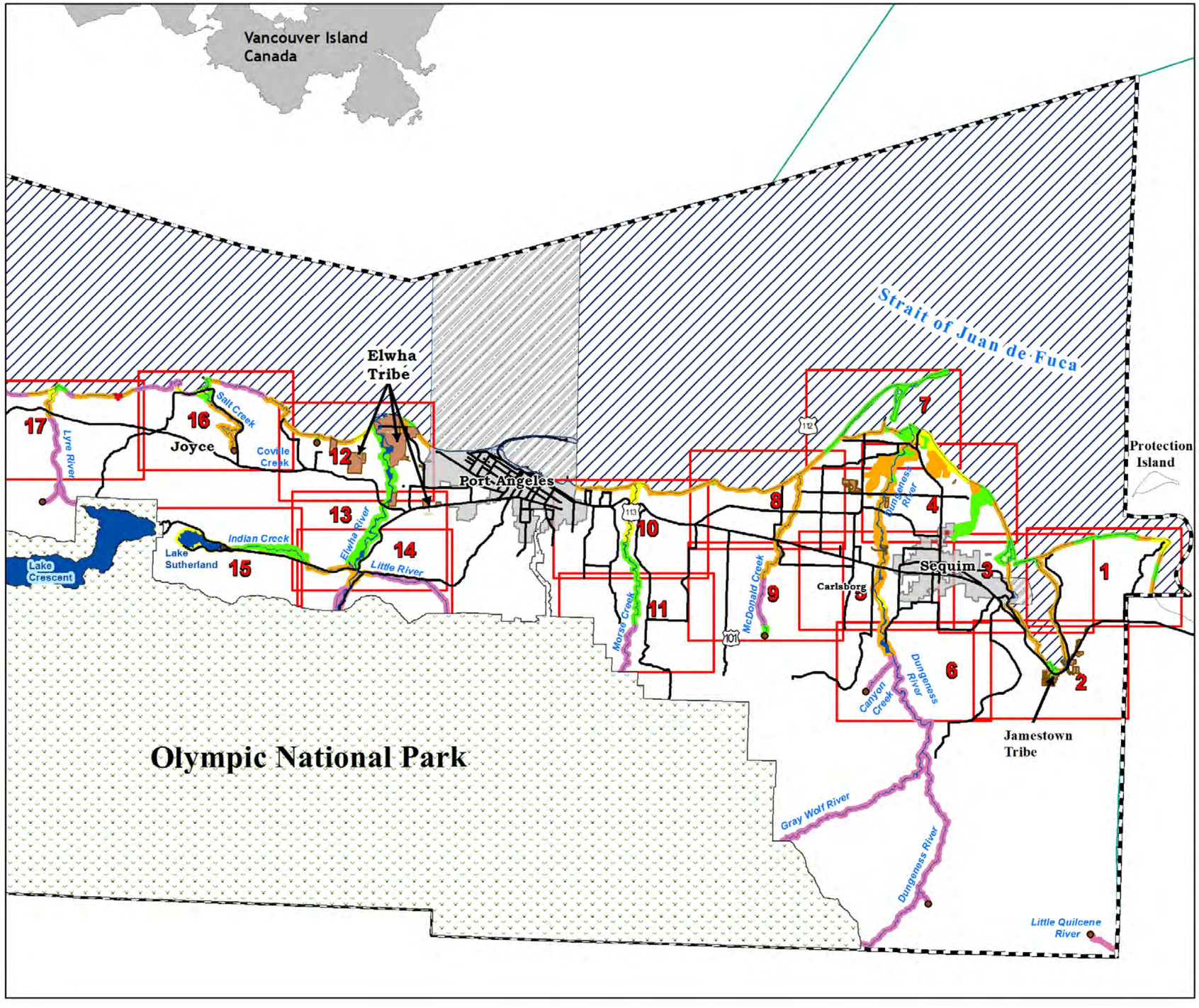
Environmental Designations

- Natural
- Resource Conservancy
- Shoreline Residential-Conservancy
- Shoreline Residential-Intensive
- Marine Waterfront
- Aquatic * including marine waters

- 6 — Map Page Number
- 20 cfs / 1000 cfs — USGS point
- Marine Waters Subject to County Shoreline Master Program
- Marine Waters Subject to City Shoreline Master Program
- Tribal Reservatilon and Trust Land
- Olympic National Park
- City Limits
- Main Roads
- Clallam County Line



Eastern Layout - Shoreline Map

Clallam County Shoreline Master Program (SMP)
Shoreline Environmental Designations (SED)

Scale
1:225,000

N
W E
S

Clallam County Dept. of Community Development - October 2018 sj

0 1 2 3 4 5 Miles

About the Map

The information depicted on this map is intended to be used with the Shoreline Master Program (SMP). The shoreline environmental designation and jurisdictional boundaries shown are based on the approximate location of the ordinary high water mark, 100-year floodplain, and associated wetlands. The maps are intended for planning purposes only and do not identify or depict the precise lateral extent of shoreline jurisdiction or the location of all associated wetlands and critical areas regulated by the SMP. Interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of shoreline jurisdiction, floodplains, wetlands, critical areas, and other such features. The designations assigned to each shoreline reach shall apply throughout the full jurisdictional limits set forth by the SMP, as determined on a parcel-by-parcel basis at the time a shoreline use/development is proposed. In the event of a mapping error or discrepancy, the text of the SMP and applicable authority of RCW 90.58 and WAC 173-26 shall prevail.

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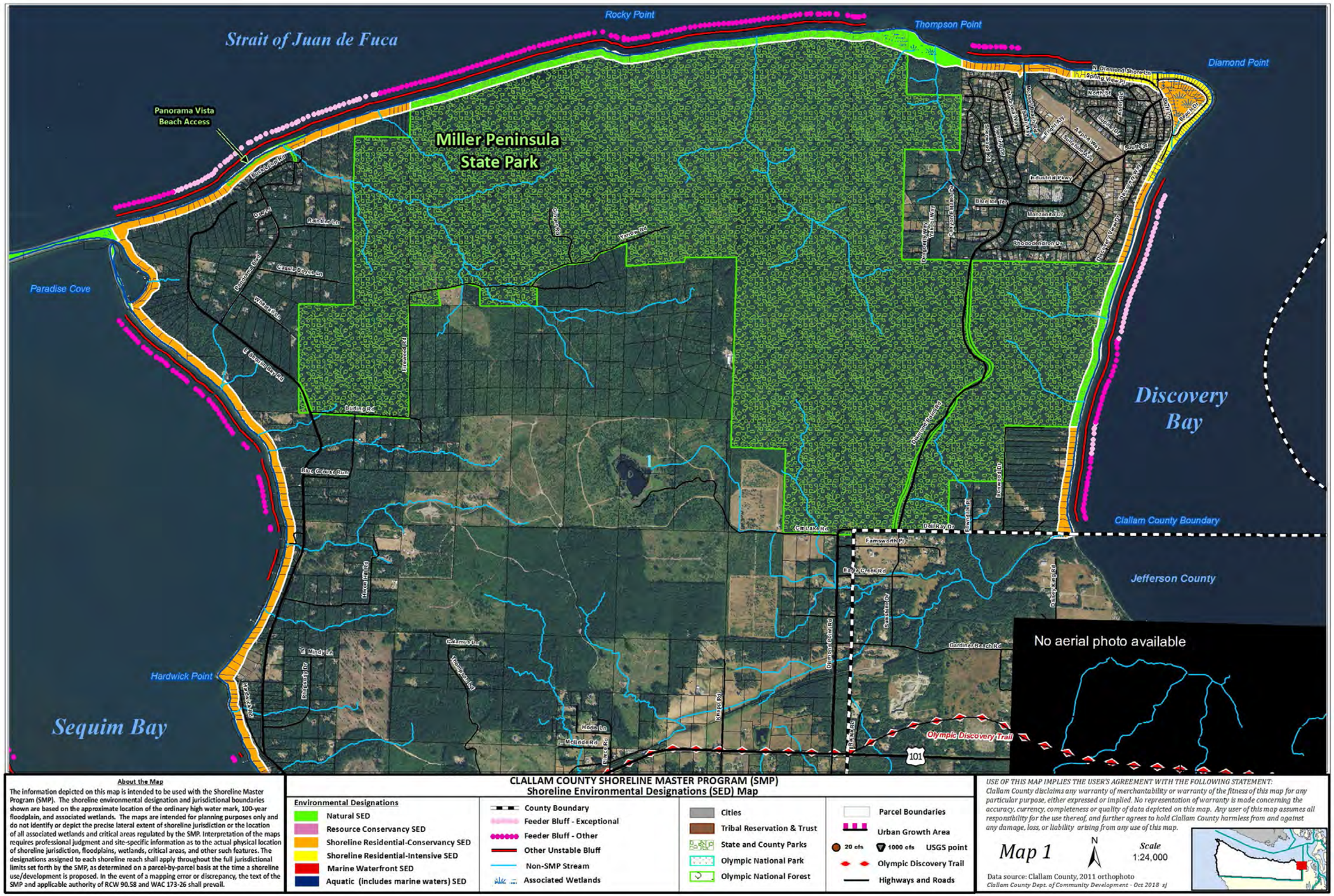
Environmental Designations

- Natural
- Resource Conservancy
- Shoreline Residential-Conservancy
- Shoreline Residential-Intensive
- Marine Waterfront
- Aquatic * including marine waters

- 6 — Map Page Number
- 20 cfs / 1000 cfs — USGS point
- Marine Waters Subject to County Shoreline Master Program
- Marine Waters Subject to City Shoreline Master Program
- Tribal Reservatilon and Trust Land
- Olympic National Park
- City Limits
- Main Roads
- Clallam County Line


Strait of Juan de Fuca
Rocky Point
Thompson Point
Diamond Point
Panorama Vista Beach Access
Miller Peninsula State Park
Paradise Cove
Discovery Bay
Clallam County Boundary
Jefferson County
Hardwick Point
Sequim Bay
Olympic Discovery Trail
No aerial photo available
About the Map
The information depicted on this map is intended to be used with the Shoreline Master Program (SMP). The shoreline environmental designation and jurisdictional boundaries shown are based on the approximate location of the ordinary high water mark, 100-year floodplain, and associated wetlands. The maps are intended for planning purposes only and do not identify or depict the precise lateral extent of shoreline jurisdiction or the location of all associated wetlands and critical areas regulated by the SMP. Interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of shoreline jurisdiction, floodplains, wetlands, critical areas, and other such features. The designations assigned to each shoreline reach shall apply throughout the full jurisdictional limits set forth by the SMP, as determined on a parcel-by-parcel basis at the time a shoreline use/development is proposed. In the event of a mapping error or discrepancy, the text of the SMP and applicable authority of RCW 90.58 and WAC 173-26 shall prevail.
CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map
Environmental Designations
Natural SED
Resource Conservancy SED
Shoreline Residential-Conservancy SED
Shoreline Residential-Intensive SED
Marine Waterfront SED
Aquatic (includes marine waters) SED
County Boundary
Feeder Bluff - Exceptional
Feeder Bluff - Other
Other Unstable Bluff
Non-SMP Stream
Associated Wetlands
Cities
Tribal Reservation & Trust
State and County Parks
Olympic National Park
Olympic National Forest
Parcel Boundaries
Urban Growth Area
20 cfs
1000 cfs
USGS point
Olympic Discovery Trail
Highways and Roads
USE OF THIS MAP IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
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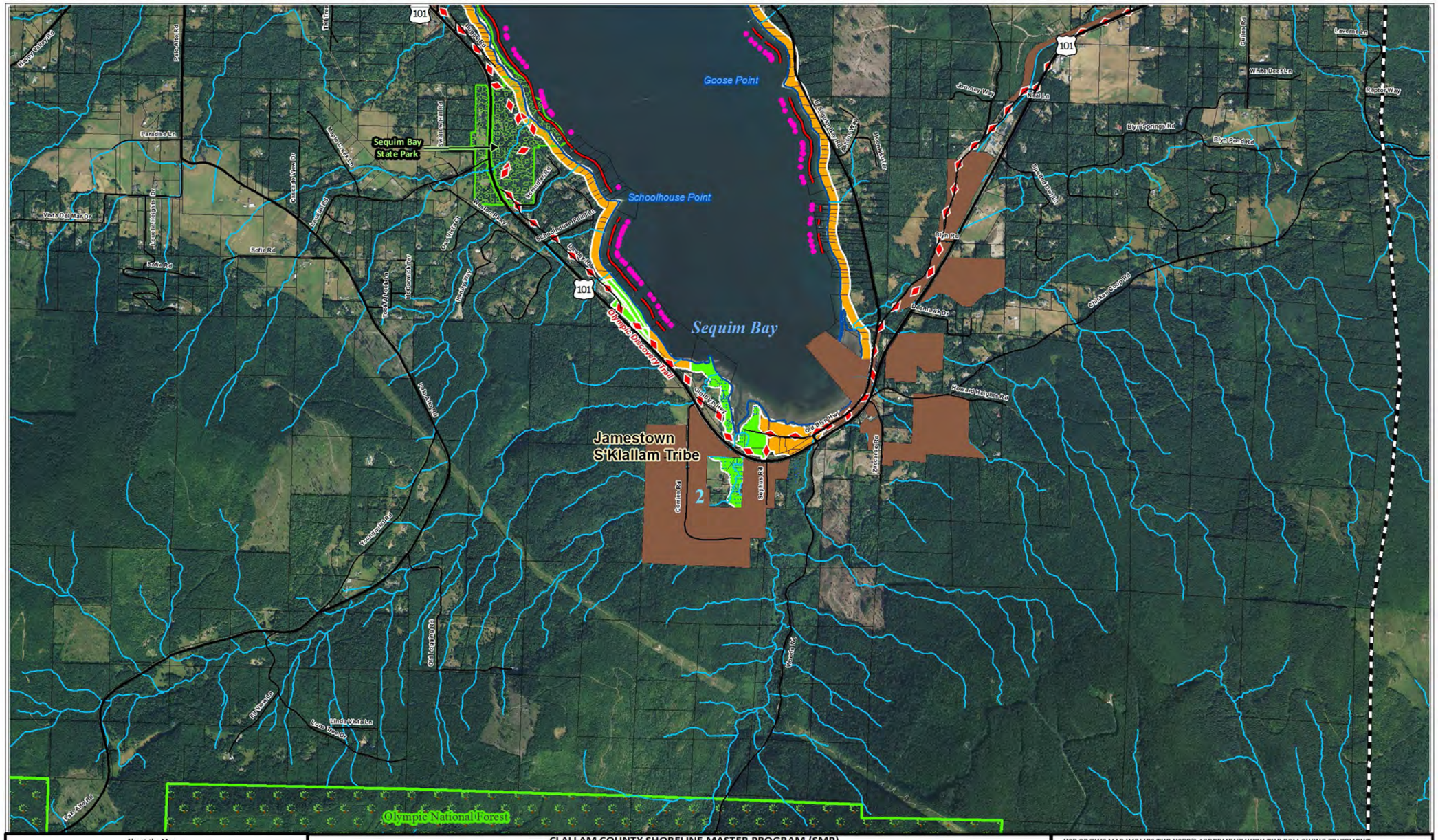
Map 1
N
Scale
1:24,000
Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

USE OF THIS MAP IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
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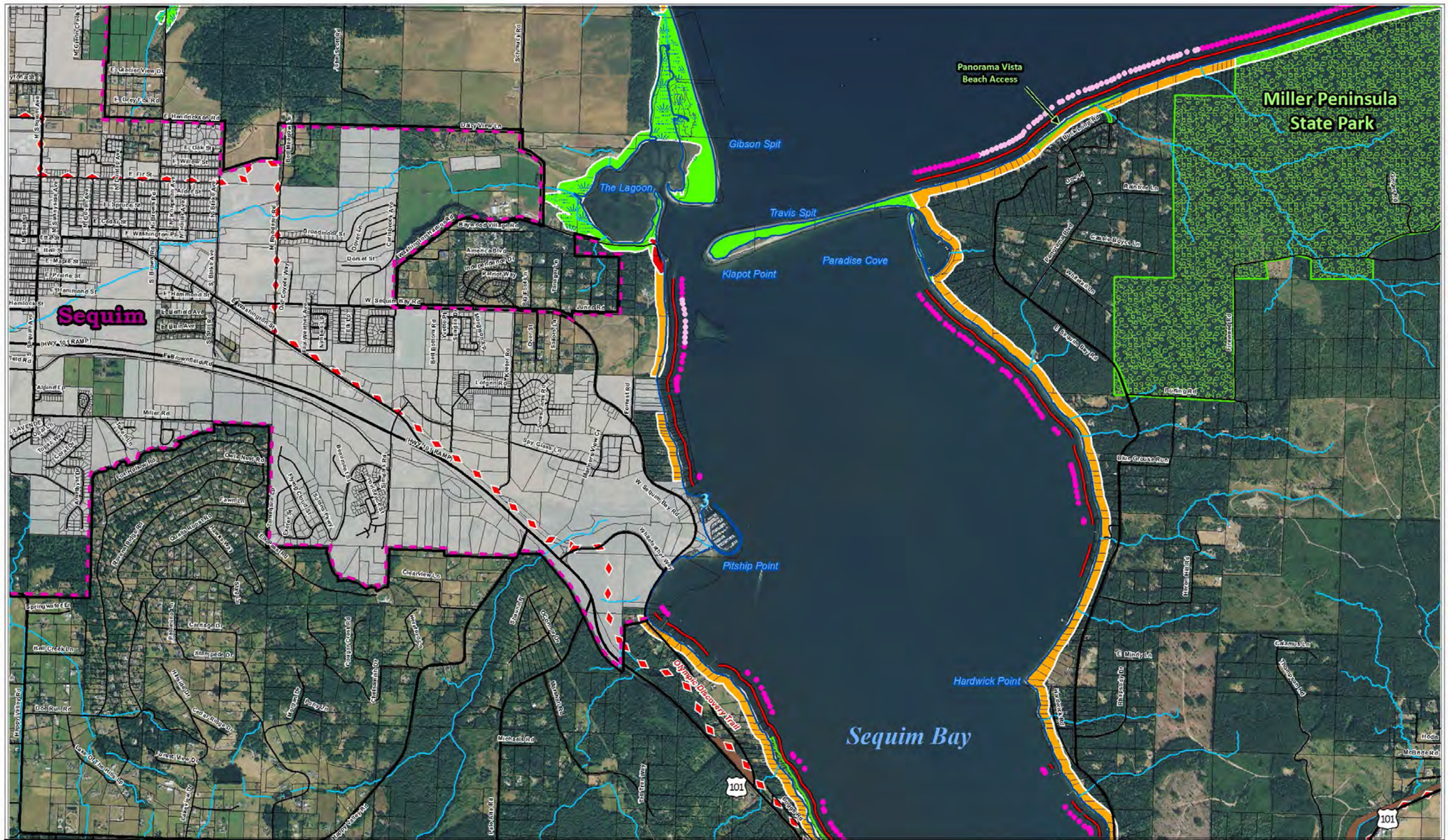
Map 2 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2010 sj



