

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE COUNTY OF KITTITAS
SHORELINE MASTER PROGRAM**

SMP Submittal accepted January 14, 2015, Resolution No. 2014-162
Prepared by Lennard Jordan and Zach Meyer on December 1, 2015

Brief Description of Proposed Amendment:

The County of Kittitas has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as Kittitas County Flood Prevention Ordinance (KCC Chapter 14.08) adopted by reference as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the County's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The original County SMP was approved by Ecology in 1975 and was last amended in 1992. The SMP has never been comprehensively updated. This SMP update is also needed to address land use changes that have occurred along the County's shorelines over the past 40 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the County's Critical Areas Ordinance, Comprehensive Plan, Flood Prevention Ordinance, and Hazard Mitigation Plan.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the County's existing SMP. This updated SMP will manage 51 streams and 44 lakes and ponds for a total shoreline length of approximately 680 miles in Kittitas County. The updated SMP is a significant upgrade from the current 1992 SMP. Since 1992, much has changed along Kittitas County's shorelines, including development pressures, state laws and guidance, and knowledge of best development and conservation practices. The proposed SMP contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions that have been updated to reflect these changes. Overall, the state SMP guidelines are more restrictive than they were for the original 1975 and revised 1992 SMP and this SMP is consistent with the most current guidelines.

The following elements outline the key differences between the County's proposed SMP and the existing 1992 SMP.

Environment Designations

The existing SMP has four environment designations: Urban, Rural, Conservancy, and Natural environments. The proposed SMP also has four environment designations: Urban Conservancy, Rural

Conservancy, Natural, and Aquatic. The proposed SMP designations include a purpose statement, designation criteria, and management policies. In addition, the proposed shoreline environments are more descriptive, tailored to the current conditions on Kittitas County's shorelines, and meet current SMP guidelines.

Shoreline Use and Modification Table and Critical Areas

The existing SMP does not distinguish between water-oriented and non-water oriented uses and does not provide a permitted use table.

The proposed SMP distinguishes between water-oriented and non-water-oriented uses for commercial, industrial, and recreational land uses. The shoreline use table also outlines categories and subcategories of uses and modifications and identifies whether they are permitted with a shoreline permit, permitted with a conditional use permit, or prohibited.

The proposed SMP includes specific goals, policies, and regulations for critical areas that fall within shoreline jurisdiction. The existing SMP did not include provisions specific to critical areas.

Amendment History, Review Process: The County indicates the proposed SMP amendments originated from a multi-jurisdictional planning process with Kittitas County serving as the project lead. The planning process began in September 2011. The record shows that open houses were held on July 18 and July 19, 2012 and January 29, 2014 and a public workshop was held on September 12, 2012. In addition, the County solicited feedback on SMP topics through a community visioning questionnaire; the County received 25 completed questionnaires. Additional target outreach was conducted by county staff by attending regular meetings or meeting with individuals from the following groups: Central Washington Homebuilders Association, Kiwanis of Ellensburg and Cle Elum, the Kittitas Field and Stream Club, the Kittitas County Farm Bureau, and the Washington Cattlemen's Association.

A technical advisory committee (TAC) that consisted of a group of representatives within the scientific community, statewide agencies, the Yakama Nation, the private sector, and academia assisted the County with technical discussions and identified key technical and policy issues associated with the SMP process. The TAC met monthly between April 2012 and August 2012. A citizen advisory committee (CAC) was established to finalize recommendations on environment designations, goals, policies, and use regulations. Representatives were selected by each of the four participating jurisdictions and addressed a mix of interests including agriculture, recreation, power generation, real estate/development, environment, sporting, and conservation. The CAC began meeting in October 2012 and continued through December 2013 and were open to the public.

A public hearing before the Planning Commission was held on August 12, 2014. Affidavits of publication provided by the County indicate notice of the hearing was published in the North Kittitas Tribune on August 7, 2014. A public hearing before the Kittitas County Board of County Commissioners was held on September 16, 2014. Affidavits of publication provided by the County indicate notice of the hearing was published in the Daily Record on September 4 and 11, 2014 and in the North Kittitas County Tribune September 11 and 18, 2014. With passage of Resolution #2014-62, on December 2, 2014, the County authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on January 14, 2015. Notice of the state comment period was distributed to interested parties

identified by the County on February 23, 2015, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on March 2, 2015 and continued through April 2, 2015. Three organizations submitted comments on the proposed amendments. Ecology sent all oral and written comments it received to the County on April 13, 2015. On July 29, 2015, the County submitted to Ecology its responses to issues raised during the state comment period. Ecology's own responses to issues raised during the comment period are available as part of the SMP amendment process record.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the County.

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on May 28, 2014. Notice of the SEPA determination was published in the Daily Record on May 28, 2014 and the North Kittitas Tribune on May 29, 2014. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the County in support of the SMP amendment:

These supporting documents include:

- *Public participation plan, December 2011,*
- *Shoreline inventory and characterization, May 2013,*
- *Cumulative impacts analysis, July 2014,*
- *No Net Loss Report, July 2014,*
- *Restoration plan, April 2014, and*
- *Kittitas County Code Chapter 14.08 Flood Prevention Ordinance*

Summary of Issues Raised During The Public Review Process:

The County's SMP amendment public review process generated a few comments from three groups; Washington State Department of Archaeology and Historic Preservation, the Confederated Tribes and Bands of the Yakama Nation, and Futurewise. Comments were focused on cultural resources, ensuring adequate buffers, and specific wording suggestions. The County addressed comments through modifications to the SMP and/or explanations explaining how the comments were addressed or why the County was unable to incorporate specific comments or suggestions.

Summary of Issues Identified by Ecology as Relevant To Its Decision:

Many of Ecology's required changes address internal referencing errors and adjusting citations to the most current document. An important aspect of these changes is an update to the wetland rating system

and wetland category descriptions, and an adjustment to wetland buffers to follow Ecology's updated guidance that became effective on January 1, 2015.

A number of Ecology's recommended changes are based on comments received during the state's public comment period. Ecology and a written comment from Futurewise recommends removing definitions for terms not used in the SMP. Comments from the Washington State Department of Archaeology and Historic Preservation influenced Ecology's recommended changes to the rewording of specific goals and policies related to cultural resources. Other recommended changes from Ecology are editorial and help to clarify language.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the County, be included in Ecology's approved SMP amendments.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the County has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's comprehensive SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the County has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the County's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the County. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.