

Department of Ecology Responsiveness Summary to San Juan County Response to Ecology’s Public Comment Summary

The Department of Ecology (Ecology) has attempted to summarize the intent of the comments received during the official comment period in the matrix. When responding to the comments, Ecology encouraged the County to read the entire email or letter in order to better understand the question or comment and take into account any additional rationale that might have been offered. Similar comments for the most part reference the original version received. Ecology received a few comments outside the comment period, which are not included here. Those comments have been read by Ecology and will be taken into account when the state makes its final decision.

Ecology - Department of Ecology county - San Juan County	N – Natural Designation C – Conservancy Designation	B&B – Bed and Breakfast CAO – Critical Area Ordinance	Italics – Quote Bold – Emphasis
OHWM - Ordinary High Water Mark	RR – Rural Residential Designation	SMA – Shoreline Management Act	Yellow – new underline and strike out text
MHW – Mean High Water	PMT – Ports, Marinas and Marine Transportation	Guidelines – WAC 173-26 Part III	
SMP – Shoreline Master Program	SSWS – Shorelines of Statewide Significance	DNR – Department of Natural Resources	

Comment Number	Commenter	Comment Topic and/or Section Number (Citation)	Comment/Question	Local Government Response and Rationale	Department of Ecology Response to County Response
1	Roe, Patrick	Shoreline Designation Map	Why is Salmon Point on Lopez Island split into two designations (C and RFF) and not changed to simply C as requested by the Salmon Point community? The change would be consistent with the development pattern of that particular area. The request does not include the community dock.	The County has no record of a request from the Salmon Point Community to amend the Shoreline designation. An amendment to the existing designations was not evaluated.	Comment and response noted.
2	Wilson, Robert	OHWM vs MHW	Why not use Mean High Water (MHW) instead of the Ordinary High Water Mark (OHWM) for purposes of measuring setbacks? MHW is more easily established and less arbitrary.	The OHWM is established by Shoreline Management Act (SMA), Revised Code Washington (RCW) 90.58.030 (2)(c) as the point at which the 200-foot shore land jurisdiction of the SMA begins. It was determined that using the OHWM or the top of bank to determine setbacks reduced interpretative confusion and was consistent with the State law.	It is the County’s choice to use the MHW or OHWM for measuring setbacks.
3	Dethier, Megan, Friday Harbor Labs	Designation Changes	How does the county justify making designation changes that are less protective of environment by emphasizing	The commenter has concerns about a <i>“problem with the overall tone... to the changes to the SMP:”</i> and that where	Ecology agrees that removing the dual designation does not necessarily lessen shoreline protection.

			<p>the existing use pattern over the biological and physical character of the shoreline?</p>	<p>shoreline designation changes were made, they tended to become “<i>less-restrictive (i.e. less-natural).</i>”</p> <p>Actually, the updated Shoreline Master Program (SMP) increases the amount of shoreline with the Natural designation by twenty-one miles. The shoreline with the Conservancy designation has been increased by a further mile. In contrast, the amount of shoreline with the Rural Residential designation increased by fifteen miles.</p> <p>The County evaluated the designations based upon WAC 173-26-211 (a)(2) which states that the shoreline designations must be based on:</p> <ol style="list-style-type: none"> 1. The existing use pattern, 2. The biological and physical character of the shoreline, and 3. The goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. <p>The WAC does not direct the County to emphasize one characteristic over the other. The County’s proposed amendments are based on multiple criteria.</p> <p>The comment states that forage fish spawning beaches and feeder bluffs “<i>did not receive extra protection.</i>” The County’s critical areas regulations specifically identify and protect forage fish spawning beaches and feeder bluffs, (See SJCC 18.35.115 and SJCC</p>	
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				<p>18.35.130). These regulations protect both shoreline and upland ecological functions and meet the no net loss of ecological function standard required by WAC 173-26-186 (8)(b) and RCW 36.70A.480 (4).</p> <p>Consistent with WAC 173-26-201 (2)(c) Shoreline designations are one tool used by the County to achieve no net loss of shoreline ecological functions. Other tools used to achieve no net loss include water quality buffers, tree protection zones, building setbacks, mitigation sequencing etc.</p> <p>WAC 173-26-176 (2) cites the SMA when addressing the competing requirements to allow shoreline use and protection;</p> <p><i>“The act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020.</i></p> <p>The WAC quote illustrates the principal of equal protection for shoreline ecological functions rather than ‘extra’ protection.</p> <p>When development projects conform to the County’s critical area regulations, the projects achieve no net loss of shoreline ecological functions. Where projects cannot conform to the County’s critical area regulations, the projects are subjected to a mitigation analysis</p>	
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				<p>that begins with avoidance, and includes alternative locations or alignments and finally mitigation to offset the potential adverse impacts.</p> <p>The updated SMP is designed to achieve no net loss of shoreline ecological functions overall.</p> <p>The County's critical area regulations were challenged before the Growth Management Hearings Board (GMHB), Western Washington Region (Case No 13-2-0012c) and in the Court of Appeals of the State of Washington. On August 10, 2015, the Washington State Court of Appeals upheld a superior court decision rejecting the final challenges to the County's critical areas ordinance in Case No. 72235-2-1 (<i>Common Sense Alliance, P.J. Taggares Company, and Friends of the San Juan's v. GMHB, Western Washington region and San Juan County</i>).</p>	
4a	Bryan, Johnathan	Marine Resource Committee	<p>The writer believes the suggestions made by the Marine Resource Committee to not remove the intertidal designations were ignored.</p> <p>The commenter states: <i>The San Juan County Marine Resources Committee... voted unanimously to recommend the council (sic) maintain all natural and conservancy intertidal zonings throughout the county, but the council ignored this recommendation. In their railroad approach, the county seems to have favoritism in mind.</i></p>	<p>The County received and responded to comments from the Marine Resources Committee. See DOE submission, response to public comments, dated June 20, 2016, comment numbers 185 through 194.</p>	Comment and response noted.
4b	Bryan, Johnathan	Sub Units	<p>Why did some areas (Waldron, Eastsound, Deer Harbor) get recognized as subarea units and treated differently</p>	<p>Section B, Element 2, (Land use element) 2.3.B of the San Juan County Comprehensive Plan identifies and establishes 'existing areas</p>	Comment and response noted.

			<p>than the Mitchell Bay community during the update process?</p>	<p>of activity' and provides a list of all limited areas of more intense rural activity (LAMIRDs) in the County. This list includes Orcas Village, Olga, Deer Harbor, Doe Bay, Westsound, W. Beach Road/Crow Valley Road- Orcas; Center Road/School Road-Lopez; Country Corner-Orcas; North Roche Harbor Area, North Rosario Area, Roche Harbor, Rosario Resort, and West Beach Resort. Section B, Element 2, subsection 2.3.B (6) allows the County to develop regulations and plans specific to the identified village, hamlet or island center activity centers.</p> <p>Mitchell Bay is not designated as an activity center in the County's Comprehensive Plan and does not have area specific goals, policies and regulations.</p>	
4c	Bryan, Johnathan	Designation Changes	<p>How does the county justify making uses that were made non-conforming for a reason in the past now conforming simply based on the use being there?</p>	<p>Over time, community values and land use regulations change.</p> <p>WAC 173-26-211 (a)(2) identifies the County's Comprehensive Plan as the appropriate locus of the community's goals and aspirations to be reflected in the shoreline designations.</p> <p>San Juan County Comprehensive Plan, Section B, Element 3 (3.5.B) establishes a clear community preference for the expansion of existing boating facilities over the development of new ones and the creation of private docks.</p> <p>As part of the implementation of these community goals, the County's existing boating facilities need to be identified and zoned appropriately. The Snug Harbor facility</p>	<p>Ecology agrees with the County's response.</p>