About the Map

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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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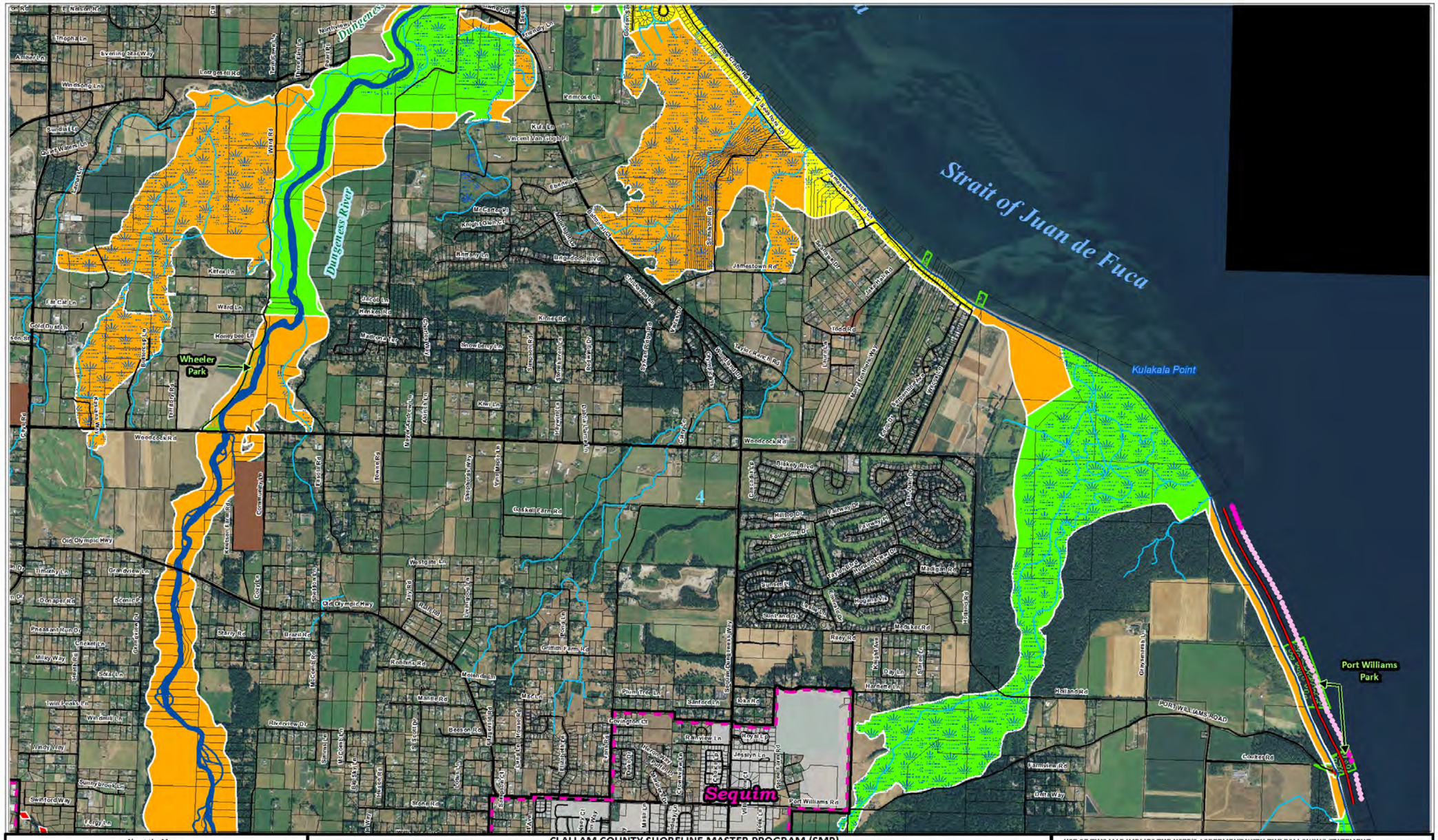
Map 3

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (Includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
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- Parcel Boundaries
- Urban Growth Area
- 20 cfs
- 1000 cfs
- USGS point
- Olympic Discovery Trail
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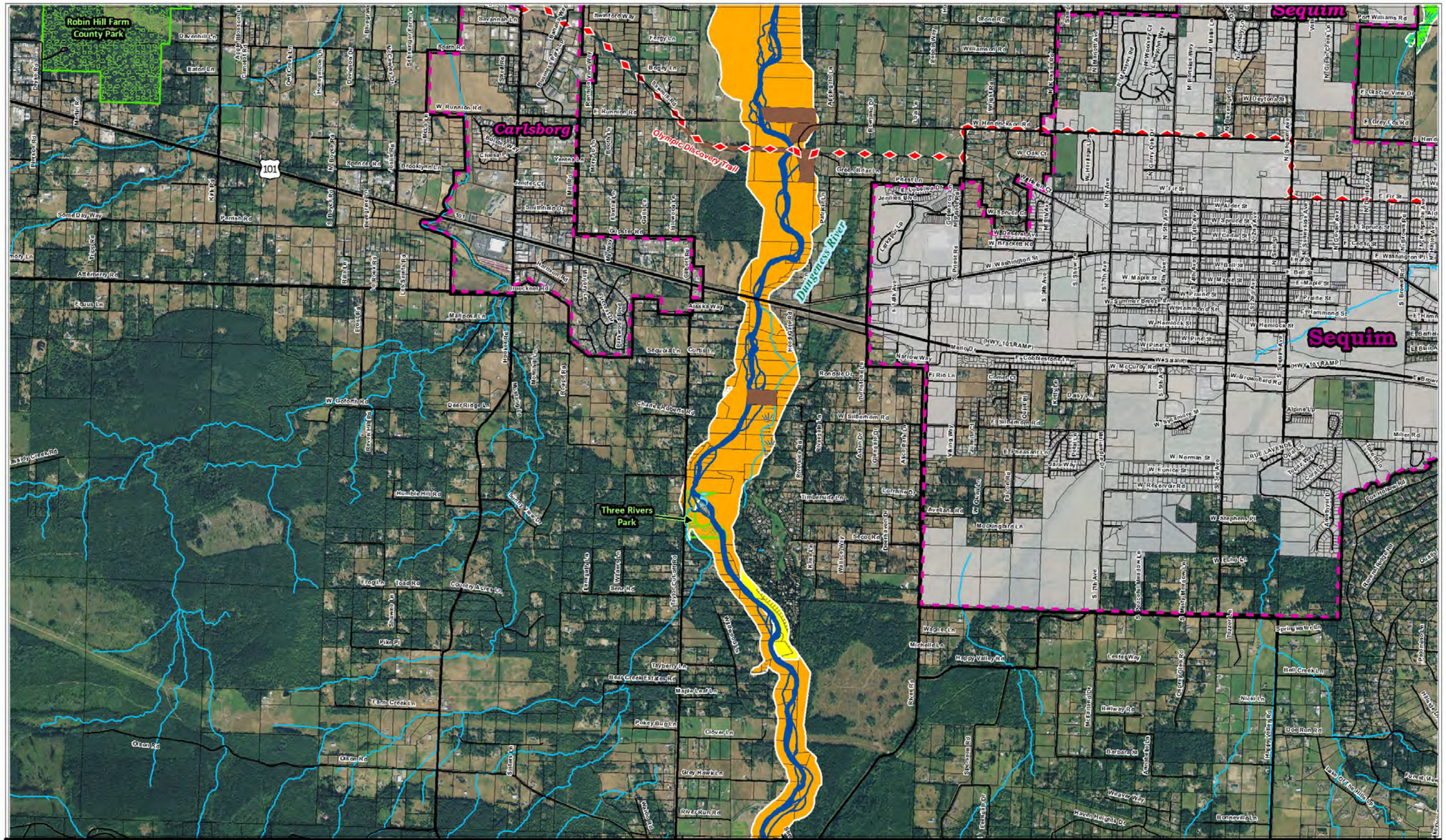
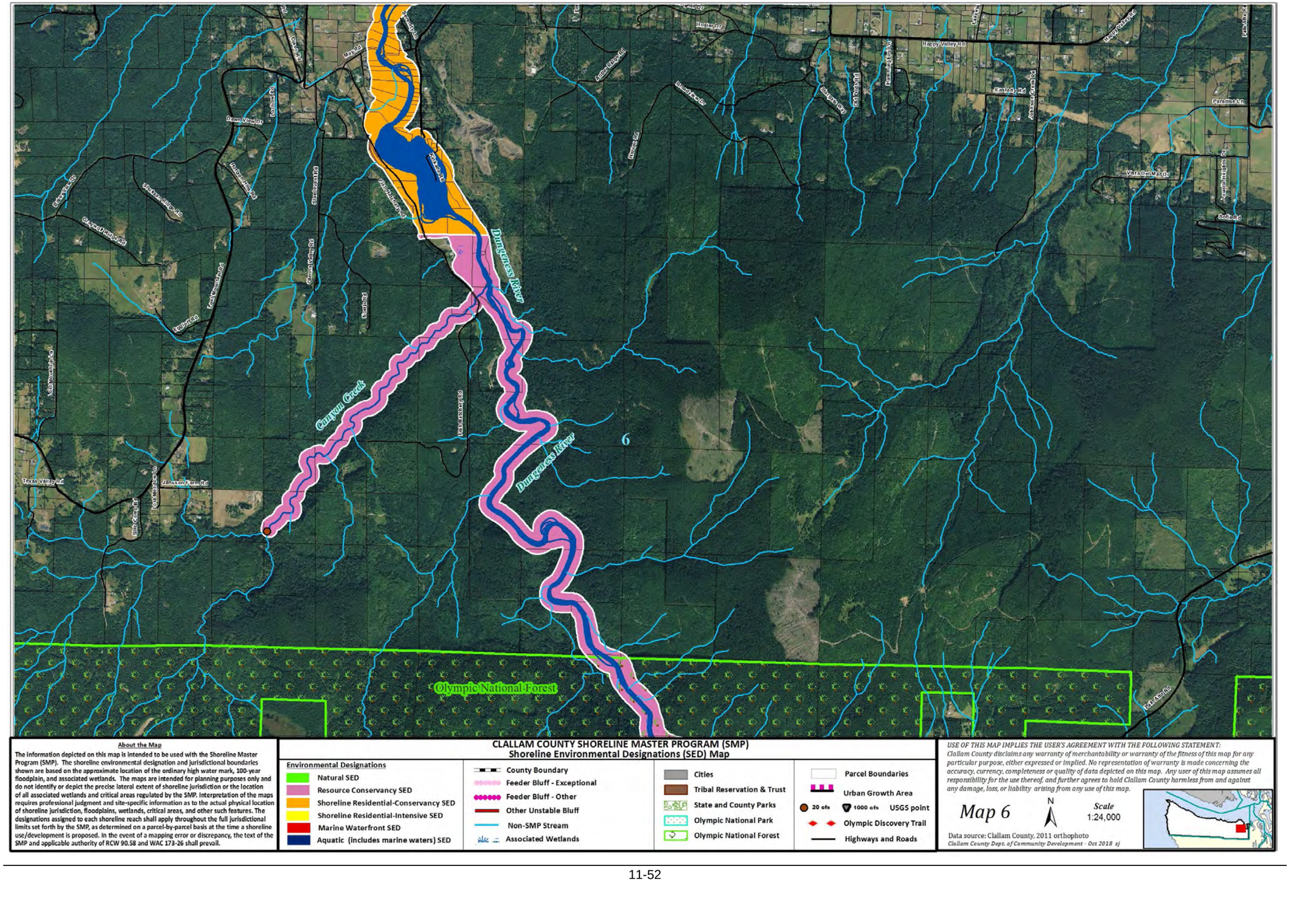
Map 4

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj


Robin Hill Farm County Park
Carlsborg
Sequim
Sequim
Three Rivers Park
Olympic Discovery Trail
Dungeness River
101
W Runnion Rd
Spencer Rd
Brookhaven Ln
Somday Way
Purnell Rd
Alternary Rd
Edson Ln
Brackner Rd
Alaska Way
Sequim Ln
Cline Ln
W Goforth Rd
Deer Ridge Ln
Humble Hill Rd
Frog Ln
Toad Rd
Gormley Acres Ln
Pike Pl
Tayberry Ln
Bear Creek Estates Rd
Elam Creek Ln
Olson Rd
Pokey Bug Ln
Clover Ln
Grey Hawk Ln
River Run Rd
Maple Leaf Ln
Mackinaw Rd
Hooker Rd
Ross Rd
Frost Rd
Ness Rd
Ward Rd
Taylor Cutoff Rd
Cherie Roberts Rd
Ronald Rd
Timberland Rd
Lorraine Dr
Avellana Rd
Mackingbird Ln
Secord Rd
Wallace Way
Kear Ln
Thunderbird Ln
Fairview Dr
Fairview Rd
Hooker Rd
Rosalind Ln
Ronald Ln
Tumbleweed Ln
Alta Dr
Alta Pl
Brandon Rd
Ridge Ln
Wilson Rd
Gehrke Rd
Gehrke Pl
Gehrke Ln
Gehrke Way
Gehrke Rd
Gehrke Ln
Gehrke Way
Gehrke Rd
Gehrke Ln
Gehrke Way
Gehrke Rd



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations

- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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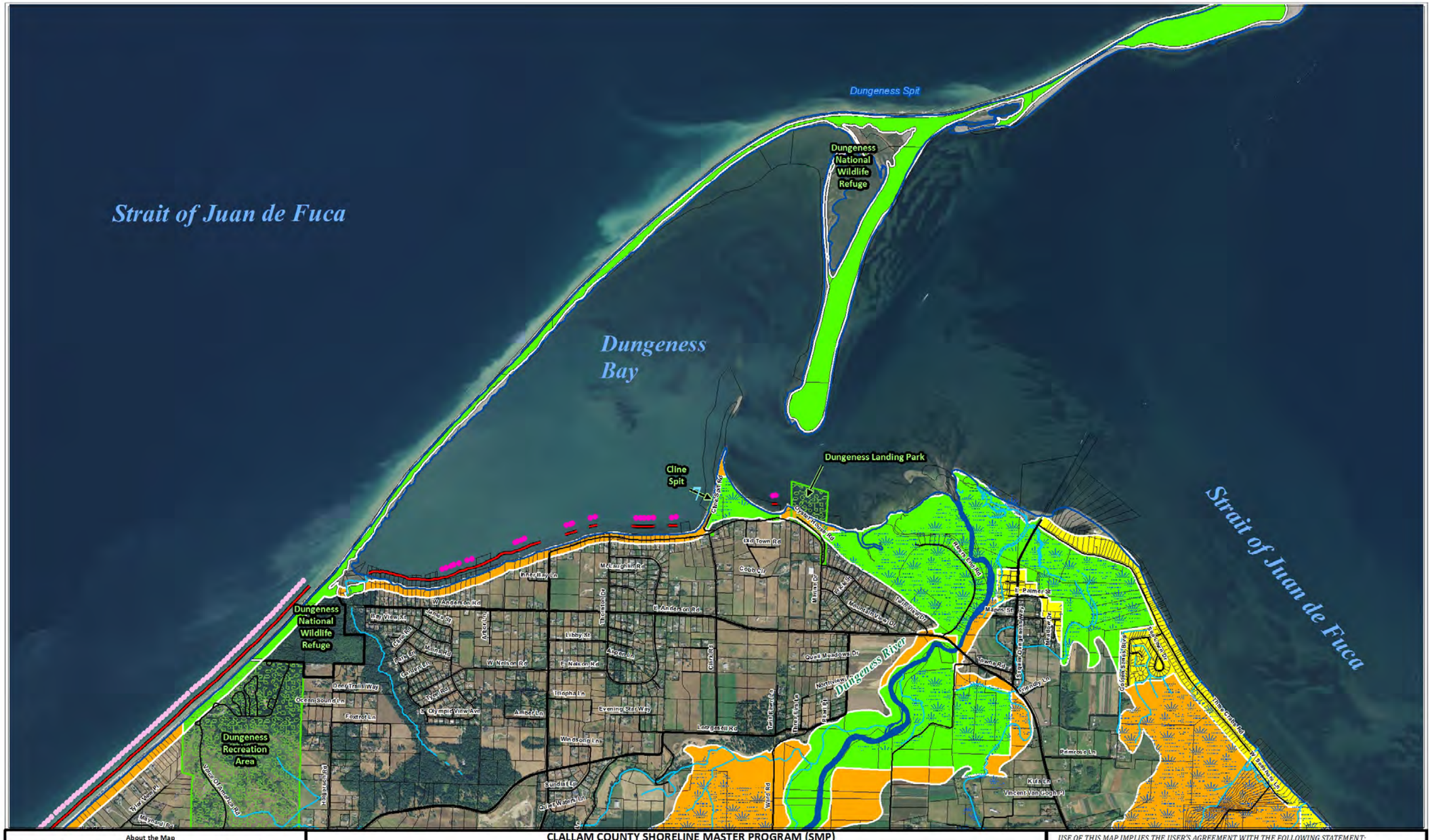
Map 6 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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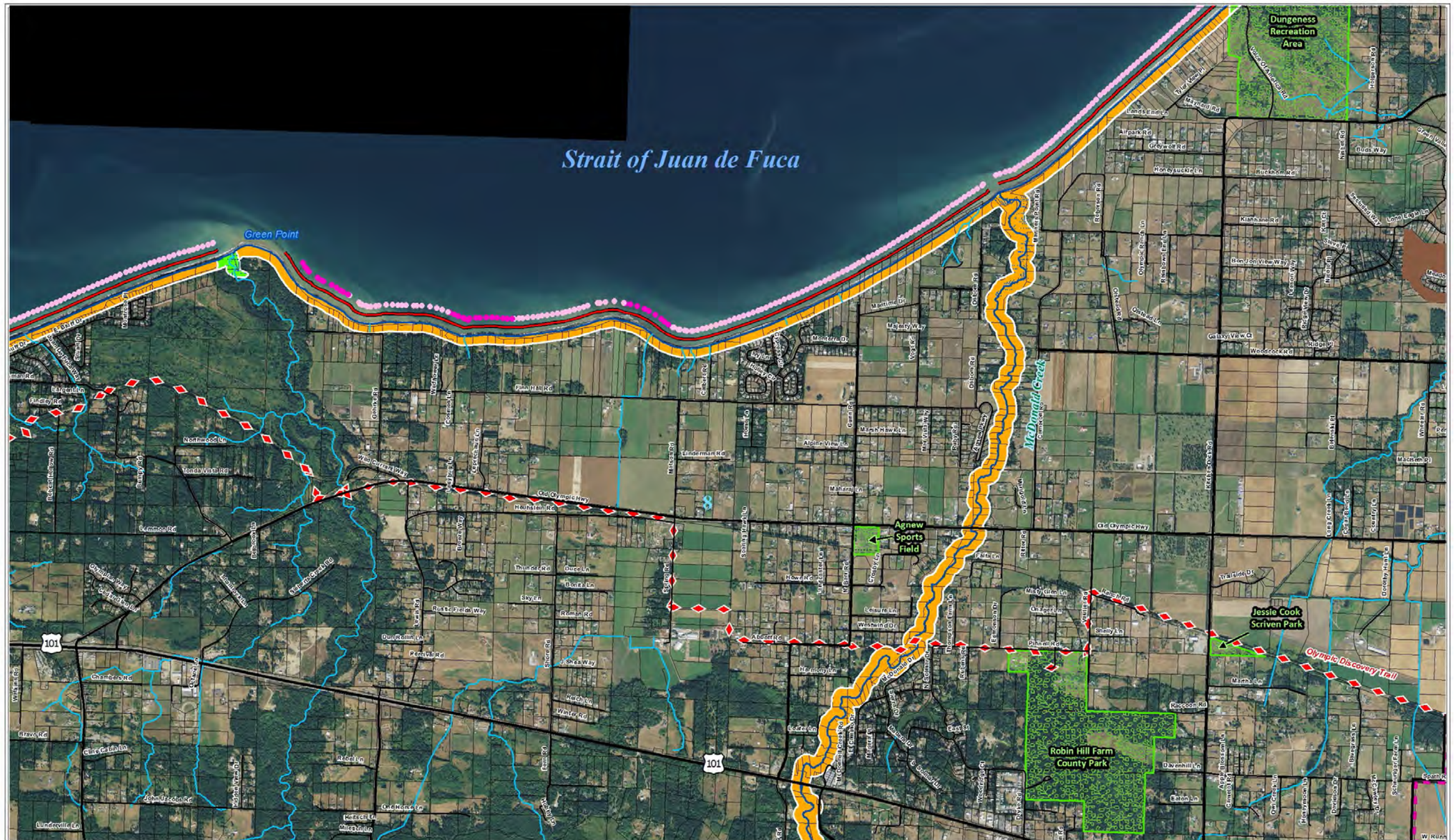
Map 7

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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- Aquatic (Includes marine waters) SED

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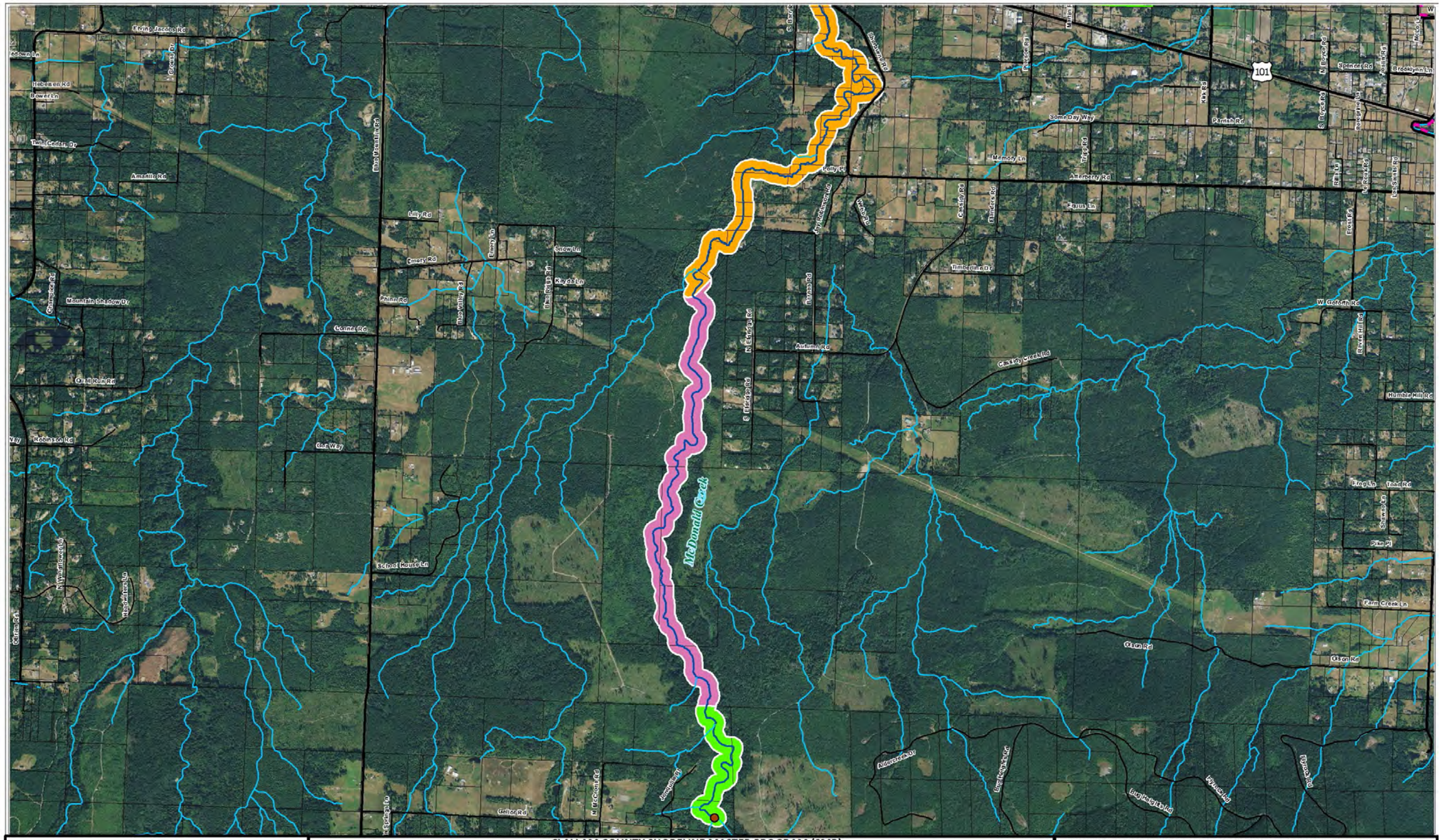
Map 8

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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- Marine Waterfront SED
- Aquatic (includes marine waters) SED

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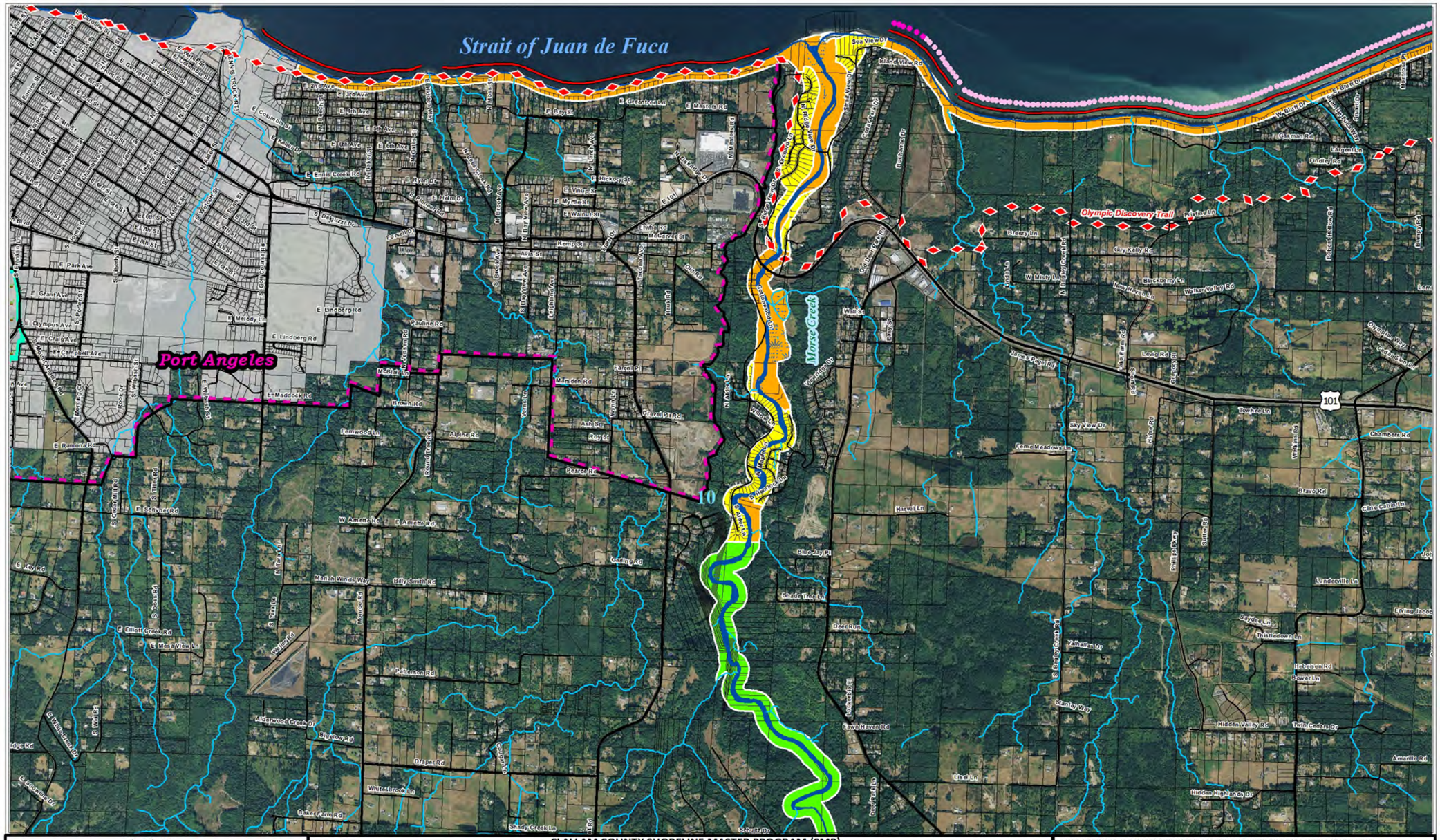
Map 9 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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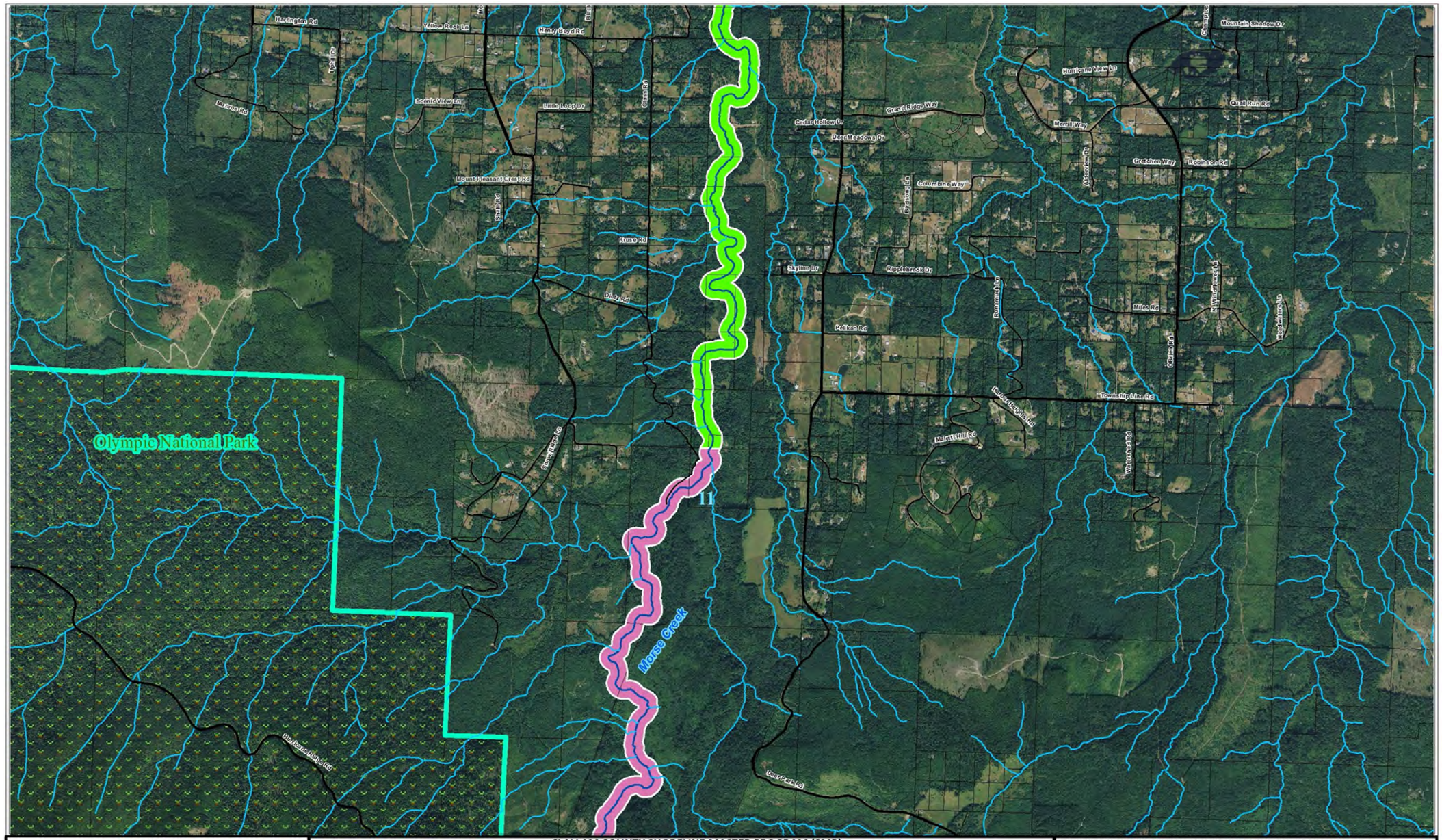
Map 10 N **Scale** 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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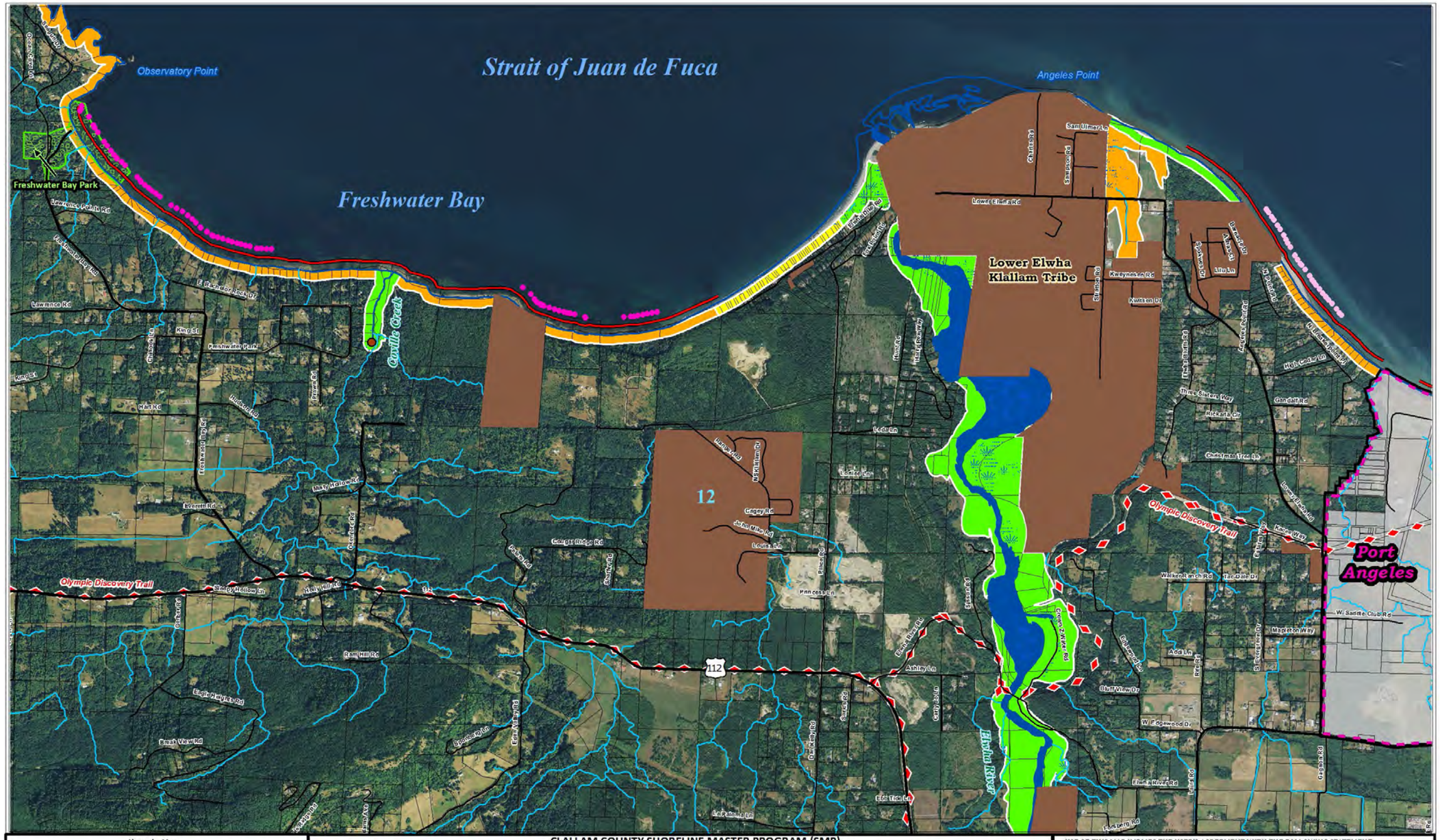
Map 11 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations

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- Feeder Bluff - Other
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- Cities
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- State and County Parks
- Olympic National Park
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- USGS point
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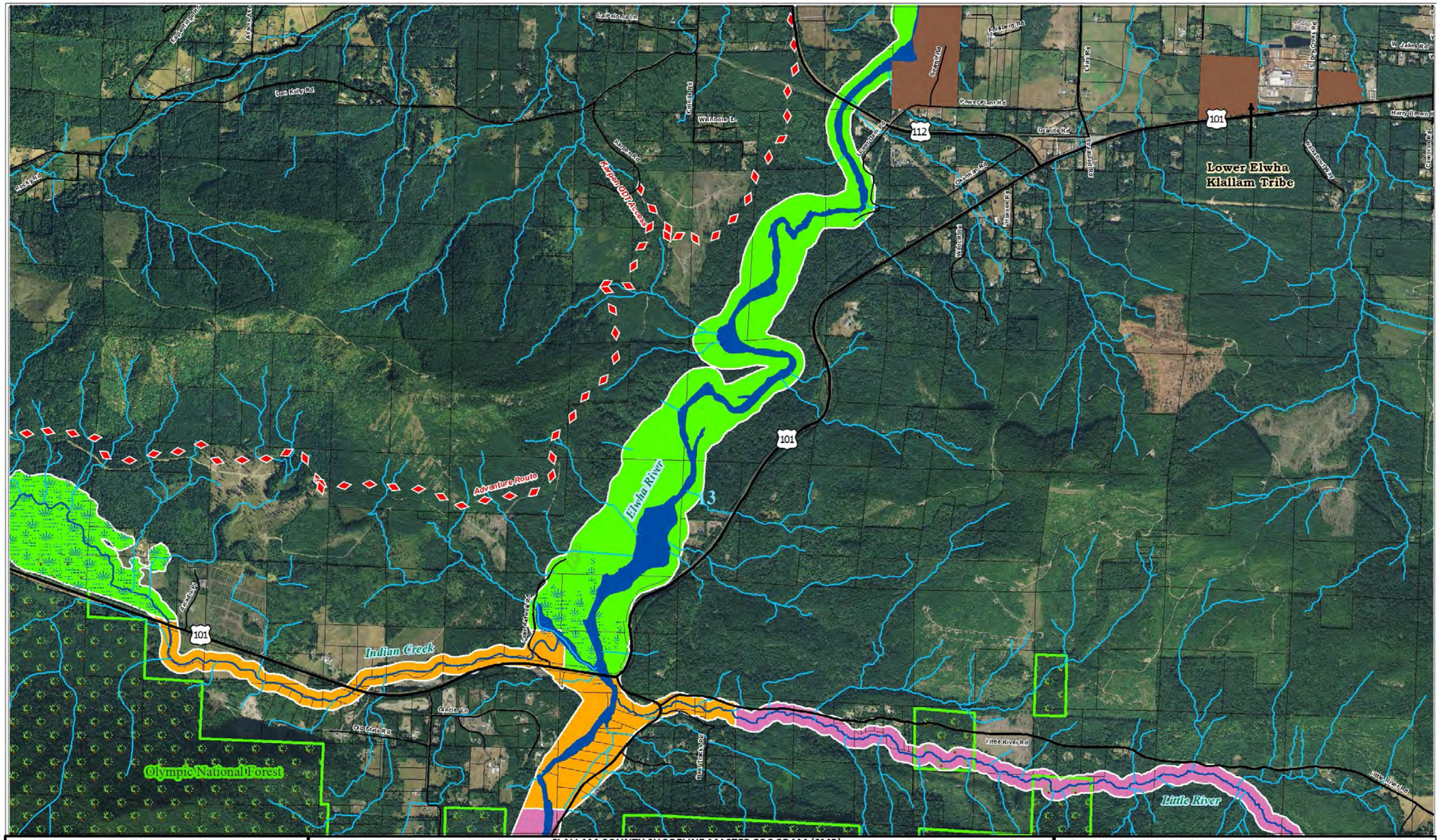
Map 12

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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Map 13 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
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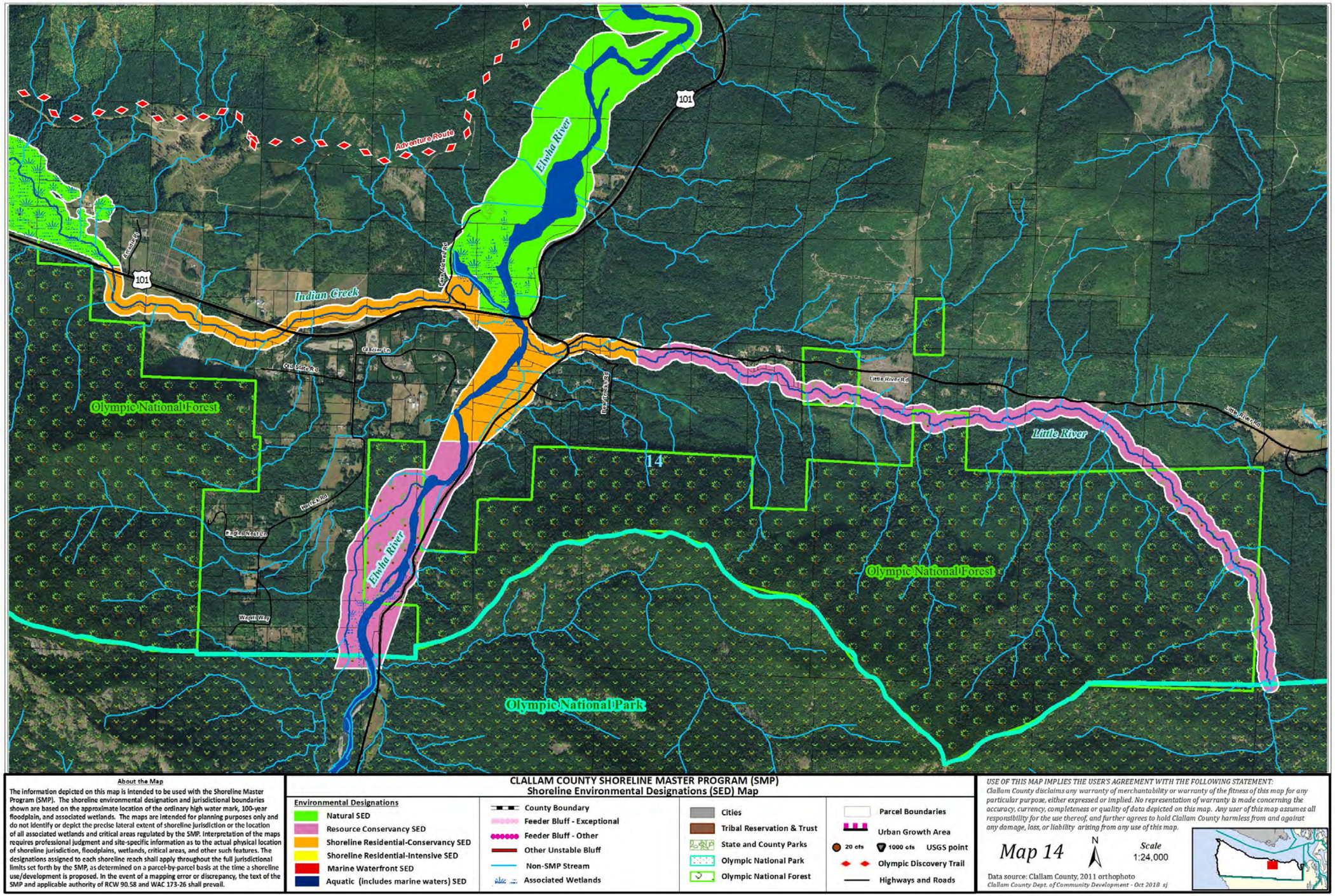