				<p>is consistent with the shoreline designation criteria and should be zoned consistent with the stated community purposes.</p> <p>Any future development will require the appropriate permits and will conform the SMP.</p> <p>San Juan County Comprehensive Plan Section B, Element 3 sets forth the following goals and policies indicating the community's preference for maintenance and expansion of marinas and other joint use boating facilities over the proliferation of private docks.</p> <p><i>3.5.B.ii (2)</i> <i>Give preference to the joint use of a single structure by several shoreline property owners, as opposed to the construction of several individual structures to spare San Juan County from the so-called "porcupine effect" created by dozens of individual private docks and piers on the same shoreline segment.</i></p> <p><i>3.5.B.iii (3)</i> <i>Minimize the consumption of limited shoreline resources in marina development. To accomplish this as well as providing moorage opportunities for inland and shoreline residents, the following sequence is preferred:</i></p> <p><i>a. The expansion of existing marinas over the addition of new marina sites;</i></p> <p><i>b. The provision of a reasonable proportion of permanent moorage spaces to reduce the demand for, or proliferation of, individual docking facilities for numerous private, noncommercial pleasure craft; and</i></p>	
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				<p><i>c. The use of boat launching ramps and dry storage of recreational boats as favorable alternatives to sheltered, year-around wet-moorage of watercraft.</i></p> <p>To establish a specific shoreline designation, WAC 173-26-211 states that the proposed shoreline designation must have a purpose, designation criteria, management policies, and associated regulations.</p> <p>Section B, Element 3, subsection 3.3.G of the San Juan County Comprehensive Plan establishes the purpose of Ports, marinas and marine transportation designation as to <i>“allow for and support ports, marinas, and marine transportation facilities which have a vital economic role within the County.”</i></p> <p>Section B, Element 3, subsection 3.3.G of the San Juan County Comprehensive Plan establishes the:</p> <p><i>Designation Criteria: Areas that may be designated as Ports, Marinas and Marine Transportation may include:</i></p> <p><i>Existing marinas, mooring buoys, boating facilities, docks, boat ramps, ferry and barge landing sites.</i></p> <p>Section B, Element 3, subsection 3.3.G establishes the designation’s management criteria and the adopted ordinance contains specific regulations pertinent to the designation.</p> <p>The rationale for all map amendments was submitted to the Department of Ecology on June 27, 2016.</p>	
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				See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers 9 and 16 on pages 1 and 2.	
5a	Bryan, Johnathan	Designation Changes	How does the county justify the lessening of environmental protection by the removal of more restrictive intertidal designations?	<p>The question presumes that different designations are less protective which is not supported by any evidence. The updated SMP is designed to achieve no net loss of shoreline ecological functions in all shoreline designations.</p> <p>In developing the SMP designations, early decisions were made to eliminate so called "Dual Designations" wherein the area between the OHWM and the Extreme Low Tide (ELT) line were designated different than the abutting upland areas landward of the OHWM, either "Conservancy" or "Natural". These decisions to eliminate the dual designation were an effort to simplify and streamline the SMP, since the dual designation was difficult for landowners to understand.</p> <p>The updated SMP, combined with the County's critical area regulations improve the protection for shoreline ecological functions throughout the shorelines rather than just the Conservancy and Natural designations.</p> <p>The County disagrees with the claim that: "Currently, most of San Juan County has an intertidal zoning different from the part that stays covered with water, the aquatic area."</p> <p>Under the current SMP, 18.92 miles of the 462.49 miles of shoreline have multiple designations. This represents 4.09 percent of</p>	Ecology agrees that removing the dual designation does not necessarily lessen shoreline protection. In some cases, it may be a change in land use based on the designation criteria.

				<p>the County's currently designated shorelines and is much less than 'most.'</p> <p>See response to item 3 of this table.</p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers 9 and 16 on pages 1 and 2.</p>	
5b	Bryan, Johnathan	PMT Designation	<p>Why were the boating facility east of the Orcas ferry dock and the facility in Fish Creek by Cape San Juan not designated PMT?</p> <p>In the letter dated July 27, 2016, the commenter states, "According to the dictionary, a marina, in addition to housing boats, should have marine related services." From this premise, the commenter argues that Snug Harbor is not a marina because it does not offer marine related services.</p>	<p>Miriam-Webster dictionary offers the following definitions of 'marina':</p> <ol style="list-style-type: none"> 1. <i>Simple definition: an area of water where privately held boats (such as yachts) are kept.</i> 2. <i>Full definition: a dock or basin providing secure moorings for pleasure boats and often offering supply, repair and other facilities.</i> <p>The Cambridge English dictionary defines the term 'marina' as 'a small port that is designed for small pleasure boats.'</p> <p>There is no requirement in either of the above definitions that a marina provide additional nautical services in order to be considered a marina.</p> <p>It is not clear which marine facility east of the Orcas ferry landing the comment letter is referring to.</p> <p>Immediately east of the Orcas ferry landing is the Bayhead Marina and it is designated as PMT as is the Orcas ferry landing.</p> <p>Fish Creek by Cape San Juan was not designated PMT because the marina is only</p>	Comment and response noted.

				<p>available to Cape San Juan homeowners. At that time, it was determined that the limited availability of the Cape San Juan facility weighed against the designation as a transportation facility.</p> <p>If directed by Council, the designation at Cape San Juan could be re-examined.</p>	
5c	Bryan, Johnathan	Designation Changes	The county argues that some designation changes simply reflect the existing development. How does the county justify the potential for increasing the impacts (i.e. dredging or expansion) of these uses if they are made conforming?	See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers 9 and 16 on pages 1 and 2. Any further activity requires obtaining the appropriate permits. Also, see Item 3 of this chart.	Ecology agrees the County has justified its decision.
6	Sutley, Tani	B&B's and Vacation Rentals	B&B Residence, B&B Inn, and vacation rentals are defined as "hospitality commercial use" in the ordinance. Vacation rentals are listed as residential development in Table X on page 117. B&B's are not listed. To avoid confusion, Table X should reflect both the commercial and the residential use of vacation rentals or provide some explanation by notation.	Vacation rentals are residential accessory uses. The County could review the definition of hotels, motels, bed and breakfast residences, bed and breakfast inns and vacation rentals in relation to the entire Unified Development Code, and if appropriate, the definition could be amended.	Ecology agrees with the County's response. The county could conduct a review to ensure hospitality commercial uses are treated consistently, and clarifications could be made in the UDC.
7	Sutley, Tani	Vacation Rentals	If allowed in the designation, new construction of a vacation rental would require a shoreline substantial development permit with no exemption since the unit would not be owner occupied. San Juan County makes a notation in Table X that vacation rentals would require a certificate of exemption. That appears to be an error for new construction.	<p>WAC 173-27-040 (2)(g) provides an exemption from a substantial shoreline development permit for the:</p> <p><i>Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family.</i></p> <p>There is no effective method for determining whether a single family residence building application is filed for the creation of a vacation rental rather than a family residence or second home.</p> <p>However, if someone applies for a permit to allow a vacation rental in an existing structure, a substantial development permit</p>	The table has been changed so that exemptions are no longer noted. Vacation rentals are listed in the table as prohibited, requiring a conditional use permit or a substantial development permit.