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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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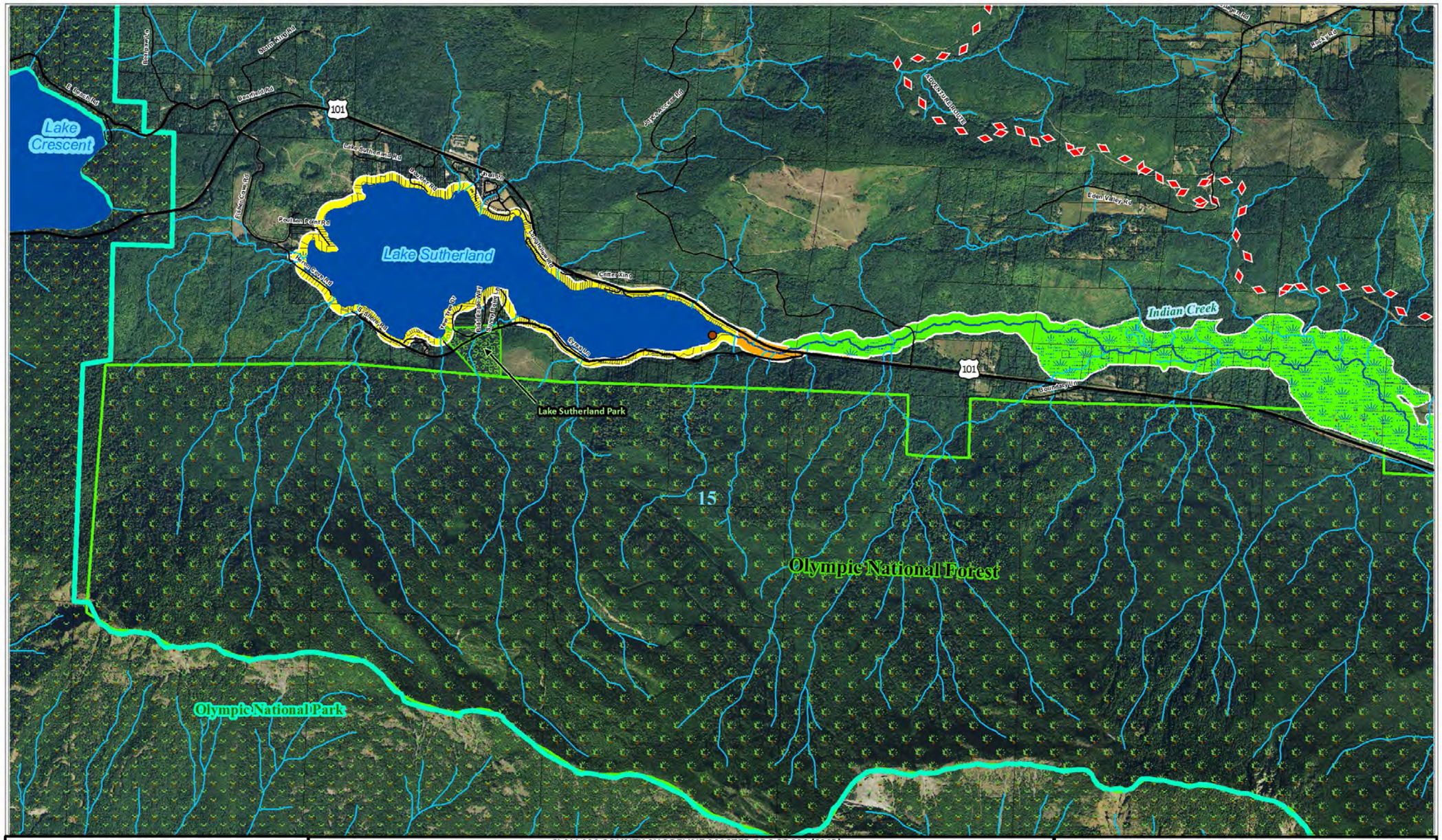
Map 14

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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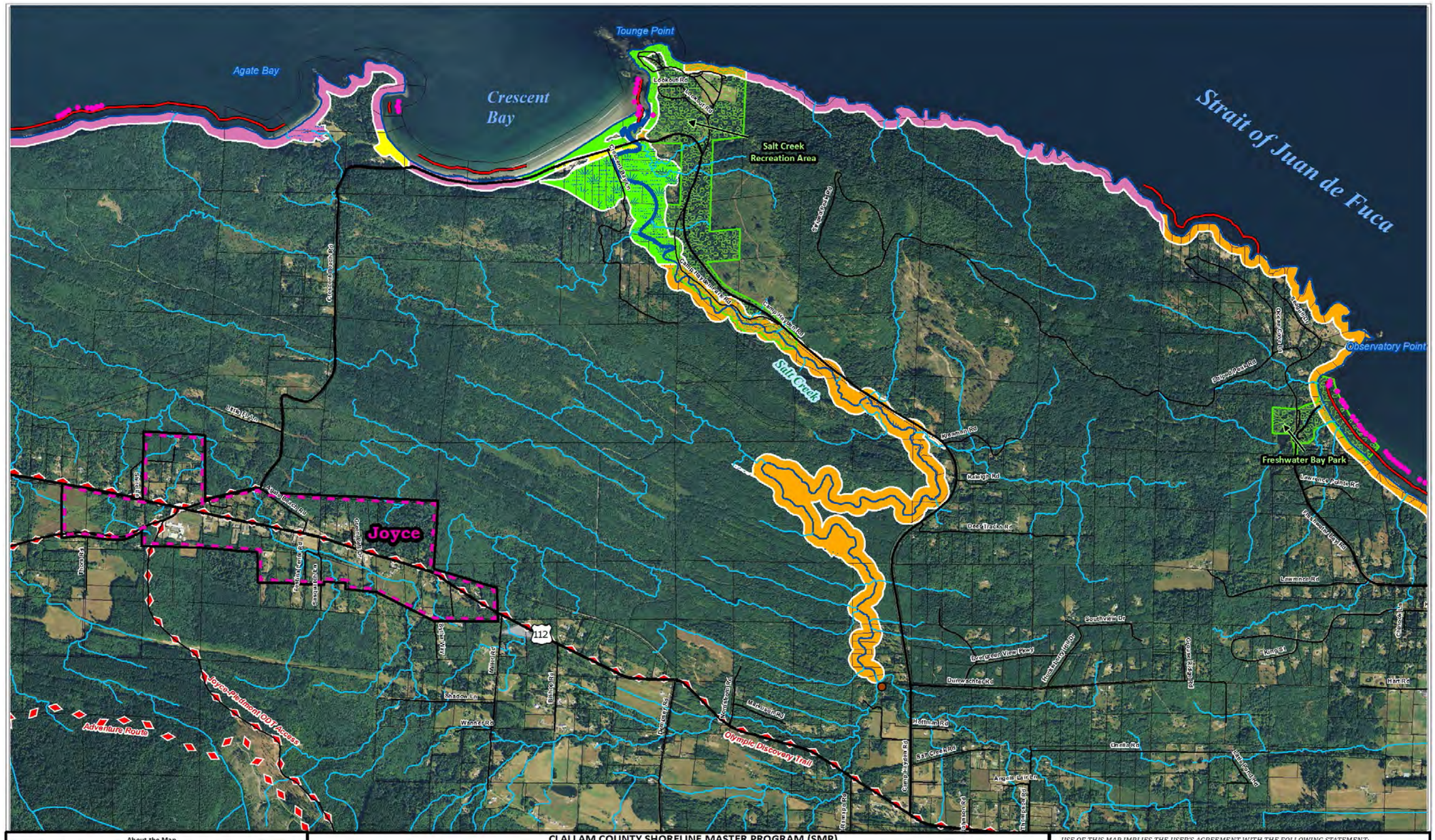
Map 15 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
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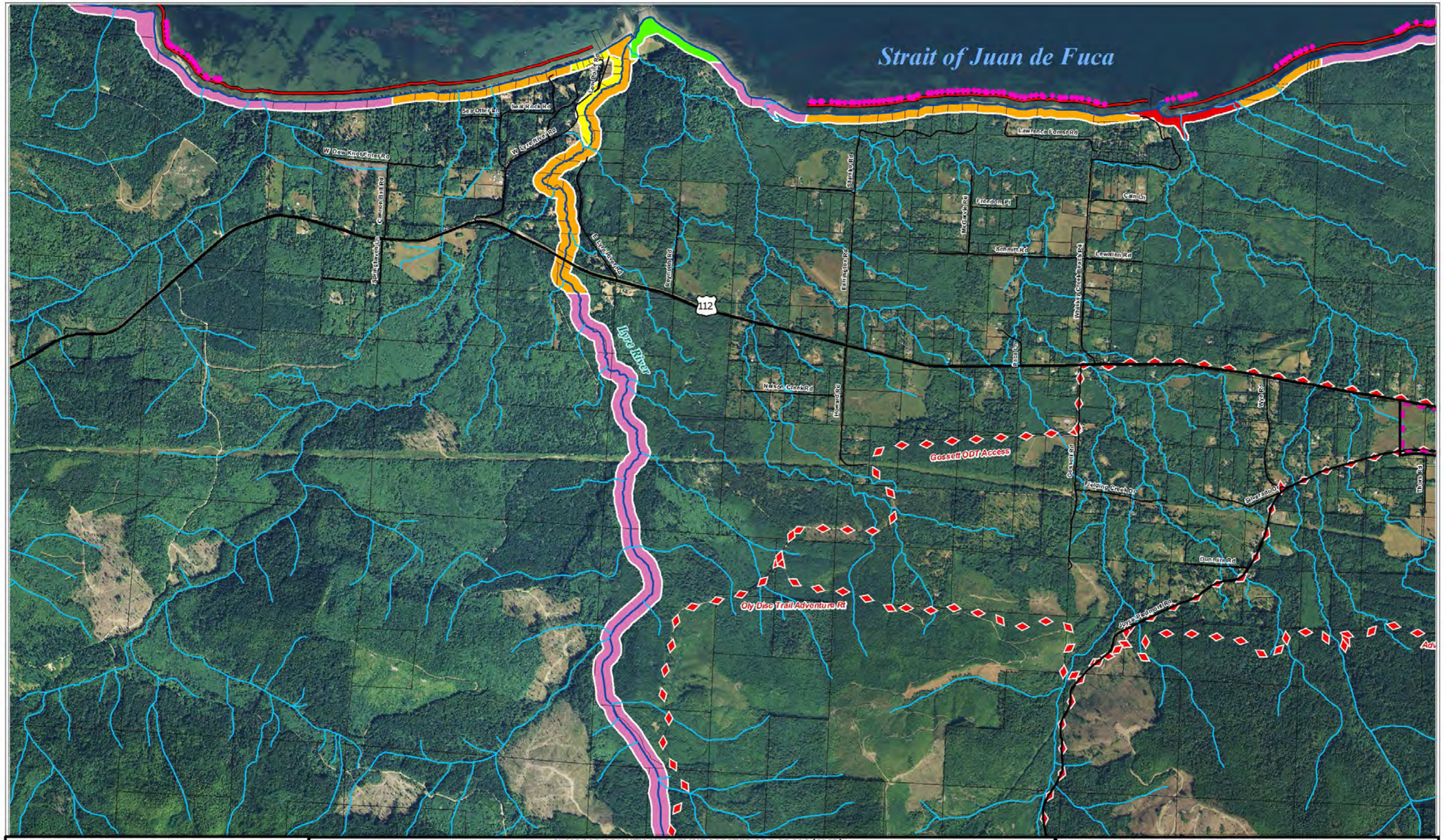
Map 16

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development · Oct 2018 zj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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- Marine Waterfront SED
- Aquatic (includes marine waters) SED

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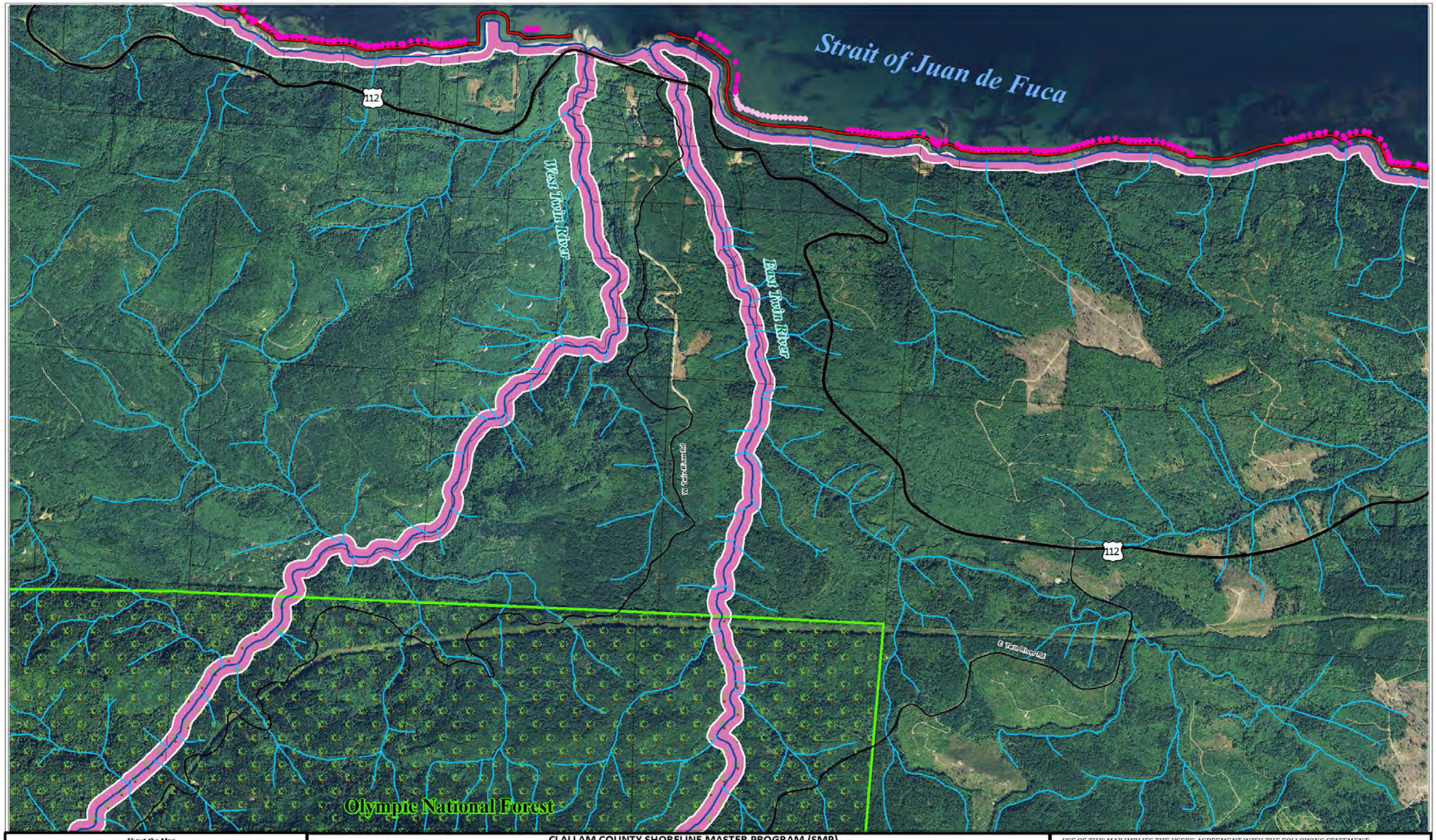
Map 17 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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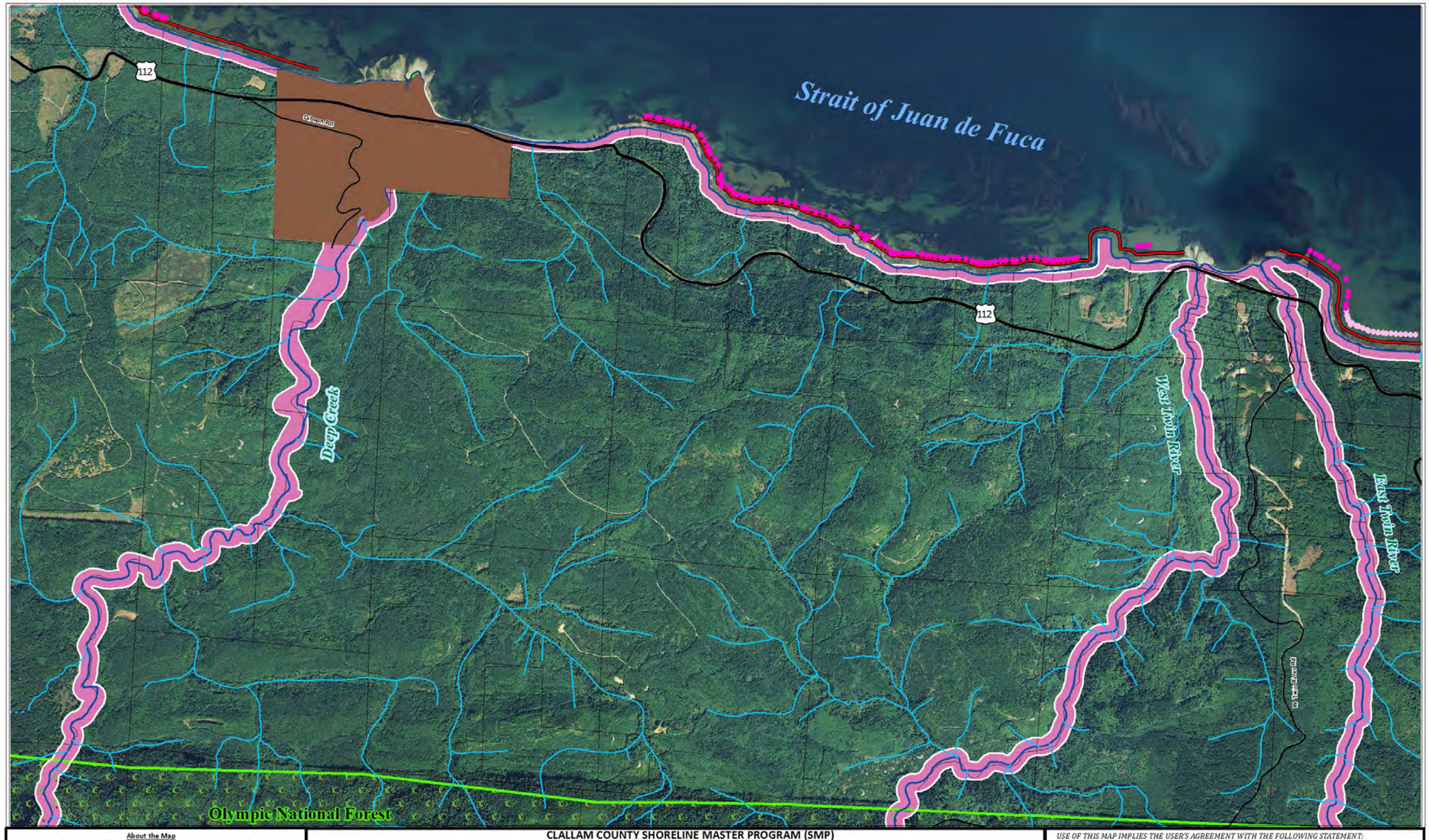
Map 18

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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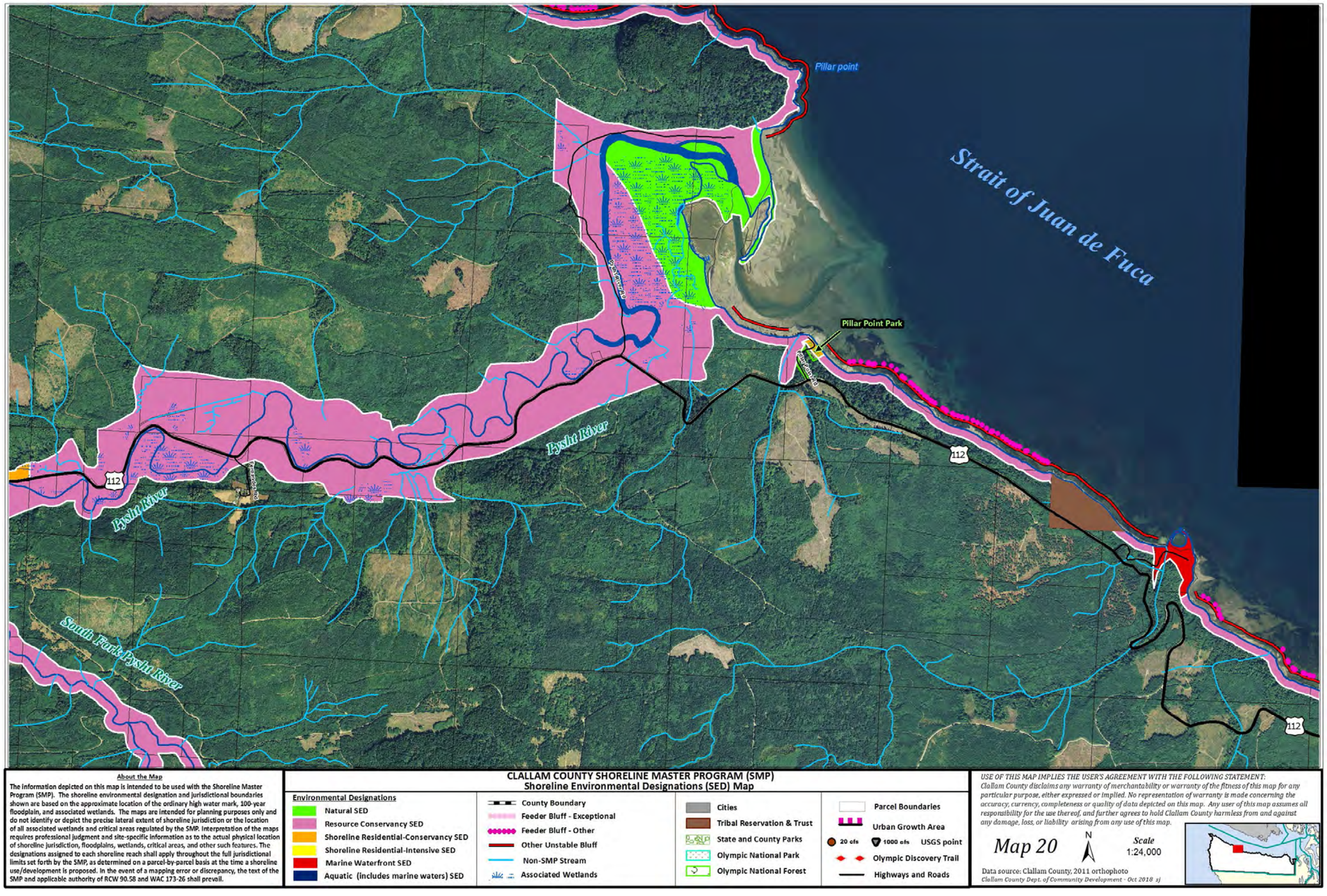
Map 19

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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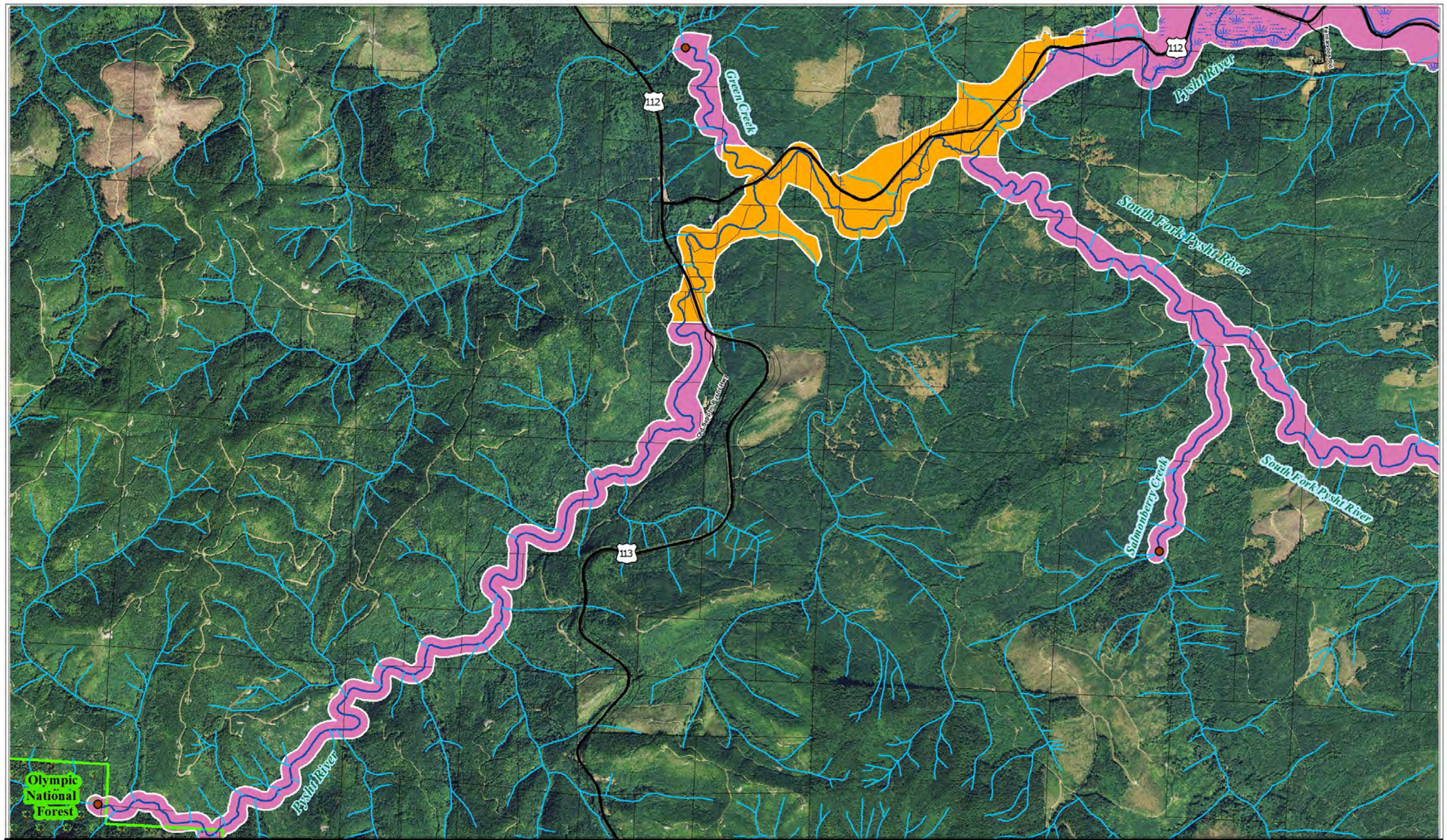
Map 20 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

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Map 21 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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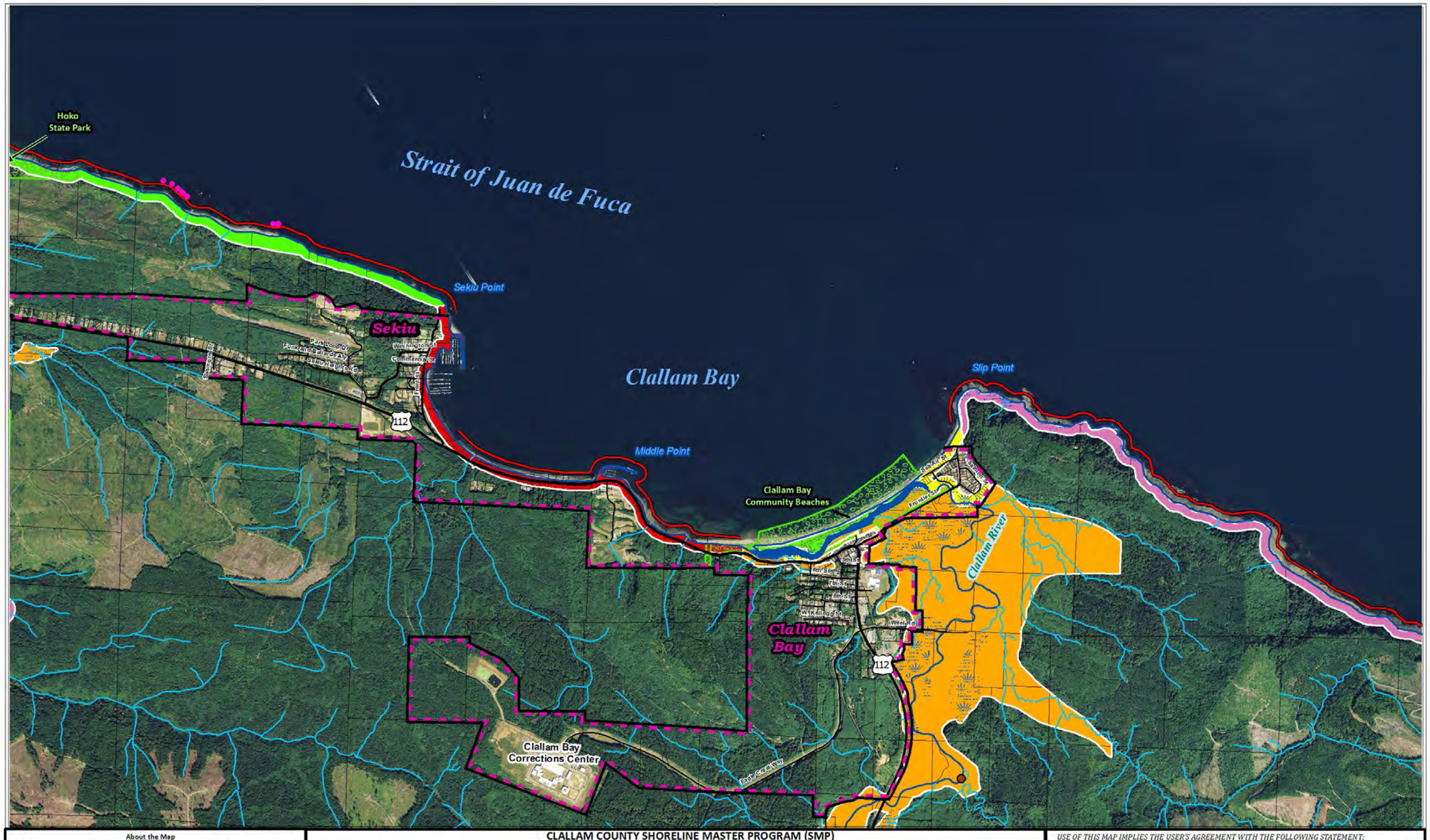
Map 22

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 zj



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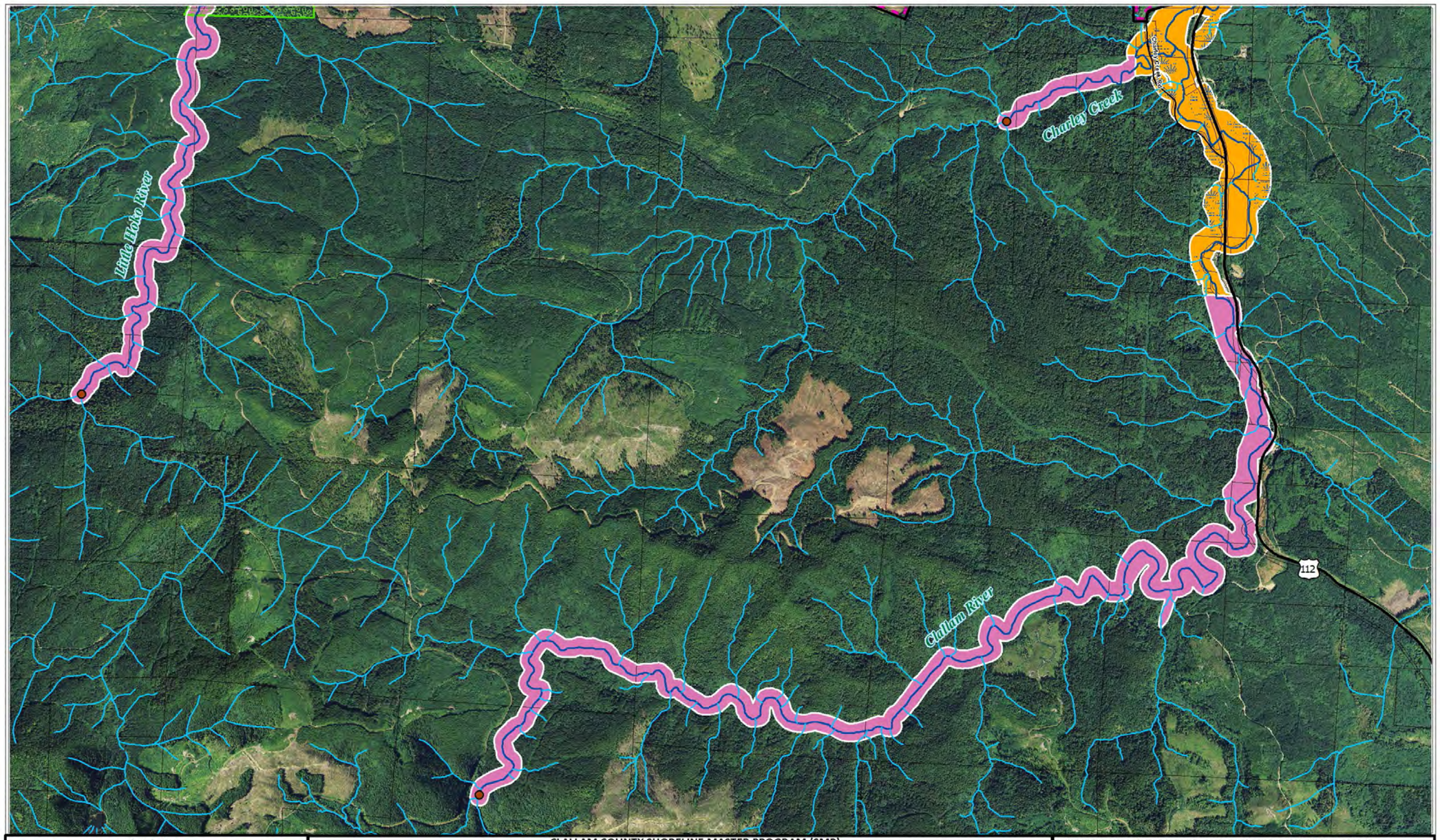
Map 23 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sf



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Map 24 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
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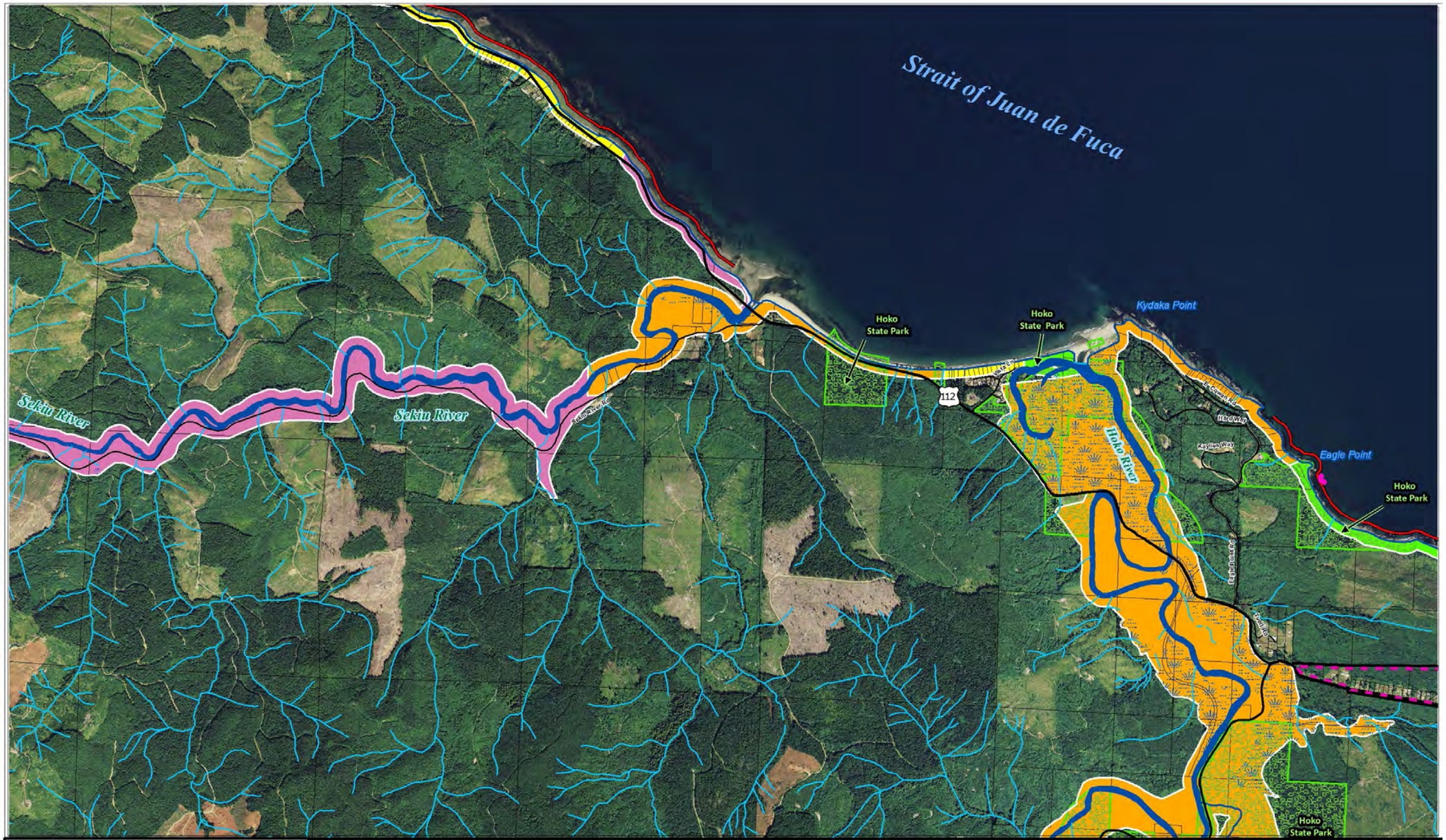

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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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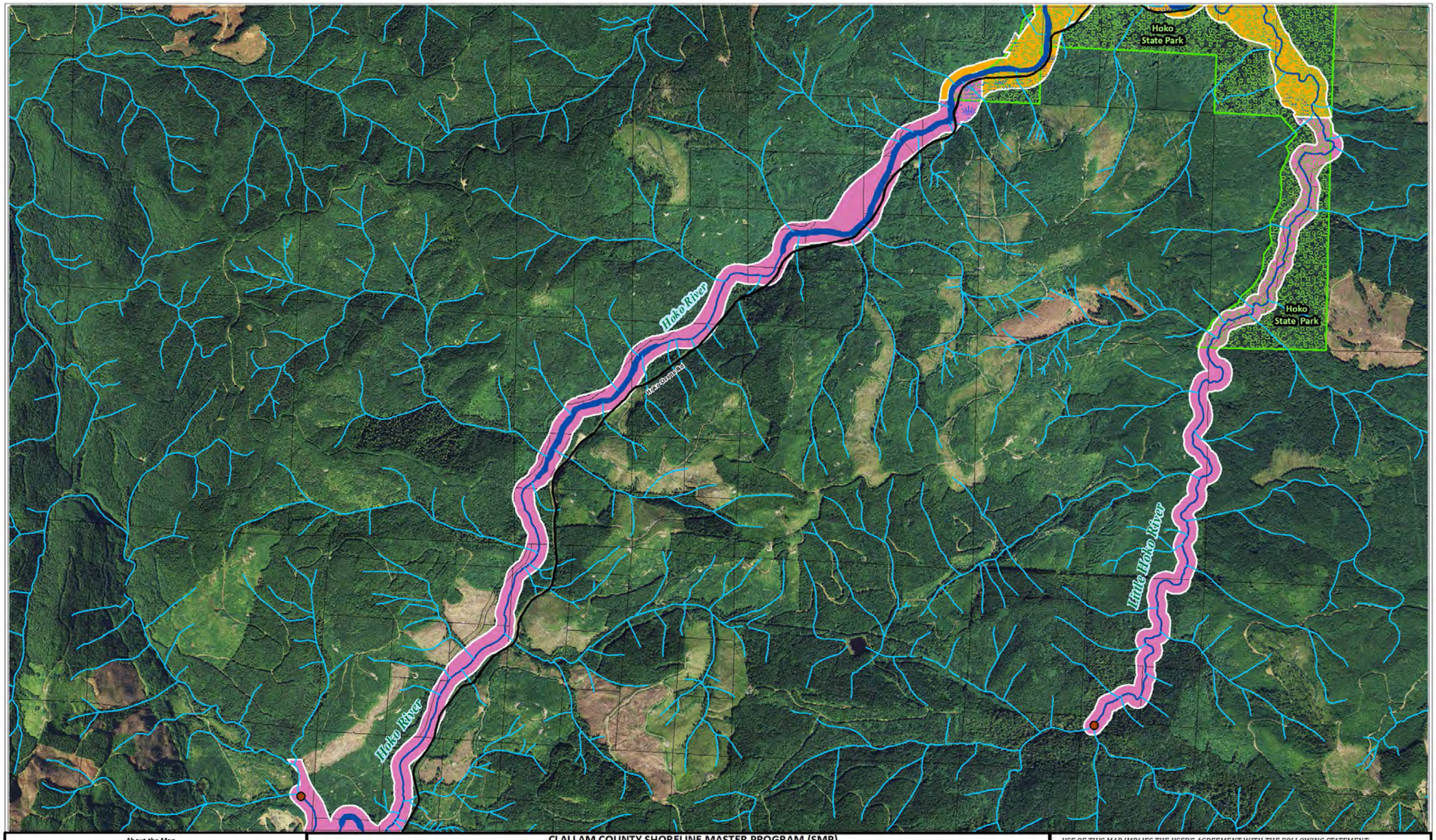
Map 25 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs / 1000 cfs USGS point
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- Highways and Roads