				would be required, as well as any other applicable development requirements.	
8	Sutley, Tani	Vacation Rentals	The writer states that vacation rentals are not a preferred use as defined by the Guidelines, are not a preferred use on SSWS, do not meet the definition of single family residence, do not meet the definition of “development” for a conversion, and therefore should be listed as either prohibited or CUP in all designations for a conversion.	<p>The comment cites a portion of the County’s definition of development and argues that a change of use constitutes ‘development.’ The County’s definition of development reads (in full):</p> <p><i>“Development” means the division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any grading, draining, dredging, drilling, filling, paving, excavation, mining, landfill; or any extension of the use of land. (See also “Shoreline development.”) Not all development requires a permit or review.</i></p> <p>In the context of the County’s definition of development, the term ‘conversion’ refers to physical alteration of a structure.</p> <p>The County considers vacation rentals as a residential accessory use, not a conversion to a non-residential use.</p>	<p>Shorelines of Statewide Significance (SSWS) in San Juan County is seaward of the extreme low tide [RCW 90.58.030(2)(f)(iii)].</p> <p>For purposed of implementing the SMP, “development” is defined in WAC and referred to in the County’s definition as “shoreline development.”</p>
9a	Johnson, Maile	Complicated Language	Believes portions of SMP are unnecessarily complicated and unclear. For example, Section 16.C.1 appears to allow residential development in wetlands but SJCC 18.35.100 does not.	<p>Shoreline regulations are complex and considerable efforts were taken to simplify the SMP language. To improve clarity, staff recommends the following amendment to Section 16 (C)(1) of Ordinance 1-2016:</p> <p><i>Land clearing, grading, filling, or alteration of wetlands, natural drainage, and topography shall be limited to the area necessary for driveways, buildings, and view and solar access corridors. Cleared surfaces not to be covered with gravel or impervious surfaces</i></p>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<i>shall be replanted promptly with native or compatible plants (i.e., groundcovers or other plant materials adapted to site conditions which will protect against soil erosion)...</i>	
9b	Johnson, Maile	Intertidal Protection	<p>Upland SMP designations based on the development pattern do not protect sensitive aquatic habitat. The natural designation should be applied to ecologically intact shorelines with critical habitat and the conservancy designation where those shorelines have been partially or fully developed.</p> <p>In the letter dated August 17, 2016 the commenter states:</p> <p><i>In designating shoreline zoning, the County largely focused on existing development rather than scientific research that identifies beaches where fish spawn, popular migration routes for salmon and eroding bluffs that make beaches. Please make sure the Update uses this science for shoreline zoning, applying the natural designation to ecologically intact shorelines with critical habitat and the conservancy designation where those shorelines have been partially or fully developed.</i></p>	<p>The comment is circular and cannot be addressed logically. The County disagrees with the premise.</p> <p>The SMP guidelines require the County to consider multiple factors in designating the shorelines.</p> <p>WAC 173-26-211 (a)(2) states that the shoreline designations must be based on:</p> <ol style="list-style-type: none"> 1. The existing use pattern, 2. The biological and physical character of the shoreline, and 3. The goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. <p>The WAC does not direct the County to emphasize one characteristic over the other. Consistent with the State's guidelines, the County's amendments were based on multiple factors.</p> <p>San Juan County Comprehensive Plan, Section B, Element 3, subsections 3.3.E and 3.3.F identify the designation criteria for Conservancy and Natural shoreline designations. The designation criteria are not regulatory. The fact that an area may share one or more of the identified designation</p>	The County has followed Ecology Guidelines in making decisions regarding application of environment designation criteria.

				<p>criteria does not determine the area's final designation.</p> <p>Critical area regulations and no net loss standards apply in all shoreline designations.</p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers 9 and 16 on pages 1 and 2.</p>	
9c	Johnson, Maile	Shoreline Vegetation	<p>SMP does not protect native vegetation along the shoreline by allowing the cutting up to 40% of the mature trees every 10 years and annual clearing of 20% of the total buffer foliage. New development such as septic tanks and lines, wells, aquaculture staging, 4,000sq.ft. gardens and orchard are allowed in buffers. Buffers may also be reduced based on neighbor homes.</p> <p>In the letter dated August 17, 2016 the commenter states:</p> <p><i>Native vegetation along shorelines helps reduce and clean stormwater runoff, stabilizes the soil, and provide food, shade, and habitat for both fish and wildlife. The Update should guarantee healthy vegetated buffers along critical shoreline areas that remain largely natural. Instead the Update would apply the current inadequate standards, which allow the cutting of up to 40% of mature trees every 10 years throughout much of something called a Tree Protection Zone, and the annual clearing of 20% of the total buffer foliage. Current standards also allow clearing in these delicate spaces for new development like septic tanks, and lines, wells, aquaculture staging, and, 4,000 square foot gardens and orchards. Buffer widths may even be decreased based on small, outdated neighboring buffers. Please ensure that the County revises its SMP consistent with the Department of Ecology's own recommendations for</i></p>	<p>The comment is not accurate. The proposed SMP does not allow cutting up to forty percent of the mature trees every ten years, nor does it allow clearing of twenty percent of the total buffer foliage on annual basis.</p> <p>The County's critical areas establish 2 tree protection zones, labeled 1 and 2. TPZ 1 stretches 35 feet inland from the OHWM. TPZ 2 stretches 75 feet inland from the landward edge of TPZ 1. Generally, cutting of foliage or trees in TPZ1 is prohibited. The cutting of trees and foliage clearing is allowed in only two circumstances in TPZ 2, for the construction of a primary structure and, where necessary, for a view.</p> <p>The County's regulations are tailored, as far as possible, to address the physical characteristics of each lot. The County has avoided a 'one size fits all' approach to critical area protections. The application of specific critical area protections are the foremost element of the County's strategy for achieving no net loss.</p> <p>Section 16 of the updated SMP regulations addresses clearing, grading, and vegetation management. See response to item 9a of</p>	Ecology concurs with the County's response.

			<p><i>adequate naturally vegetated buffers with restricted cutting in them.</i></p>	<p>this table for staff's proposed revision to Section 16 (C)(1).</p> <p>Section 16 requires compliance with SJCC 18.60.060 and 18.60.070 as well as Section 18 of the adopted SMP ordinance.</p> <p>SJCC 18.60.060 requires that grading and clearing is carried out in a manner that minimizes potential adverse effects on forested lands, surface water quality and quantity, groundwater recharge, wildlife habitat, and scenic resources.</p> <p>All grading plans must include provisions for the maintenance of adequate buffers of undisturbed native vegetation to minimize off-site impacts of surface water runoff, erosion, and sedimentation. Graded surfaces must be designed and constructed to be revegetated to slope gradients. This allows the graded surfaces to hold topsoil and minimize surface runoff, erosion, and sedimentation that can damage water quality and habitats. The upper six to twelve inches of topsoil must be salvaged, stockpiled, and spread over disturbed areas prior to revegetation. Any cleared or graded area that is not covered with gravel or an impervious surface must be seeded immediately upon project completion.</p> <p>If erosion is probable, areas with exposed soil must be protected by temporary means during construction. All disturbances should be revegetated with grasses and forbs and include shrubs and trees as appropriate. The use of plant species native to the County is</p>	
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				<p>encouraged. Natural vegetation must be retained to the maximum extent possible in the construction and operation of any use.</p> <p>Under SJCC 18.60.070, drainage controls consistent with the Stormwater Management Manual of Western Washington, 2005, are required for all projects. These controls may include landscaping or reestablishment of native vegetation.</p> <p>Effective long-term weed control requires coordination with the County weed control board to eradicate nuisance species. Use of best management practices (BMPs) from the County's Stormwater Management Manual is required.</p> <p>Section 16 (C) limits land clearing to areas necessary for driveways, buildings, and view and solar access corridors. Section 16 (D) regulates tree removal and requires consistency with the Tree Protection Zone requirements in SJCC Chapter 18.35. Under Section 16 (F) clearing or grading that would adversely impact ecological functions is subject to a mitigation plan.</p> <p>Section 17 restricts vegetation removal to activities that result in no net loss of shoreline ecological functions.</p> <p>Section 18 requires land use and development to meet the critical areas protections in SJCC Chapter 18.35 for no net loss or to comply with the mitigation requirements in Sections 19, 20 and 21.</p>	
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				<p>SJCC Chapter 18.35.130 requires consistency with water quality buffers and Tree Protection Zone requirements. With a few caveats, SJCC 18.35.130 (B) states that development and vegetation removal are prohibited or limited in the tree protection zone and water quality buffers. Within the first 35 feet adjacent to the water, minor pruning of trees is allowed but only as long as the activity doesn't involve foliage over aquatic FWHCAs and the health of the trees is maintained.</p> <p>In addition, SJCC 18.35.130 (2), Table 18.35.130-3 (Structures, Uses and Activities Allowed in and over Aquatic FWHCAs and Their Water Quality Buffers) contains vegetation management regulations in relation to specific activities.</p> <p>See DOE submission, public comment spreadsheet, dated June 20, 2016, answers to numbers 6, 208, 211, 212 and 219 on pages 1, 21, 22, and 23 respectively.</p> <p>See response to comment 11 on the DOE comment spreadsheet dated November 25, 2015. The County formally submitted this response to DOE on June 27, 2016.</p>	
9d	Johnson, Maile	Removed Protection	<p>Update removes safeguards from release of hazardous materials, protection of fish & wildlife breeding habitat and natural geologic processes (18.50.070 C., F. & G.).</p> <p>In the letter dated August 17, 2016 the commenter states:</p> <p><i>The Update would remove safeguards for fish and wildlife breeding habitat and natural geologic processes</i></p>	<p>The safeguards have not been removed. They have been reconfigured as shown below.</p> <p>SJCC 18.50.070(C) directs people to adhere to state and federal laws regarding the disposition of oil, chemicals and hazardous materials. (See WAC 173-303-145). Although the updated SMP no longer references state</p>	<p>Ecology concurs with the County's response. Ecology has incorporated the county staff recommendation for clarifying Section (D) into our approval document.</p>