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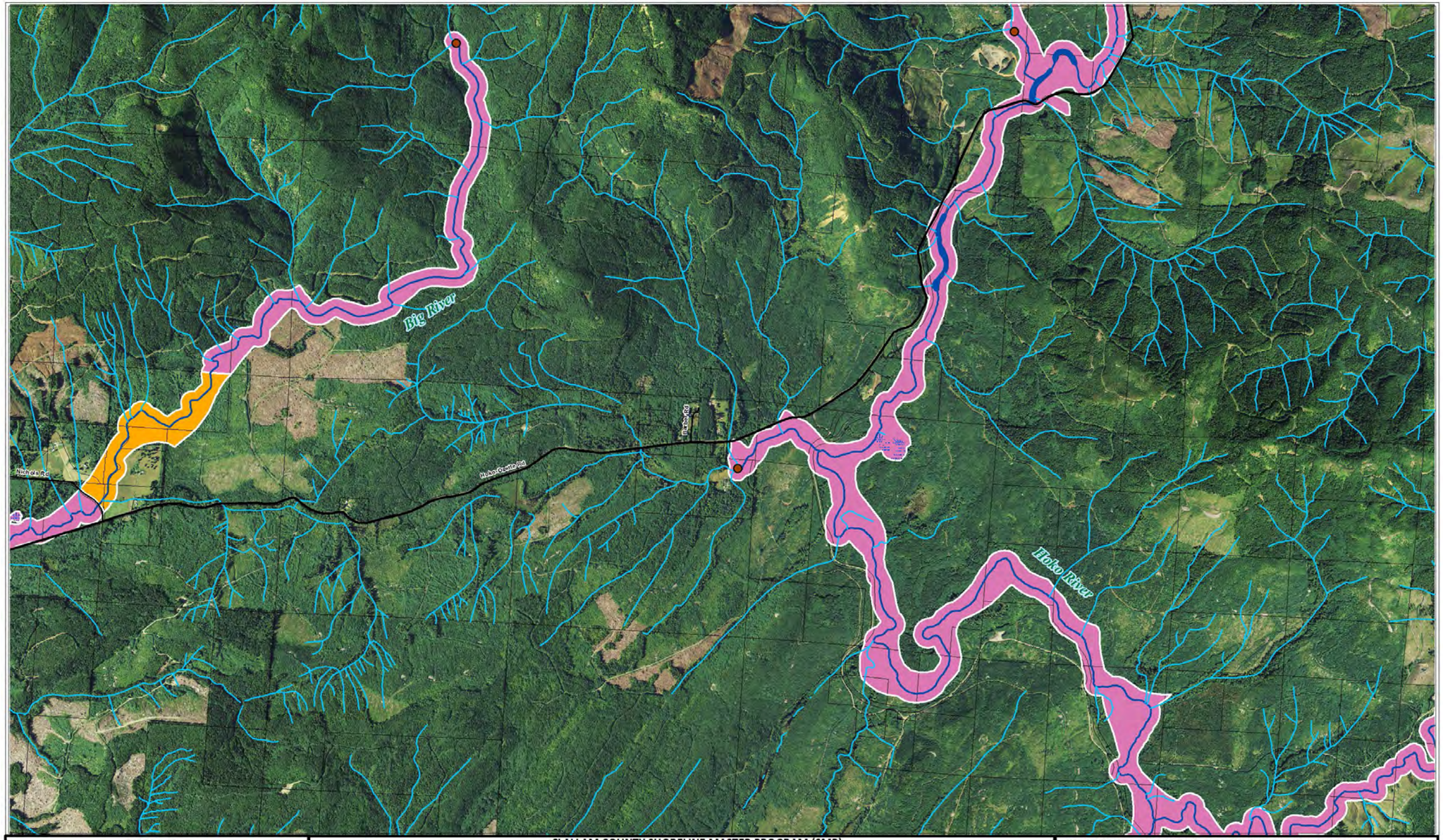
Map 26 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs, 1000 cfs, USGS point
- Olympic Discovery Trail
- Highways and Roads

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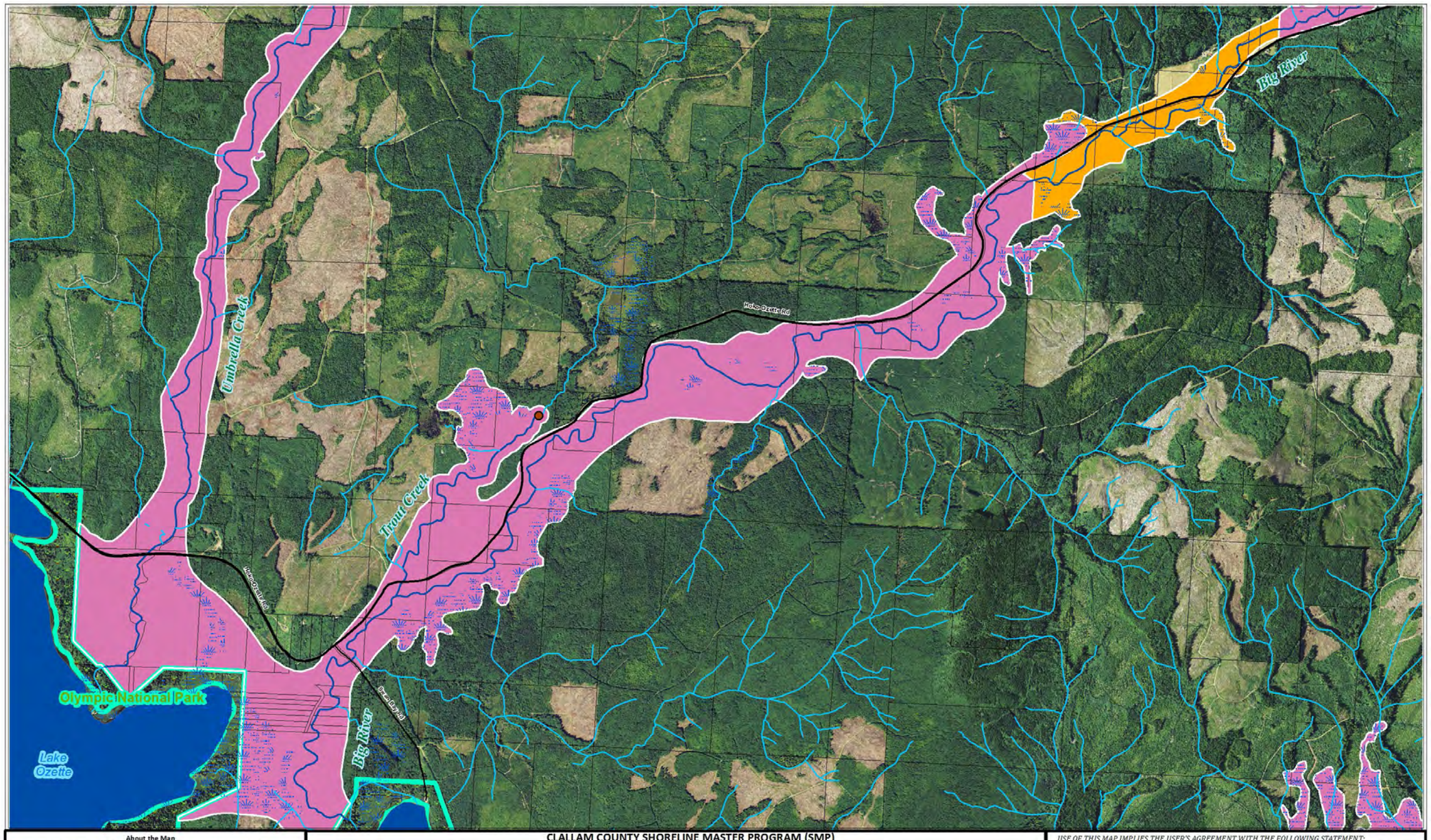
Map 27

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj


Big River
Umbrella Creek
Hoko-Ozette Rd
Trout Creek
Hoko-Ozette Rd
Olympic National Park
Lake Ozette
Big River
About the Map
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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map
Environmental Designations
Natural SED
Resource Conservancy SED
Shoreline Residential-Conservancy SED
Shoreline Residential-Intensive SED
Marine Waterfront SED
Aquatic (includes marine waters) SED
County Boundary
Feeder Bluff - Exceptional
Feeder Bluff - Other
Other Unstable Bluff
Non-SMP Stream
Associated Wetlands
Cities
Tribal Reservation & Trust
State and County Parks
Olympic National Park
Olympic National Forest
Parcel Boundaries
Urban Growth Area
20 cfs
1000 cfs
USGS point
Olympic Discovery Trail
Highways and Roads
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Map 28
N
Scale
1:24,000
Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



About the Map

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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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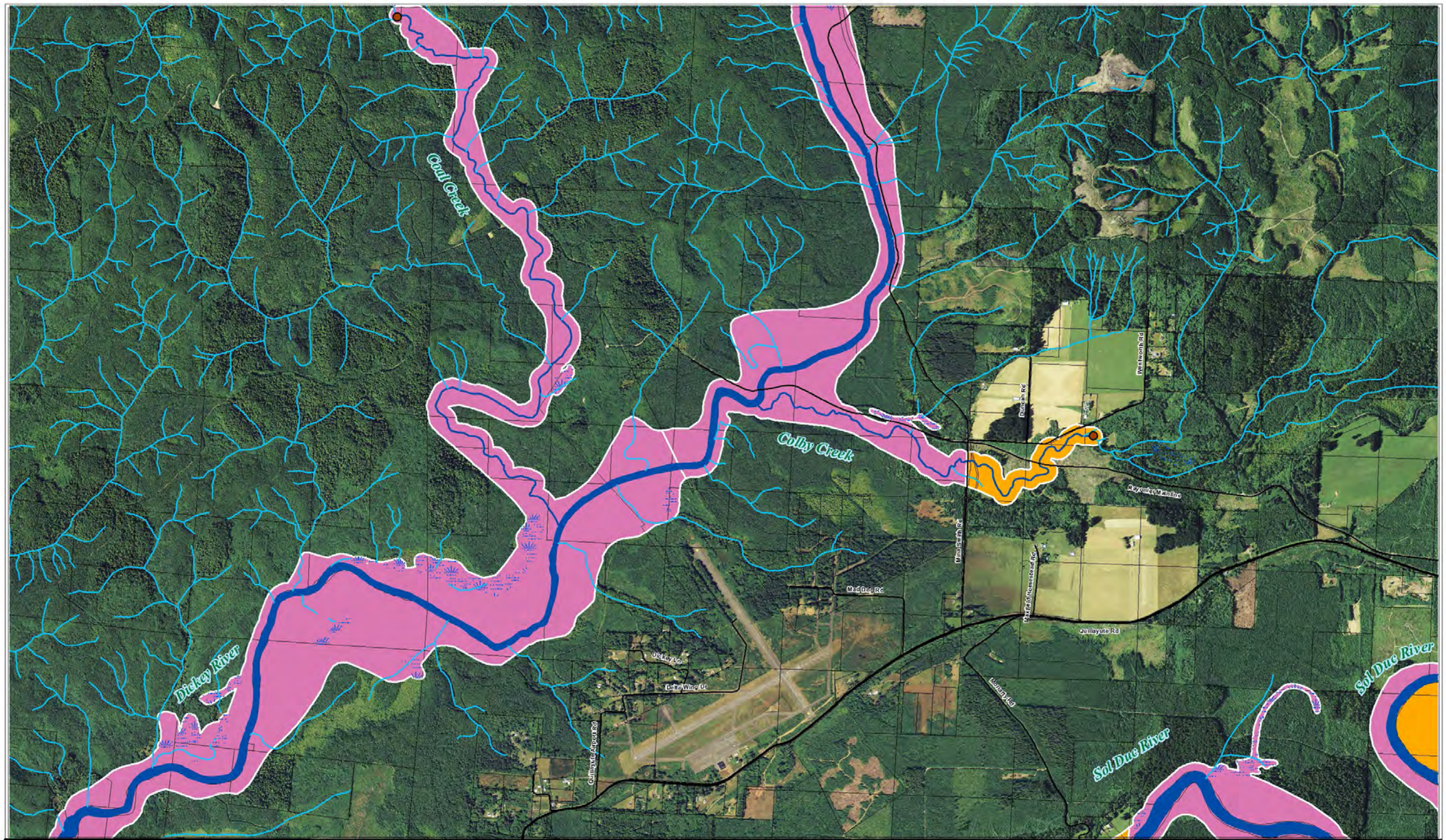
Map 29

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

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- Urban Growth Area
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- Olympic Discovery Trail
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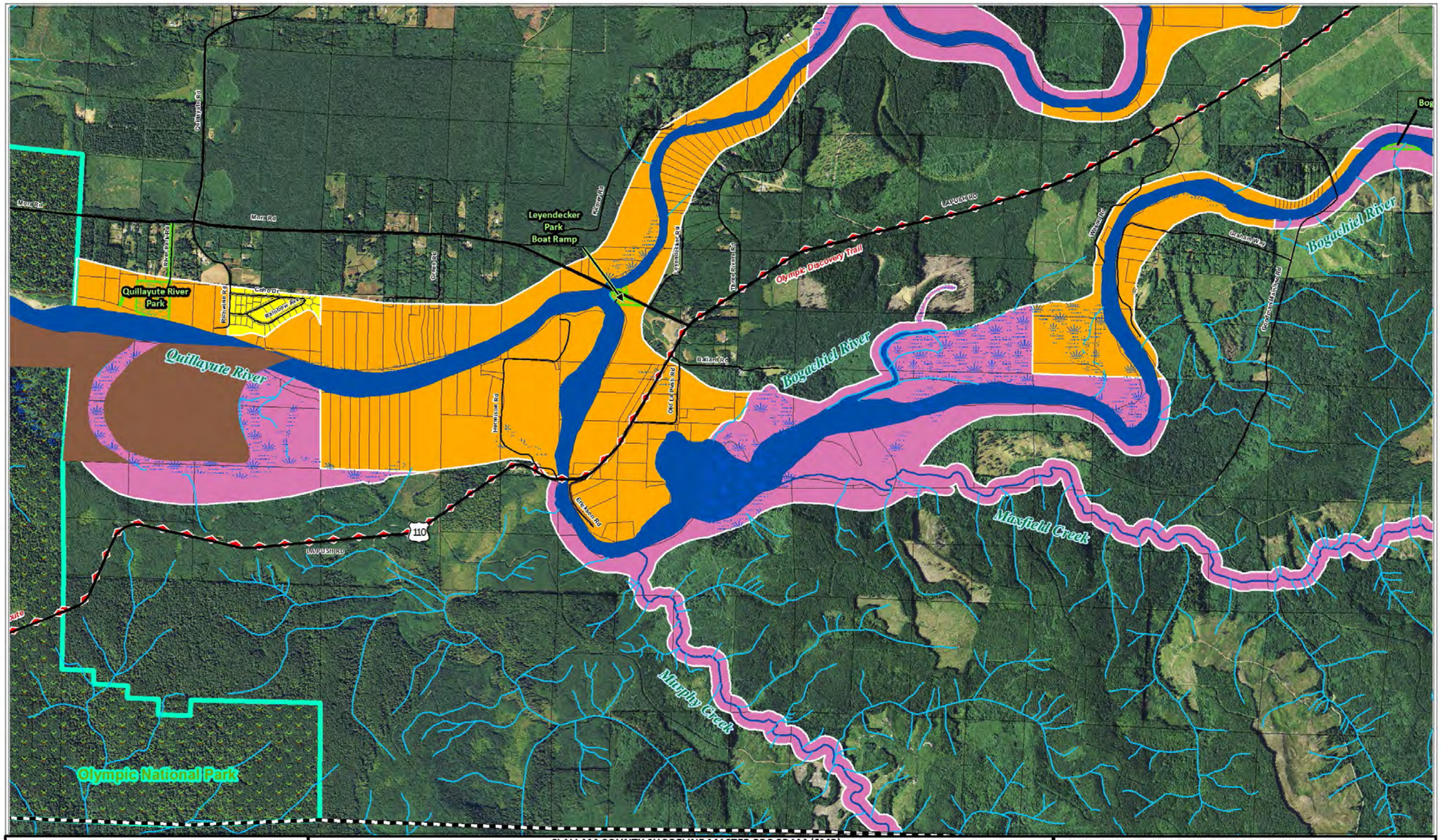
Map 30