			<p><i>that create beaches. It would also remove the prohibition on releasing oil, chemicals or hazardous materials onto the land or water. Ecology should make sure the Update reinstates these essential provisions</i></p>	<p>and federal laws, the population remains subject to them.</p> <p>Hazardous materials are also addressed in Sections 52 (A)(6), 32 (C); and 41 (F).</p> <p>The provisions of SJCC 18.50.070 (F) are addressed in greater detail in different sections.</p> <p>SJCC 18.50.070 (F) states that: <i>All shoreline uses and activities must be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes.</i></p> <p>Section 17 (A) states that all land use developments that entail vegetation removal, grading or fill must be designed, located and sized to meet no net loss of shoreline ecological functions.</p> <p>Section 17 (B) states that any development or project proposal that doesn't meet the critical area regulations is subject to mitigation sequence analysis.</p> <p>The County's critical area regulations include the natural resources listed in SJCC 18.50.070 (F).</p> <p>All development in areas that have erodible shorelines require a coastal geologic buffer that is identified by a qualified professional. Section 59 requires any subdivision which creates new lots on non-bedrock shorelines</p>	
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				<p>to ensure that the development does not interfere with natural processes.</p> <p>Overwater projects must meet all applicable design criteria established by WDFW relative to materials, siting, disruption of currents, restrictions of tidal prisms, flushing characteristics and fish passage as well as the shore process corridor. (See Section 29 (A)(1), Section 29 (A)(3)).</p> <p>Staff recommends the following amendment to the required elements of the Coastal Geographic Buffer report:</p> <p>Section 17 (D) of Ordinance 1-2016 should be amended to read:</p> <p><i><u>D. On all non-bedrock shorelines, coastal geologic buffers consistent with SJCC 18.35.130 are required. The required geotechnical report must:</u></i></p> <p><i><u>Be prepared by a qualified professional:</u></i></p> <p><i><u>Evaluate the potential impacts on water circulation, sand and gravel movement, erosion and accretion;</u></i></p> <p><i><u>Evaluate the potential impact of Sea Level Rise over the life of the structure (seventy-five (75) years); and</u></i></p> <p><i><u>Demonstrate that the proposed buffer will be sufficient to avoid the need for new protective structural shoreline stabilization and flood protection measures for the life of the structure (seventy-five (75) years).</u></i></p> <p><i><u>All new shoreline structures must be located</u></i></p>	
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				<p>and designed to prevent the need for shoreline stabilization and flood protection measures for the life of the structure (minimum seventy-five years (75) as determined by a qualified professional.</p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers to 6, 88 and 109 on pages 1, 10 and 12.</p>	
9e	Johnson, Maile	Wetlands	The update does not protect small wetlands.	See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers to numbers 6 and 109 on pages 1 and 12.	Ecology has retained the county's adoption by reference but recommended additional clarification that the smaller wetlands exempted in the Critical Areas Ordinances may skip the avoidance step but must mitigate for impacts.
9f	Johnson, Maile	Bulkheads	<p>While the update expresses a preference for natural shorelines, it undermines the opportunity to lessen adverse impacts by allowing 99.99% replacement of a bulkhead with no review of feasible alternatives. Also, SJCC 18.50.210 A.4. & 8. are being replaced with less protective Section 44.B regarding critical area functions and the construction of new bulkheads.</p> <p>In the letter dated August 17, 2016 the commenter states: <i>The Update adds a welcome preference for natural shorelines where feasible. However [sic], it undermines existing protections for feeder bluffs and beaches and would allow the replacement of up to 99.99% of an old structure with no more oversight than a certificate of exemption. These replacement bulkheads would even be allowed in spawning habitat, apparently without any review of feasible alternatives. Although it makes sense to process modest bulkhead repairs without a full permit, substantial bulkhead replacements must be reviewed for opportunities to meet statewide goals to protect and restore the Salish sea. In addition, the</i></p>	<p>The adopted SMP does not undermine existing protections for feeder bluffs and beaches because under the current SMP, bulkheads are permitted to protect 'development,' with few constraints.</p> <p>The existing regulations allow for the construction of bulkheads:</p> <ol style="list-style-type: none"> 1. When they are proposed as part of new development when no practical alternatives are available; 2. On feeder bluffs when there is a 'danger' to established development and the bulkhead is not expected to 'disrupt the feeder action'; <p>Bulkheads are prohibited if they would create 'significant erosion.'</p> <p>Under the existing regulations, bulkheads that are exempt from shoreline substantial</p>	Ecology concurs with county's response. Note the county has proposed some clarifications to the stabilization section that are incorporated into Ecology's approval document.