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
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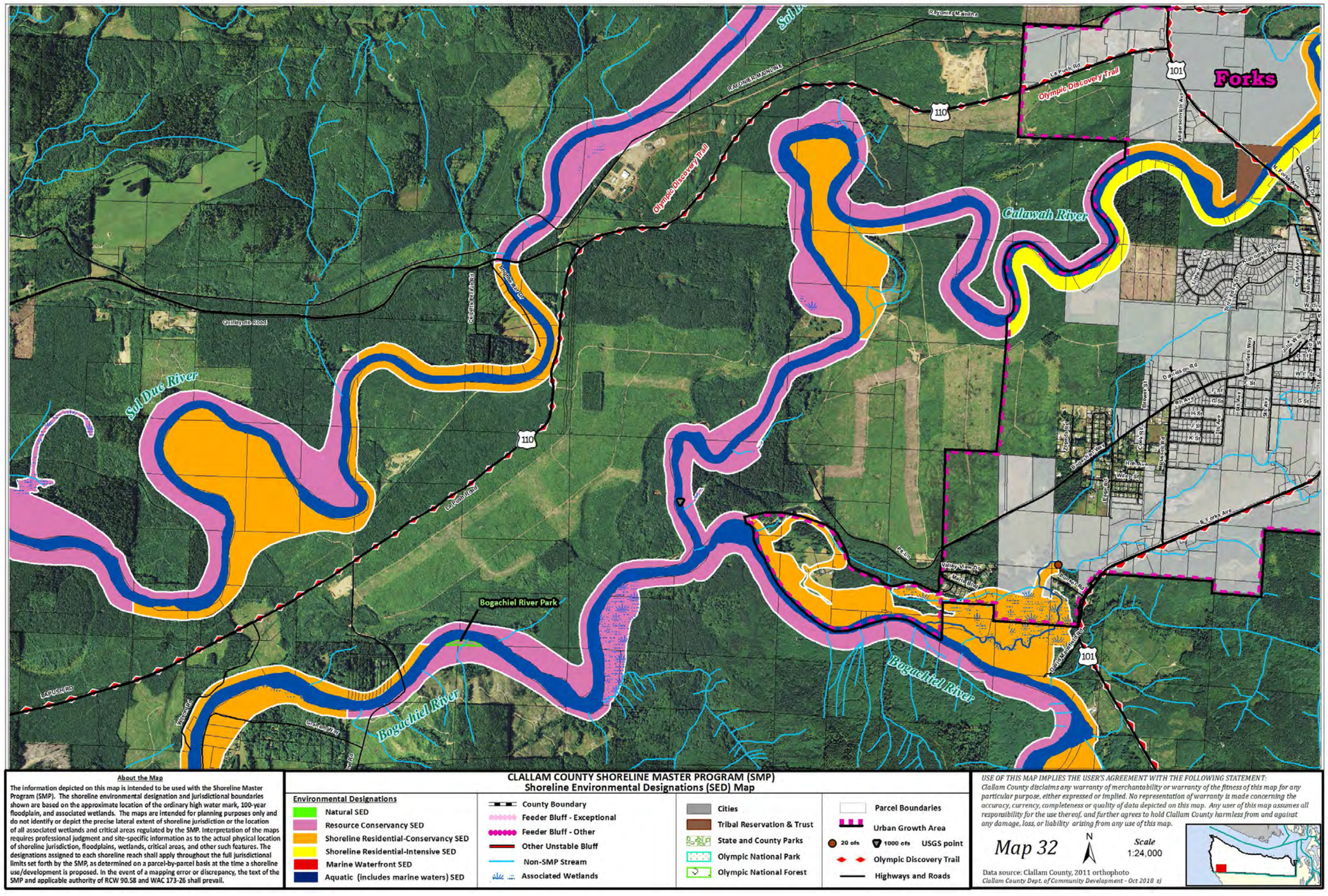
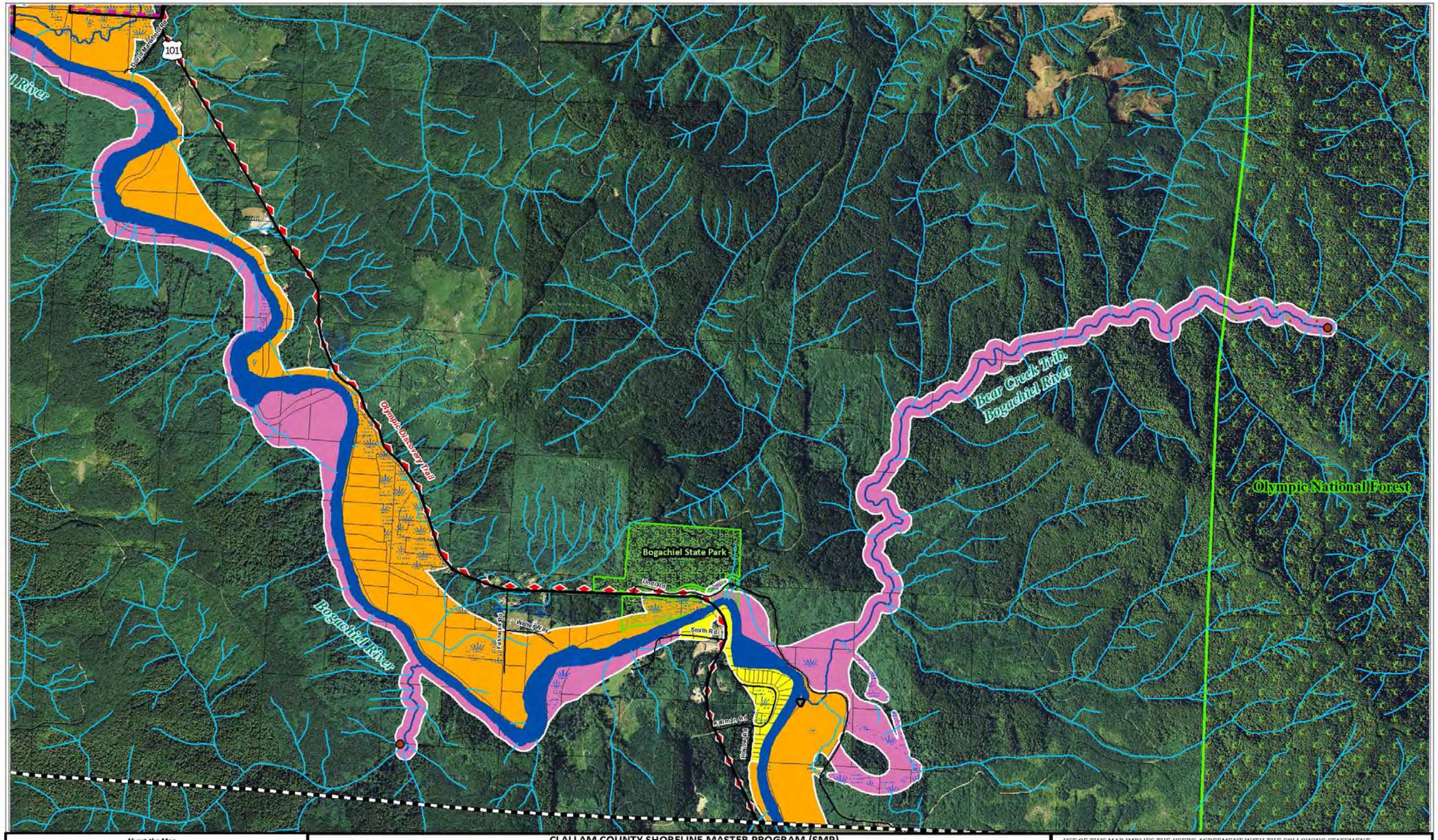
Map 31 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj


Forks
Olympic Discovery Trail
Calawah River
Sol Duc River
Bogachiel River
Bogachiel River Park
Quillayute Road
Quillayute Prairie Rd
Crowley Rd
La Push Rd
Upper Hoh Rd
Valley View Dr
Clearwater Rd
Bogachiel Way
Forks Ave
S. Forks Ave
Division St
Calawah Way
Sitka Ave
Spruce Ave
Alder Ave
Maple Ave
Cedar Ave
Juniper Ave
Willow Ave
Redwood Ave
Fir St
Spruce St
Maple St
Alder St
Cedar St
Willow St
Juniper St
Redwood St
Chamberlin Rd
Leyendecker Rd
Owens Rd
Crowley Rd
Hoh Rd
Mora Rd
Mill Rd
Huckleberry Ln
Little Soos Ck
Third Creek
Quillayute Prairie Rd
Valley View Dr
Mark Ct
Bogachiel Way
Forks Ave
S. Forks Ave
Olympic Discovery Trail
Andersonville



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

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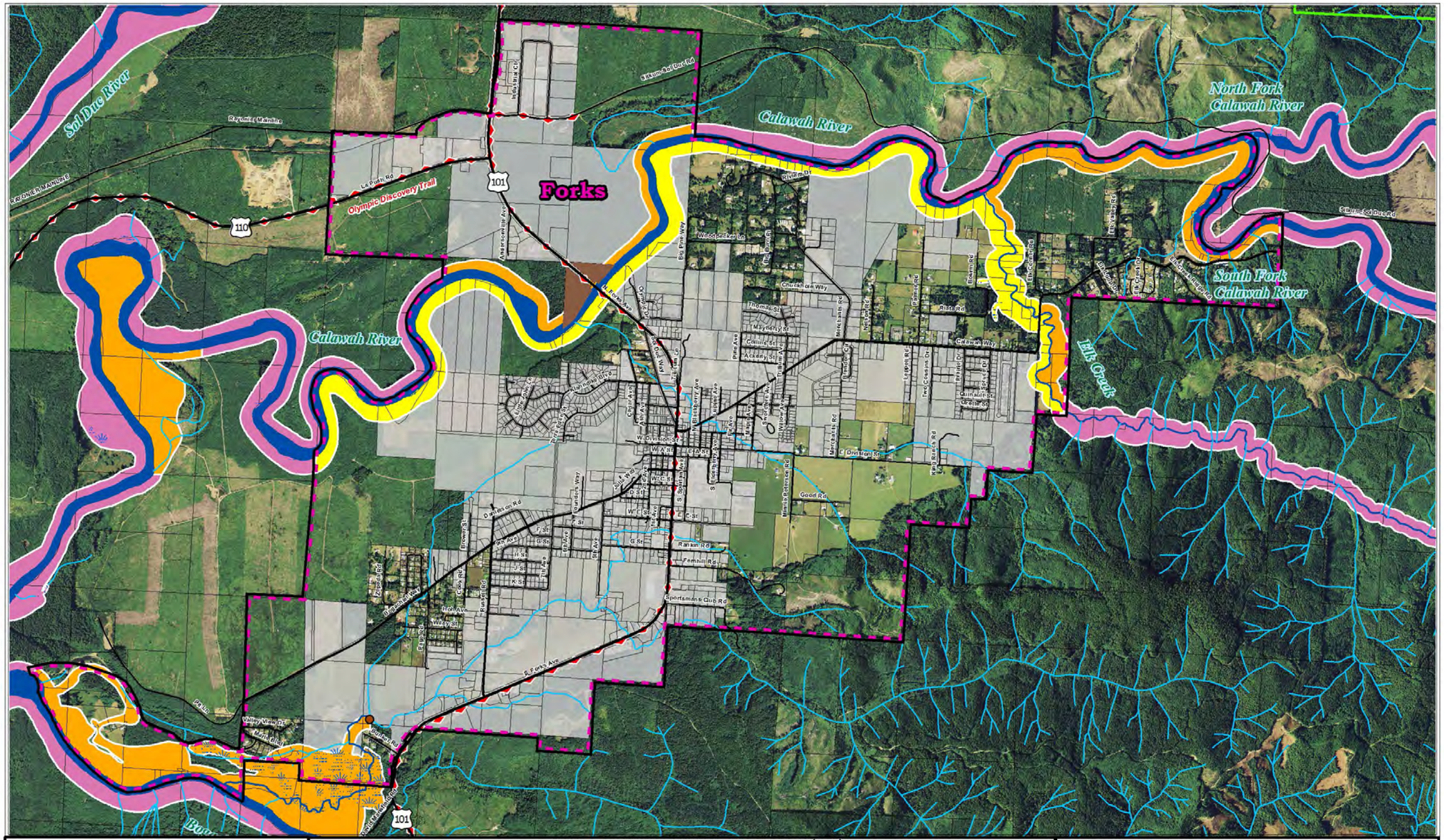
Map 33 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
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- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs, 1000 cfs, USGS point
- Olympic Discovery Trail
- Highways and Roads

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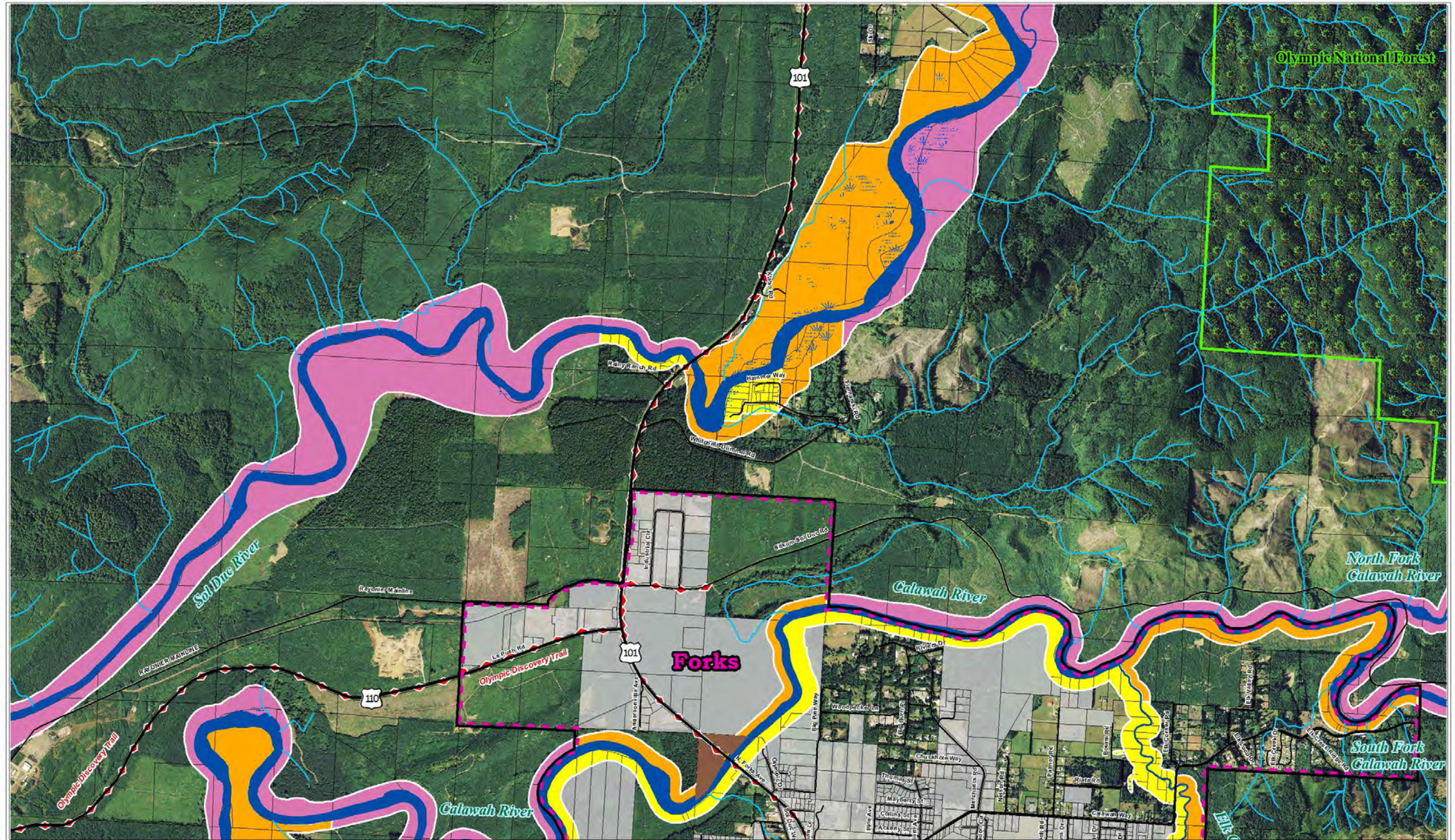
Map 34

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
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- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs, 1000 cfs, USGS point
- Olympic Discovery Trail
- Highways and Roads

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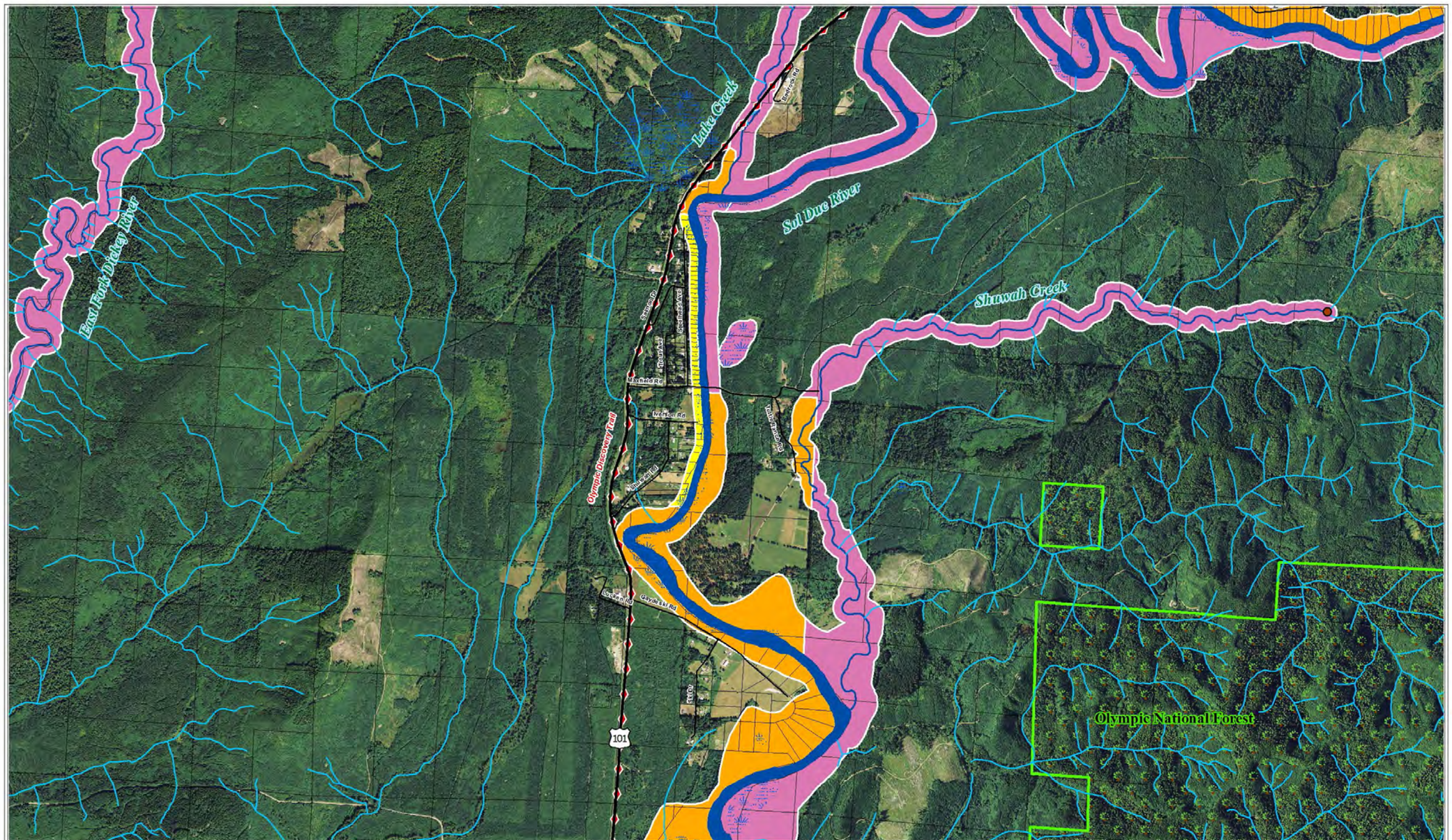
Map 35 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
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- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs 1000 cfs USGS point
- Olympic Discovery Trail
- Highways and Roads

USE OF THIS MAP IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
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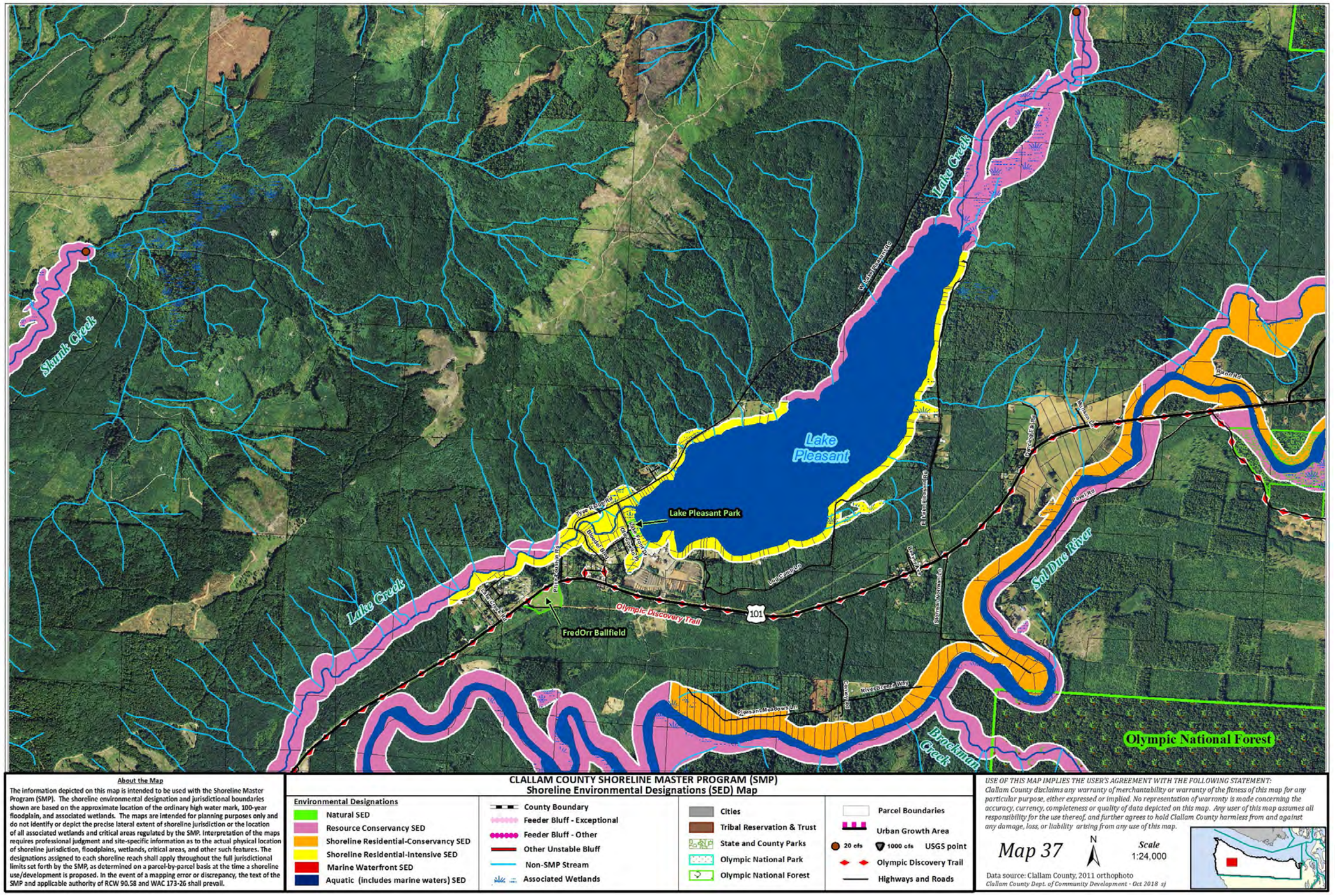
Map 36

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



About the Map

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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map

Environmental Designations
- Natural SED
- Resource Conservancy SED
- Shoreline Residential-Conservancy SED
- Shoreline Residential-Intensive SED
- Marine Waterfront SED
- Aquatic (includes marine waters) SED

- County Boundary
- Feeder Bluff - Exceptional
- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs
- 1000 cfs
- USGS point
- Olympic Discovery Trail
- Highways and Roads