			<p><i>update should maintain current protections for geologic processes.</i></p>	<p>development permit requirements are not required to demonstrate the need for a bulkhead unless on a feeder bluff.</p> <p>WAC 173-26-231 (3)(a)(iii)(C) establishes the principle that replacement structures are to be considered as 'new' structures. Consistent with this provision of the WAC, Section 47 of the adopted SMP allows for repairing up to 99.99 percent of an existing bulkhead. Bulkhead repair often involves the replacing sections of the bulkhead that have been damaged.</p> <p>Under the updated SMP, bulkhead repair requires a certificate of exemption that will include a description of the size and composition of the existing bulkhead. Bulkhead repair will entail compliance with critical area regulations.</p> <p>Only when the repair of an existing bulkhead replaces more than 99.99 percent of the present structure will the repair be considered replacement. The replacement will then be required to obtain a permit as if a new structure.</p> <p>If a structure exists, the structure's impacts on the environment are established. The comments do not make it clear how the exchange of an obsolete structure for a duplicate will exacerbate or increase the impacts over that of the original. Absent any cause for an additional permit procedure, it is risky for the County to impose restorative duties upon landowners.</p>	
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				<p>WAC 173-27-040 (2)(b) establishes that the repair and replacement of existing structures and developments in the shoreline is exempt from the need to obtain a substantial shoreline development permit provided that the replacement is comparable to the original structure.</p> <p>Section 44 (B) should be considered in the context of regulations for all structural stabilization measures and in conjunction with the critical area protections.</p> <p>Appropriately considered, the adopted SMP provides a greater range shoreline ecological protections than can be found in the current SMP.</p> <p>Under the current SMP, and prior to the adoption of the critical area regulations, a new bulkhead would have been permitted to protect 'development'. A term that has been interpreted in the past to include bulkheads to protect lawns from erosion.</p> <p>The adopted SMP includes regulations that require crossing successive thresholds prior to issuing a permit for a hard shoreline stabilization measure.</p> <p>The applicant is required to show that:</p> <ol style="list-style-type: none"> a. Damage to a primary structure is imminent (within three years); b. The stabilization measure will not result in a net loss of shoreline ecological functions. Depending on the project, this requirement will entail mitigation efforts; 	
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				<p>c. Avoidance including addressing upland drainage or moving the threatened structure is not a feasible alternative;</p> <p>d. A variety of soft shoreline stabilization techniques are not feasible or suitable.</p> <p>There may be situations where a bulkhead is the most appropriate method for protecting shoreline development; however, under the adopted SMP regulations, the creation of a bulkhead is the last option and will only be approved when all the others have been discounted.</p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answer to 57 on page 7.</p> <p>See County response to DOE's November 25 comments, dated June 16, 2016 included in the County's SMP submission, Item 61.</p> <p>See County response to DOE's November 25 comments, dated June 16, 2016 included in the County's SMP submission, Item 63.</p>	
9g	Johnson, Maile	Section 35 C. Mooring Buoys	<p>How does the county justify allowing mooring buoys and docks in eelgrass and kelp beds?</p> <p>In the letter dated August 17, 2016 the commenter states:</p> <p><i>An earlier draft of the Update prohibited mooring buoys in eelgrass, kelp beds and other sensitive habitats but allowed docks, even though state rules preclude docks in such critical habitats due to impacts like shading and propeller scour. Rather than extending the prohibition to docks, the County opted to open critical habitats to mooring buoys as well. These habitats have declined</i></p>	<p>It is stated that, '<i>state rules preclude</i>' docks and mooring buoys in or over eelgrass beds and other saltwater critical areas identified in WAC 173-26-221. In fact, the State guidelines explicitly allow, '<i>docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings and other human-made structures</i>' to intrude into and over critical saltwater habitats provided that certain conditions are met.</p> <p>WAC 173-26-221(2)(c)(iii)(C) states: <i>(C) Standards. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings,</i></p>	Ecology agrees with the County's response.

			<p><i>significantly in the San Juans; we ask you to prevent the construction of new docks and mooring buoys in them.</i></p>	<p><i>and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:</i></p> <ul style="list-style-type: none"> <i>• The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;</i> <i>• Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</i> <i>• The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.</i> <i>• The project is consistent with the state's interest in resource protection and species recovery.</i> <p><i>Private, noncommercial docks for individual residential or community use may be authorized provided that:</i></p> <ul style="list-style-type: none"> <i>• Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;</i> <i>• The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.</i> <p><i>Section 30 (A)(1-4) states that boating facilities must not intrude into or over shoreline critical areas unless the following criteria are met:</i></p> <ol style="list-style-type: none"> <i>1. The public need for an intrusion is demonstrated and the proposal protects the public trust, as embodied in RCW</i> 	
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				<p><i>90.58.020. To demonstrate how the project protects the public trust, the applicant shall submit a narrative demonstrating that the proposal:</i></p> <ul style="list-style-type: none"> <i>a. Is consistent with the goals and policies and regulations of this SMP;</i> <i>b. Benefits the public by providing physical or visual access to the shoreline; and</i> <i>c. Will not have an adverse impact on the navigability of adjacent waters.</i> <p><i>2. No feasible alternative exists.</i></p> <p><i>3. The project and any required mitigation will result in no net loss of shoreline ecological functions associated with critical fresh and saltwater habitat.</i></p> <p><i>4. The project is consistent with the State's interest in resource protection and species recovery.</i></p> <p>This is consistent with the first four bullets of WAC 173-26-221(2)(c)(iii)(C).</p> <p>Section 31 (B)(1-2) addresses bullets five and six of WAC 173-26-221(2)(c)(iii)(C).</p> <p>County mitigation standards include robust mitigation sequencing and the development of mitigation plans that are consistent with the state guidelines. Mitigation is required for all projects that will have an adverse impact on shoreline ecological functions.</p> <p>The County's Comprehensive Plan supports the expansion and creation of new boating facilities over the continued proliferation of</p>	
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				<p>private docks. See Section B, Element 3, 3.2.B, Goal (3); 3.5.Bii (1), (2), (3), (5) and (6); and 3.5.Biii (3).</p> <p>See the County's response to item 36 on the DOE comment spreadsheet dated November 25, 2015. The County formally submitted this response to DOE on June 27, 2016.</p> <p>The County's adopted SMP is consistent with the provisions of the WAC.</p>	
9h	Johnson, Maile	Desalination	<p>The writer believes that there is not enough information regarding the long term environmental impacts of desalination systems.</p> <p>In the letter dated August 17, 2016 the commenter states:</p> <p>Water shortage is a critical issue in the San Juans, and desalination could be a useful source of fresh water. However, scientists are still studying the long-term effects of desalination on the marine environment. We already know that intake valves can kill marine life, and the resulting brine can introduce treatment chemicals and heavy metals and increase the temperature of surrounding waters. The Update would reverse a long-held local policy against using desalination as the primary water source for new subdivisions. The County based this decision on only a few salinity measurements in one 2009 technical report even though that same report warned against relying on desalination. Ecology should not allow new development base on desalination before better understanding how to prevent new shoreline impacts.</p>	<p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answer 93, page 11.</p> <p>The current prohibition of desalination as a primary source of water for land divisions requires ground water (GW) use in all cases. This is not always possible and GW use contributes to salt water intrusion. Desalination is sometimes a viable option and is regulated in Section 62 (B) with many restrictions.</p> <p>The most recent study of desalination systems in San Juan County, <u>The Current Status of Desalination Systems in San Juan County, Washington, Executive Summary and Technical Supplement</u>, June 2009 indicates that negative ecological impacts associated with desalination effluent (brine) are minimal. <i>"We have access to three separate field measurements that would suggest that the increase of seawater salinity where the effluent water leaves the discharge pipe is less than 2 parts per thousand (ppt) and is undetectable at 10 feet."</i></p>	Ecology concurs with the County's response.

				<p>The 2009 technical report examines the actual and potential impacts of desalination plants actually functioning in San Juan County.</p> <p>The 2009 report notes on pages 7-8 that: <i>10 of 12 RO plant in SJC have screened intakes. Typically, these screens have an approach velocity on the order of 0.1 foot per second (fps). Filters of various types follow the intake screen. In any case, some small swimming organisms and various planktonic forms will not be excluded by screened intakes but will be captured by influent filters at the RO plant. Assuming proper design, most of these organisms should be filtered out and returned to the sea before getting to the high pressure system. However, it is likely that there will be losses though their significance is unknown.</i></p> <p>The assertion that the brine can contain heavy metals and treatment chemicals is inaccurate. The study shows that it is no longer a practice to clean and treat the water filters onsite thereby eliminating the most common source of treatment chemicals.</p> <p>The study does not warn “against relying on desalination.”</p> <p>Appendix 2 of the Technical Report, titled <u>Avoiding or minimizing potential impacts of RO desalination in San Juan County</u>, page 8, identifies and evaluates the potential impacts of RO systems and concludes that: <i>“Minimizing reliance on desalination for water</i></p>	
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				<p><i>supplies until more experience is gained on impacts (or lack of impacts) for sea life is one way to avoid undesired impacts.”</i> (Emphasis added)</p> <p>Shoreline development is dynamic and the status quo allows the use of desalination for development on existing lots and replacement of water supplies from salt water intruded wells. The current policy encourages the exhaustion and contamination of groundwater resources rather than protection.</p>	
9i	Johnson, Maile	Transportation Facilities	<p>The writer believes that lack of regulatory control over irregularly scheduled float plane service and temporary barge landing sites may result in ecological impacts and noise pollution.</p> <p>In the letter dated August 17, 2016 the commenter states: <i>The update increases the risk of unknown impacts from seaplanes and barges. It allows, without any restrictions or permitting, the use of any dock or marina for something called ‘irregularly scheduled float plane service.’ The Update also creates a new exemption for ‘temporary’ barge landing sites that can be used bi-monthly for two years. These loopholes increase the risk of unreviewed ecological impacts and noise pollution on island communities and should be closed by requiring a substantial development permit for these uses.</i></p>	<p>The adopted SMP does not increase the risk of ‘unknown impacts’ from either temporary barge landing sites or irregular float plane service. Under the current regulations, irregular float plane access and temporary barge landing sites are not defined or regulated. This means that the impacts are occurring now and there is no avenue to assess their impacts.</p> <p>The current SMP regulates the establishment of permanent barge landing sites.</p> <p>It is clear that barge landings occur at viable locations throughout the San Juan Islands. Barges are an effective method of transporting materials and equipment to the islands, particularly those not served by ferries. Currently, the County has no real data to determine how many landings occur each year, where they occur, or their purpose. Therefore, the impacts or the needs the landings are serving have not been evaluated.</p>	<p>Any development related to float plane or barge use will require a permit or exemption. Both can be conditioned if approved.</p> <p>Ecology concurs with the County’s response and has incorporated the county staff recommendation for clarifying the SMP into our approval document.</p>

				<p>Certificates of exemption may be conditioned to address specific adverse impacts.</p> <p>SJCC 18.50.340 (G) of the current code addresses regularly scheduled float plane service for public docks, community docks and marinas. Regular service requires a Conditional Use Permit (CUP).</p> <p>Section 76 defines regular use as “a pattern of use that is intensive and sustained such as daily commuter use.”</p> <p>Irregular use is, by definition, use that is not intensive nor sustained, neither constant nor predictable. Under the current regulations, irregular use does not require a CUP.</p> <p>Staff recommends the following amendment to Section 61 (G)(3) of Ordinance 1-2016:</p> <p><i>3. Use of docks and marinas for irregularly scheduled float plane service is allowed.</i></p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answer 93, page 11.</p> <p>See the County’s response to item 73 on the DOE comment spreadsheet dated November 25, 2015. The County formally submitted this response to DOE on June 27, 2016.</p>	
10	Turnoy, David	Multiple Issues	Same as 3, 9c, 9f, 9g, and 9i.	See responses to items 3, 9c, 9f, 9g and 9i of this table.	See Ecology response.
11	O’Clair, Charles E. PhD.	Multiple Issues	Same as 9a – i.	See responses to items 9a-l of this table.	See Ecology response.

12a	Kerlin, Christine	Small Scale Aquaculture	<p>Would like see the application process include public notification and public comment.</p> <p>Active monitoring of the growth of the operation should be required for public notification and comment.</p>	<p>In recognition of the ‘preferred shoreline use’ status of aquaculture and the potential adverse impacts of different types of aquaculture, the County developed special permitting provisions for ‘small scale’ shellfish aquaculture. To qualify as small scale aquaculture, the operation must be exempt from a shoreline substantial development permit and obtain a certificate of exemption.</p> <p>Due the limited scale and impacts of small scale shell fish aquaculture as well as its preferred use status, there are no public notice requirements.</p> <p>In reference to aquaculture, WAC 173-26-211 (3)(b) states:</p> <p><i>This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.</i></p> <p>Small scale aquaculture operations are required to meet no net loss standards.</p> <p>The ‘certificate of exemption’ requirement entails submission of a site plan. If, in the future, it is necessary to review the project, its size and potential impacts will have been recorded. Furthermore, certificates of exemption may be conditioned to address specific concerns.</p> <p>To qualify as a small scale shellfish aquaculture operation, the project must not</p>	<p>Ecology concurs with the County’s response and has incorporated the county staff recommendation for clarifying the SMP into our approval document.</p>
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				<p>exceed the cost or fair market value thresholds for substantial shoreline development permit exemptions, staff proposes the following amendments to Section 28 (B) of Ordinance 1-2016:</p> <p><i>B. Small scale shellfish aquaculture.</i></p> <p><i>1. Small scale shellfish aquaculture and supplemental wildstock seeding that does not adversely impact shoreline ecological functions or aesthetic qualities is allowed in the nearshore waters with a certificate of exemption provided that it does not:</i></p> <p><i>a. Intrude into critical saltwater habitats on shorelines of statewide significance unless there is no feasible alternative, and</i></p> <p><i>b. Exceed the shoreline substantial development permit exemption criteria in Section 10 (D)(1) of this ordinance.</i></p> <p>Code enforcement is the means by which unpermitted expansion is controlled.</p>	
12b	Kerlin, Christine	Transportation Facilities	Same as 9i.	See response to item 9i of this table.	See Ecology response.
13	Sutley, Tani	Vacation Rental Docks	Is there a SMP provision to require a “conversion” for use of a residential dock or boats as part of a vacation rental when rental fee is charged for their use?	<p>There is no provision because vacation rentals are accessory residential uses and docks are residential appurtenances. The presence or absence of a vacation rental does not alter the regulations that apply to docks.</p> <p>As noted in the response to item 8 of this table, it is clear that the term ‘conversion’ refers to changes in a structure.</p>	Ecology agrees with the County’s response.

14	Sutley, Tani	Vacation Rentals	By not limiting how many “hospitality commercial” properties are in areas where people need long-term housing, the zoning is being changed. If San Juan County wants to allow unlimited single-family conversions to hospitality commercial uses in shorelines then the definition of “residential development” should include transient use instead of stating “dwelling units for non-transient occupancy”. Then the county should list which shoreline designations meet the criteria for “hospitality commercial use” and which designations do not.	The County intends to review vacation rentals in its Comprehensive Plan update for the entire county. Vacation rentals are an accessory residential use.	Ecology agrees the issue is best addressed on a countywide basis.
15a	Friends of the San Juans/Washington Environmental Council	Update Process III A.	The shoreline designations do not incorporate current science to protect essential, sensitive habitats.	The County’s Best Available Science (BAS) adopted in May 2011, identified, consolidated and evaluated the available scientific information pertaining to the identification and protection of the ecological functions of the County’s critical areas, including saltwater critical areas. The County’s Inventory and Characterization Report, (I&C) April 2013, built upon the BAS and included some more recent studies. Both the BAS and I&C are snapshots of constantly shifting fields of knowledge. The County published three versions of the I&C. The first was published September 7, 2011. The second was published following public meetings and the collection of 300 public comments. The public’s questions and consultant’s answers were included in second published version of the I&C. To address technical questions arising from the data sources and the interpretation of different data sets, the County brought the County’s experts together with the different data providers. Following that discussion, the County revised the I&C and again	Ecology agrees with the County’s response.