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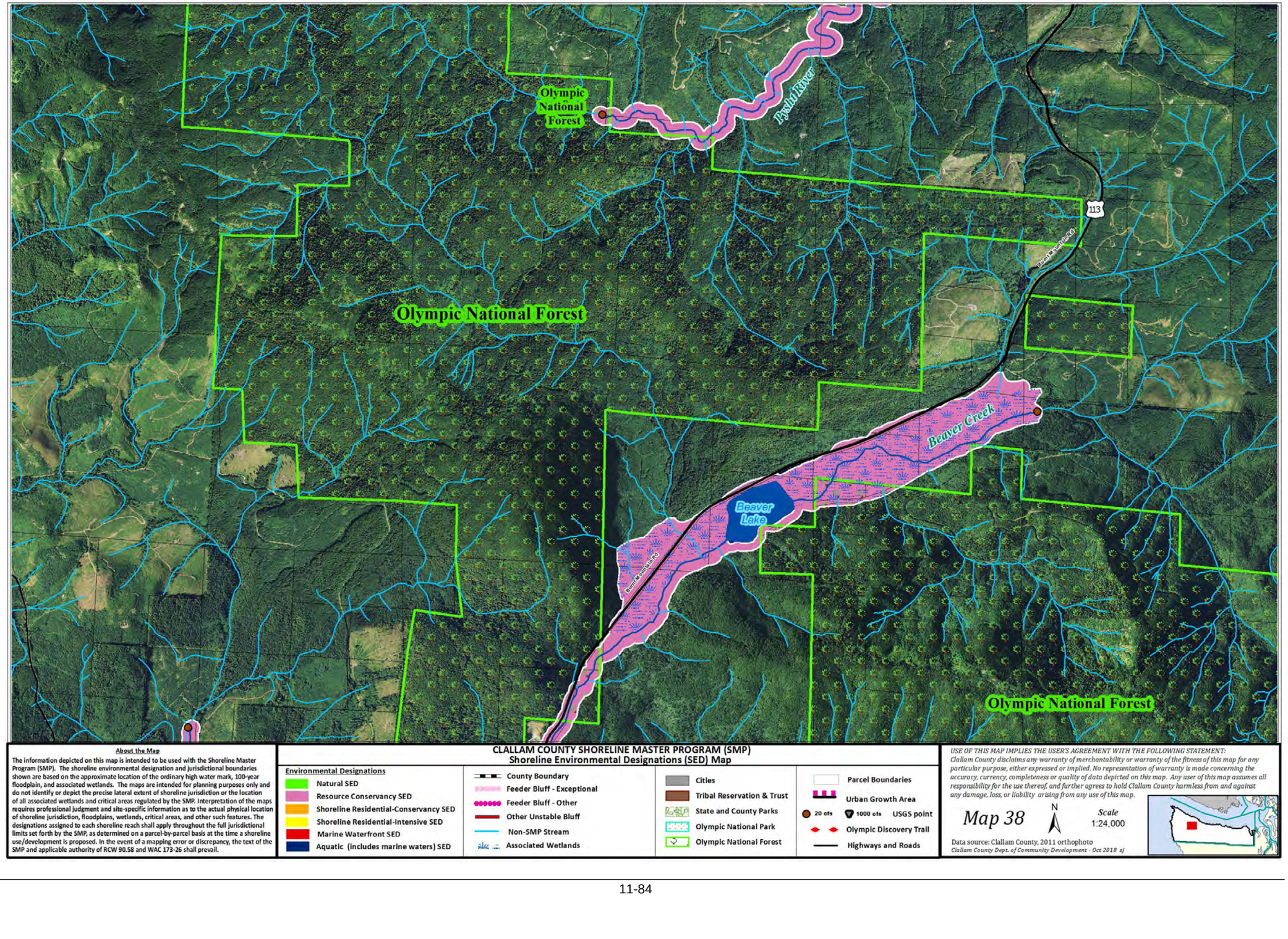
Map 37

N

Scale 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj


Olympic National Forest
Pysht River
Olympic National Forest
113
Beaver Creek
Beaver Lake
Olympic National Forest
About the Map
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CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)
Shoreline Environmental Designations (SED) Map
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Resource Conservancy SED
Shoreline Residential-Conservancy SED
Shoreline Residential-Intensive SED
Marine Waterfront SED
Aquatic (includes marine waters) SED
County Boundary
Feeder Bluff - Exceptional
Feeder Bluff - Other
Other Unstable Bluff
Non-SMP Stream
Associated Wetlands
Cities
Tribal Reservation & Trust
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Olympic National Park
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20 cfs
1000 cfs
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Olympic Discovery Trail
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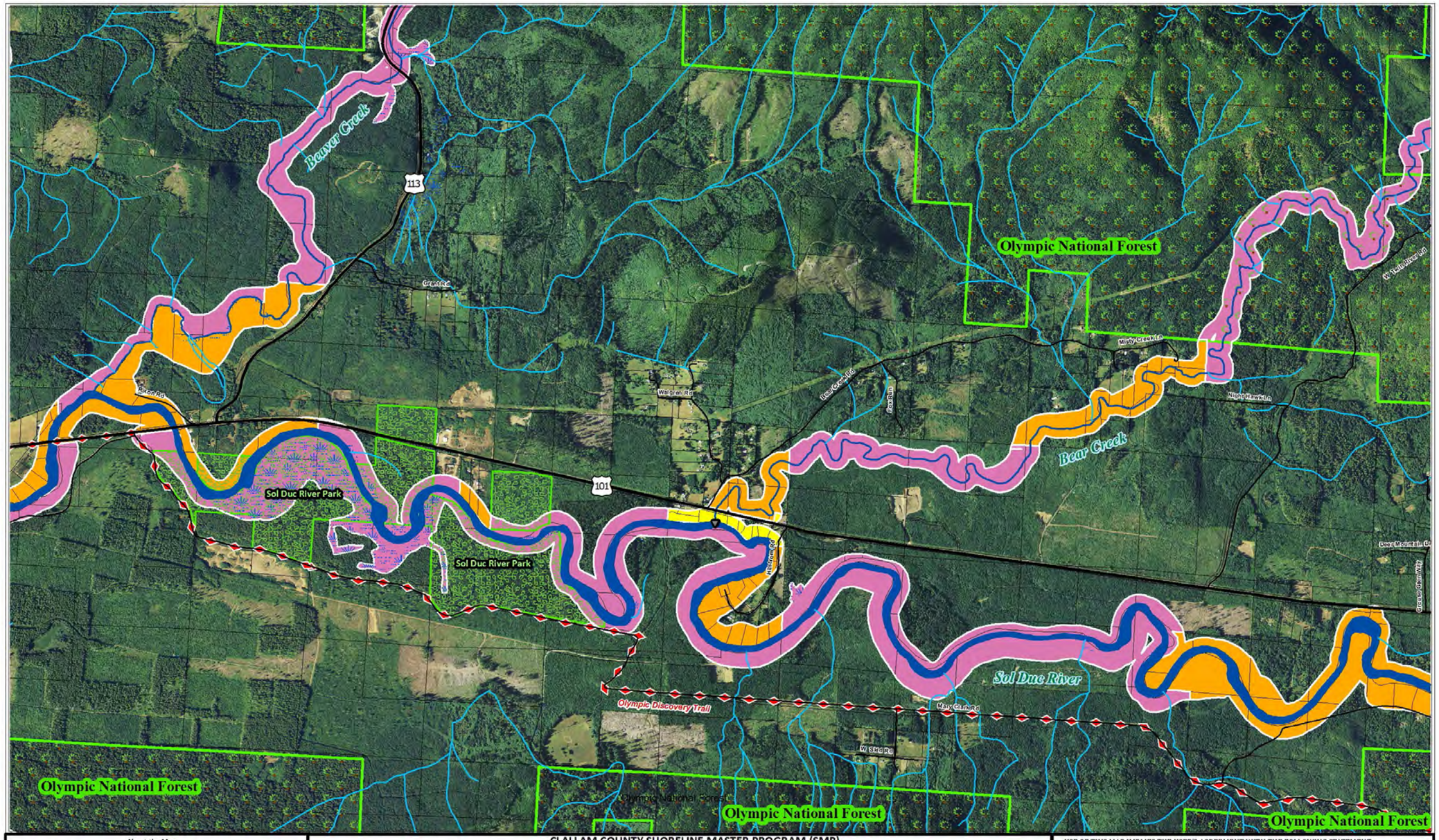
Map 38
N
Scale
1:24,000
Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 zj



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- County Boundary
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- Feeder Bluff - Other
- Other Unstable Bluff
- Non-SMP Stream
- Associated Wetlands

- Cities
- Tribal Reservation & Trust
- State and County Parks
- Olympic National Park
- Olympic National Forest

- Parcel Boundaries
- Urban Growth Area
- 20 cfs, 1000 cfs, USGS point
- Olympic Discovery Trail
- Highways and Roads

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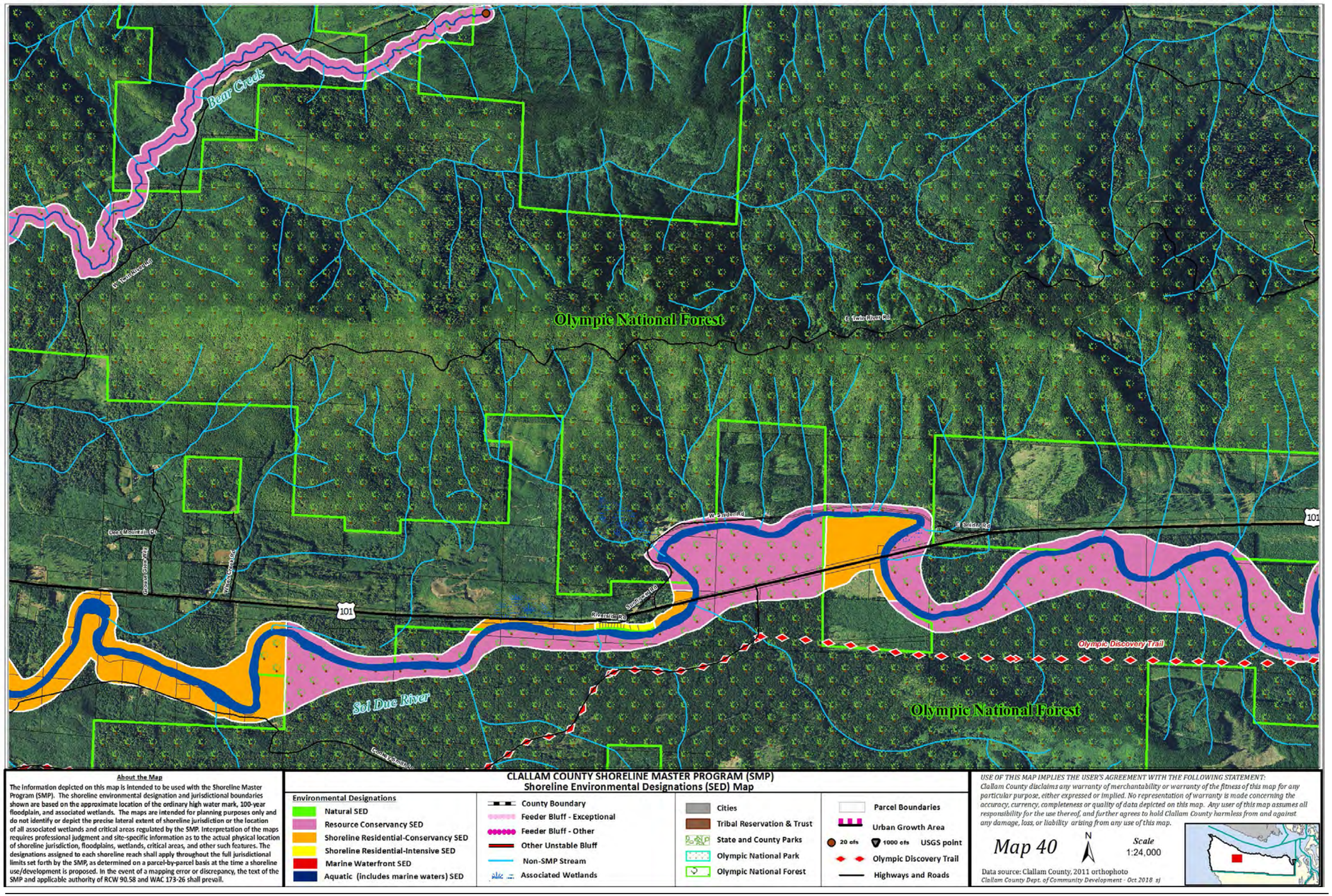
Map 39 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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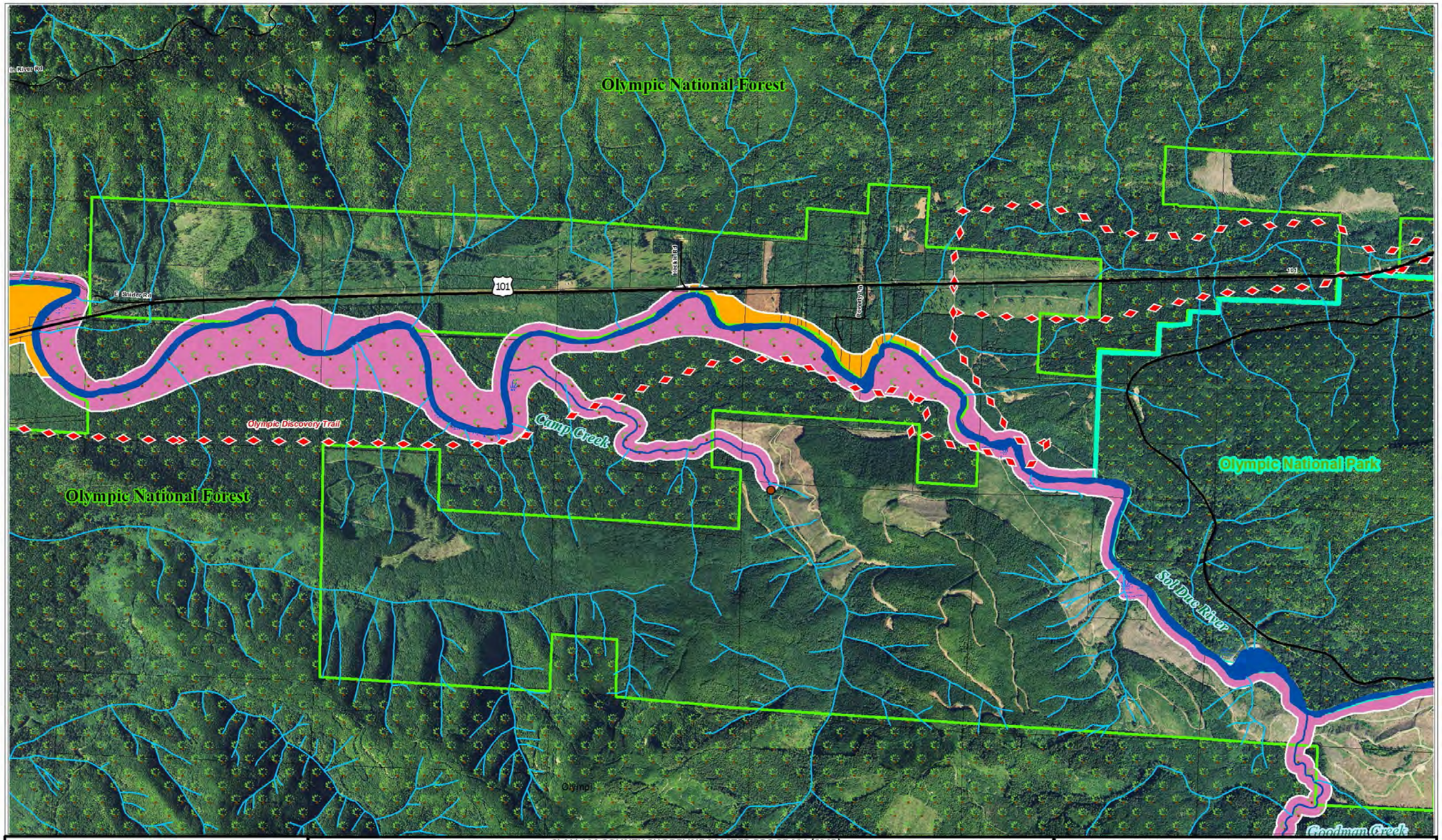
Map 40 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj



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Map 41 N *Scale* 1:24,000

Data source: Clallam County, 2011 orthophoto
Clallam County Dept. of Community Development - Oct 2018 sj

EXHIBIT B

List of Clallam County SMP Waterbodies

This Exhibit B provides a listing of waterbodies subject to this Shoreline Master Program and references the map number associated with the waterbody or the lat/long in order to identify the location on the SMP maps provided in Exhibit A.

Marine waters	***SMP Map # or lat/long****
Strait of Juan de Fuca	Map 1, 3, 4, 7, 8, 10, 12, 16, 17, 18, 19, 20, 22, 23, 25, 29
Pacific Ocean	
Lakes > than 20 acres in size	
Beaver Lake	Map 38
Dickey Lake	124°30'27.836"W 48°6'38.791"N
Elk Lake	124°34'41.576"W 48°12'27.845"N
Lake Ozette	124°38'13.954"W 48°5'41.039"N
Lake Pleasant	Map 37
Lake Sutherland	Map 15
Wentworth Lake	124°31'49.954"W 48°0'34.986"N
Streams & rivers (annual mean flow > 20 cubic feet per second)	
Albion Creek	124°8'52.849"W 48°0'4.787"N
Bear Creek	124°19'42.808"W 48°7'14.622"N
Bear Creek	Map 33
Bear Creek	Map 39, 40
Beaver Creek	Map 38, 39
Big River	Map 27, 28
Bockman Creek	Map 37, 39
Bogachiel River	Map 31, 32, 33
Boundary Creek	123°50'6.079"W 48°5'45.222"N
Brownes Creek	Map 26, 27
Bullman Creek	Map 29
Calawah River	Map 32, 34, 35
Camp Creek	Map 41
Canyon Creek	Map 6
Charley Creek	Map 36, 37
Clallam River	Map 23, 24
Coal Creek	Map 30
Colby Creek	Map 30
Coville Creek	Map 12
Crooked Creek	124°33'34.16"W 48°5'35.737"N
Deep Creek	Map 19
Dry Creek	Map 33
Dungeness River	Map 4,5,6,7
East Fork Dickey River	Map 36

East Fork Dickey River, U T	Map 35
East Twin River	Map 18, 19
Elk Creek	Map 34, 35
Ellis Creek	124°22'13.932"W 48°8'45.853"N
Elwha River	Map 12, 13, 14
Goodman Creek	Map 41
Green Creek	Map 21
Herman Creek	Map 27
Hoko River	Map 25, 26, 27
Hyas Creek	124°12'3.439"W 47°58'57.797"N
Lake Creek	Map 37, 38
Little Hoko River	Map 24, 25, 26
Lost Creek	124°15'7.921"W 47°55'27.256"N
Maxfield Creek	Map 31
McDonald Creek	Map 8, 9
Middle Fork Dickey River	124°27'56.846"W 48°6'2.599"N
Mill Creek	124°24'43.29"W 47°55'58.351"N
North Branch Herman Creek	124°23'11.249"W 48°10'30.998"N
North Fork Calawah River	Map 34, 35
North Fork Sekiu River	124°32'41.935"W 48°17'16.257"N
North Fork Sitkum River	124°7'42.098"W 47°57'59.376"N
Old Royl Creek	Map 27
Pilchuck Creek	124°37'41.352"W 48°13'29.595"N
Pistol Creek	124°4'13.927"W 47°59'40.258"N
Ponds Creek	124°28'56.614"W 48°8'17.886"N
Pysht River	Map 20, 21, 22
Quillayute River	Map 31
Rainbow Creek	124°11'4.475"W 47°57'16.412"N
Salmonberry Creek	Map 20, 21
Salt Creek	Map 16
Shuwah Creek	Map 35, 36
Silver Creek	123°6'11.776"W 47°53'33.961"N
Sitkum River	124°1'41.157"W 47°57'54.458"N
Skunk Creek	Map 37
Snag Creek	124°32'20.726"W 48°12'34.461"N
Sol Duc River	Map 30, 31, 32, 34, 35, 36, 37 ,39, 40, 41
Sooes River	124°32'15.391"W 48°14'30.438"N
South Fork Pysht River	Map 20, 21
South Fork Sekiu River	124°27'46.727"W 48°14'54.361"N
South Fork Sol Duc River	123°57'50.532"W 47°58'26.403"N
Thunder Creek	124°28'8.068"W 48°2'20.551"N
Trout Creek	Map 28
Umbrella Creek	Map 28
West Twin River	Map 18, 19

* Lat/long = center point for lakes or
Lat/long = point from ecology_20cfs_pts.shp

ADOPTED this _____ day of _____ 20__

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

_____ _____
Loni Gores Bill Peach
CMC, Clerk of the Board