				<p>included the public's questions and the consultant's responses.</p> <p>The professional academic qualifications of the consultants that developed the County's BAS and the I&C included 3 Ph.Ds. in Science, 9 Masters of Science, 9 Bachelors of Science, 4 Masters of Urban Planning, 4 Bachelors of Arts and one Bachelors of Landscape Architecture and combined, represent well over 100 years of experience with scientific assessment of physical and biological environment functions, wetlands and wildlife factors, SEPA, NEPA, SMA and GMA regulatory compliance. The authors of the I&C and the BAS have significant experience and expertise in their respective fields.</p> <p>Contrary to the comment that the County has not included the most up to date scientific information in its analysis, in October 2012 the authors of the I&C determined that:</p> <p><i>Additional information has been provided to address the analytical methodology and specifically the means in which the ecological function scores and associated data help relate to potential changes in environment designations and SMP provisions. The assessed data represents the most current and relevant information available on the applicable subject matters.</i></p> <p>See response to comment #20, October 2012 response to public comments on the January 2012 I&C.</p> <p>WAC 173-26-201 (2)(C) states that shoreline designations are only one part of protecting</p>	
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				<p>shoreline ecological functions. As the County's SMP makes clear, protection of shoreline ecological functions is achieved through a combination of regulatory actions, not solely shoreline designations. The County's SMP includes critical area regulations that have been litigated and found compliant with the no net loss of ecological function standard. Projects that cannot meet the critical area regulations are subject to mitigation sequencing. The mitigation sequence rules require the project's proponent to show that avoidance of the impact is not feasible. Only when all other options are exhausted is mitigation allowed.</p>	
15b	Friends of the San Juans/Washington Environmental Council	Shoreline Redesignations III A.1.	<p>The Update should be revised to designate as Natural, ecologically intact shorelines with forage fish spawning beaches, feeder bluffs, and top priority salmon recovery shorelines, as well as those areas capable of regeneration if left undisturbed. Where these sensitive areas are suffering significant impacts, they should be designated Conservancy.</p>	<p>See response to item 3 of this table.</p> <p>See June 20, 2016, Shoreline designation change rationale.</p>	See Ecology response.
15c	Friends of the San Juans/Washington Environmental Council	Shoreline Redesignations III A.1.	<p>The proposal to newly designate over a mile of the most critical habitats for development as Ports, Marinas, and Marine Transportation facilities contradicts the SMP requirement to protect and restore these critical saltwater habitats and should be undone. These sensitive areas should not be designated PMT.</p>	<p>See response to item 3 of this table.</p> <p>The PMT designation has been applied only to areas with a clear connection to marine or inter-island transportation facilities. Any future development in this designation will be required to meet critical area regulations including no net loss of ecological functions.</p> <p>The designation is consistent with legislative findings and purpose of the SMA established in RCW 90.58.020:</p> <p><i>Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given</i></p>	Ecology agrees with the County's response.

				<p><i>priority for single-family residences and their appurtenant 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 developments 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 the people to enjoy the shorelines of the state.. (emphasis added)</i></p> <p>Ports, marinas and marine transportation facilities are expressly called out legislative findings cited above as appropriate and preferred uses on state's shorelines. The comment provides no explanation how the proposed designation is contrary to the SMA's direction to foster 'all reasonable and appropriate uses' and stated legislative intent.</p> <p>See June 20, 2016, Shoreline designation change rationale.</p>	
15d	Friends of the San Juans/Washington Environmental Council	Shoreline Redesignations III A.2.	<p>The proposal to collapse dual designations into the more lax designation is inconsistent with the Guidelines. The Update should be revised to retain the dual designations or to ensure that redesignations protect the most sensitive shorelines with either a natural or conservancy designation as identified in the section above.</p>	<p>The purpose of all shoreline designations is to identify and foster the appropriate uses consistent with RCW 90.58.020. Shoreline designations have a role in the protection of shoreline ecological functions. However, they are deployed to identify uses and intensities that are compatible with the goal of no net loss of ecological functions.</p> <p>The shoreline designations are only one planning tool used by the County to achieve</p>	Ecology agrees with the County's response.

				<p>no net loss of ecological functions.¹ Shoreline designations are not the only tool used to achieve no net loss of shoreline ecological functions. The adopted SMP includes provisions to address the expected impacts of common shoreline development, critical area regulations and rigorous mitigation methods. The County's critical area regulations have been litigated and found compliant with the no net loss standard.</p> <p>See response to item 3 of this table and the June 20, 2016, Shoreline designation change rationale.</p>	
15e	Friends of the San Juans/Washington Environmental Council	Habitat Protection III B. & B.1.	The Update Does Not Protect Shoreline Vegetation or Critical Areas Consistent with the Guidelines. Buffers are inadequate, excessive buffer reductions, excessive foliage and tree removal, and unnecessary development. See Appendix A (attached) for specific changes.	<p>This County disagrees with the comment. See response to item 9c of this table.</p> <p>Also, see the County's response to items 10 and 11 on the DOE comment spreadsheet dated November 25, 2015. The County formally submitted this response to DOE on June 27, 2016.</p> <p>See DOE Submission, public comment spreadsheet, dated June 20, 2016, answers to item numbers 6, 208, 211, 212 and 219 on pages 1, 21, 22, and 23 respectively.</p>	Ecology agrees with the County's response.
15f	Friends of the San Juans/Washington Environmental Council	Habitat Protection III B.1.	The SMP does not properly identify and characterize shoreline vegetation and necessary protection.	See response to item 9c of this table.	See Ecology response.
15g	Friends of the San Juans/Washington Environmental Council	Nonconforming Use and Development III C.	The Update should be revised to eliminate the authorization to move, expand, or fully replace or redevelop nonconforming shoreline development in favor of the sensible protections at WAC 173-27-080	The provisions of WAC 173-27-080 apply only to those jurisdictions that lack specific regulations to nonconforming structures. The adopted SMP includes provisions for	Ecology agrees with the county's response. WAC 173-27-080 applies only "when nonconforming use and development standards do not exist in the applicable

¹ See WAC 173-26-201 (2)(c).

			that directs reconstruction of over 75% of structures to come into compliance with current codes.	nonconforming structures that reflect the community's preference for reusing, adapting and recycling existing shoreline structures and materials. There was strong community support for protecting existing development patterns.	master program." The county has discretion in its approach to managing nonconforming use and development.
15h	Friends of the San Juans/Washington Environmental Council	Nonconforming Use and Development III C.	The Update should continue to require a Conditional Use Permit (CUP) for modifications of nonconforming structures.	There is no provision in RCW 90.58, WAC 173-26 and WAC 173-27 that directs the County to require a CUP for expansion of nonconforming uses or structures. The current SMP requires a CUP for the expansion of nonconforming uses not nonconforming structures. The proposed SMP allows for the modification and expansion of nonconforming structures on the same parcel provided the development does not result in a net loss of ecological functions.	Ecology agrees with the county's response. WAC 173-27-080 applies only "when nonconforming use and development standards do not exist in the applicable master program."
15i	Friends of the San Juans/Washington Environmental Council	Cumulative Impacts III C.	As an administrative matter, the Guidelines direct counties to establish a mechanism to document and periodically evaluate the cumulative effects of authorized development. The County has not established such a mechanism, and must do so.	This will be done as part of the implementation of the updated SMP through permit tracking software and impervious surface worksheets. To develop effective documentation and monitoring procedures, regulations must be finalized.	Ecology agrees with the County's response. Note the guidelines acknowledge that addressing cumulative impacts may be done as part of a coordinated approach with the state and other entities. The state has new data sources that should help with this effort.
15j	Friends of the San Juans/Washington Environmental Council	Critical Area Protection III D.1.	The Update must either redesignate particularly sensitive shorelines to a more protective designation or realign the activities promoted in the Conservancy designation to those that can occur without adversely impacting the resources there.	See response to number 3 of this document.	See Ecology response.
15k	Friends of the San Juans/Washington Environmental Council	Comprehensive Plan III D.2.	A number of protective provisions have been removed from the Comprehensive Plan and should be reinstated. (See letter for list.)	Each of these issues has been addressed below.	Noted.
15l	Friends of the San Juans/Washington Environmental Council	Comprehensive Plan III D.2.	(1) Comp. Plan § 3.2.B former Policy 3 -- "Prohibit major development or construction along the shoreline, other than single-family residences, except where the sponsor	1. Former policy 3 contains regulatory language with an ill-defined subject (what is 'major development?'). While the Comprehensive Plan may support particular	Ecology agrees with the County's responses.

			<p>thereof, public or private, can demonstrate overriding public necessity or public benefit.”</p> <p>(2) Comp. Plan § 3.2.C.iv former Policy 4 -- “avoid locating essential public facilities such as hospitals and emergency response operations in geologically hazardous areas.”</p> <p>(3) Comp. Plan § 3.2.F. former Policy 2 -- the policy to “preserve critical marine and terrestrial wildlife habitats.”</p> <p>(4) Comp. Plan § 3.4.G. former Policy 2 – “Non-water dependent industries should not be permitted to occupy waterfront sites.”</p>	<p>kinds of regulation, it is critical to maintain the distinction between guidance derived by from the expressed community preference and the regulations that implement it. Section 38 of the updated SMP requires a demonstration of public need for boating facilities`. In addition, Sections 30 and 31 require a demonstration that the proposal is consistent with the public trust if the proposed development will intrude into or over saltwater critical areas.</p> <p>2. This policy has been reconfigured and expanded into Section B, Element 3, Subsections 3.2 (C)(iii), (iv) and Subsection 3.4 (E). Regulations addressing this issue can be found in the updated plan in Sections 18, 63, and SJCC 18.35.065.</p> <p>3. Policy 2 of 3.2 (F) has been superseded by all of Sections 3.2 (C) (Critical areas) and 3.2 (F) (Prevention and mitigation of adverse impacts).</p> <p>4. Section 3.4 (G)(1) establishes the preference for water dependent industries in the shoreline. Shoreline development with industrial features such as aquaculture is subject to specific regulations must conform to the general provisions of Section 3.4 (G). Regulations addressing industrial development in the shoreline may be found in Section 52 (A)(1). Shoreline development is subject to critical area protections and other setbacks as appropriate.</p>	
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			<p>(5) Comp. Plan § 3.4.G. former Policy 5 – “Prohibit the location of industrial development on sensitive and ecologically valuable shorelines such as natural accretion shoreforms, wetlands or wildlife habitat areas, and on shores inherently hazardous for such development, such as flood and geologically hazardous areas, including steep or unstable slopes in accordance with the Environmentally Sensitive Areas Overlay District.”</p> <p>(6) Comp. Plan § 3.4.H. former Policy 5 -- the policy to “[p]rohibit the location of institutional development on sensitive and ecologically valuable shorelines such as natural accretion shoreforms, wetlands, and wildlife habitat areas, and on shores inherently hazardous for such development such as flood and geologically hazardous areas, and steep or unstable slopes in accordance with the Environmentally Sensitive Areas Overlay District.”</p> <p>(7) Comp. Plan § 3.4.H. former Policy 6 -- “Design institutional facilities to minimize adverse impacts on other shoreline uses and on shoreline resources.”</p>	<p>5. Section 3.4 (G) establishes an overall goal to “<i>require that new industrial development does not adversely affect shoreline ecological functions.</i>” The proposed text is redundant. All shoreline development must conform to critical area protections. Section 3.4 (G)(1) establishes a preference for water dependent industries. Regulations controlling the development of Industrial activities in the shoreline may be found in Section 52 (A&B), Sections 18, 19, 20, 21 of the updated SMP and the appropriate sections SJCC 18.35.020-18.35.140.</p> <p>6. All shoreline development must conform to critical area protections. Section 3.4 (H) establishes an overall goal to avoid adverse impacts on shoreline ecological functions. The proposed text is redundant. Provisions addressing this issue may be found in Section 53 (A), Section 18, 19, 20, 21 and the appropriate sections of SJCC 18.35.020-18.35.140.</p> <p>7. As noted in response to number 6 above, the goal of Section 3.4 (H) is to “ensure new institutional development does not adversely affect shoreline ecological functions.” The proposed change is redundant. Regulations addressing this issue may be found in Section 53 (A), Sections 18, 19, 20, 21 and the appropriate sections of SJCC 18.35.020-18.35.140.</p> <p>8. Regulations that prohibit waste disposal activities and facilities in the shoreline are in Section 52 (A)(12).</p>	
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		<p>(8) Comp. Plan § 3.4.J. former Policy 3 -- “Prohibit solid waste disposal activities and facilities in shoreline areas.”</p> <p>(9) Comp. Plan § 3.4.P. former Policy 3 -- “Prohibit utilities and capital facilities in marshes, bogs, and swamps, estuaries, critical wildlife areas or other unique and fragile areas unless no feasible alternative exists.”</p> <p>(10) Comp. Plan § 3.4.P. former Policy 9 -- “Desalination and reverse osmosis systems should not be allowed as the primary water supply to serve new subdivisions and short subdivisions.”</p> <p>(11) Comp. Plan § 3.4.P. former Policy 10 -- “On shorelines that are known or demonstrated to be eroding bluffs, unstable bluffs, eroding beaches, or exposed cliffs, require professional engineering to assure that no significant visual or environmental impacts will be created.”</p> <p>(12) Comp. Plan former § 3.6.B. Purpose – “Bulkheads, or seawalls, are structures erected parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from the action of waves or currents. Bulkheads do not provide permanent protection on salt water shorelines because, as the waves continue to erode the foreshore, the bulkhead is undermined and/or subject to larger, more powerful waves and eventually a more substantial barrier is required. Each time a bulkhead is replaced or strengthened the process begins anew. However, while bulkheads may provide temporary protection to the</p>	<p>9. This is a regulation therefore not appropriate for the goals and policies document. Provisions addressing this issue may be found in Section 62 (A)(1).</p> <p>10. The proposed revision is not consistent with regulations in Section 62 (B).</p> <p>11. The proposed revision is unnecessary because all development on non-bedrock shorelines requires a report from a qualified professional to ensure that the new development will be consistent with critical area provisions, particularly those requiring no net loss of shoreline ecological functions. Regulations that control development on non-bedrock shoreline may be found in Section 18 and the appropriate sections of SJCC 18.35.020-18.35.140.</p> <p>12. The proposed narrative is labelled a ‘Purpose’ statement; however, it lacks the qualities of purpose statement. The text is a descriptive evaluation of bulkhead functions over time. The proposed text is neither a goal nor a policy and is not appropriate for the goals and policies document. Regulations controlling the development of Bulkheads can be found in Sections 41-48.</p>	
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			<p>adjacent uplands they do not protect the adjacent beaches and, in many cases, actually contribute to their destruction by accelerating natural erosion. To be effective, bulkheads must be located, designed and constructed with an understanding of how they affect and are affected by wave action.”</p> <p>(13) Comp. Plan former § 3.6.B. Policy 1 -- the instruction to “locate, design, and construct bulkheads in a manner which will not result in adverse effects on nearby beaches or the shore process corridor and its operating systems, and which will minimize alterations of the natural shoreline.”</p> <p>(14) Comp. Plan § 3.5.B.ii former Policy 7 -- the preference for floating docks rather than pier, ramp, and floats in areas where scenic values are high.</p>	<p>13. Section 3.5 (D)(1) states: <i>Locate, design, and construct bulkheads in a manner which will not result in adverse effects on nearby beaches or the shore process corridor and its operating systems, and which will minimize changes in the natural shoreline.</i></p> <p>It is not clear what purpose adding a nearly identical policy would achieve. (The difference is that the updated SMP uses the term ‘minimize changes’ in the last sentence while the proposed addition would use the term ‘minimize alterations.’)</p> <p>14. The proposed standard is subjective which would make its consistent application an impossibility. This would expose the County to unnecessary risk of lawsuits. Section 3.5 (B)(i)(3&4) support development with minimal impact on the visual environment. Regulations supporting these goals may be found in Section 44 (A). Appropriate dock design standards are determined by prevailing, measurable, physical conditions rather than ‘high scenic values.’ Dock designs must meet WDNR standards.</p>	
	Friends of the San Juans/Washington Environmental Council	Comprehensive Plan III D.2.	<p>In addition, the Comprehensive Plan should be revised as follows for the following goals and policies to limit the amount of loss of shoreline functions:</p> <p>(1) Comp. Plan § 3.2.C. Goal 1 – “Protect the functions <u>and values</u> of shoreline critical areas, giving special consideration to anadromous (migratory) fish.” See WAC 173-26-221(2)(b)(v);</p>	<p>1. WAC 173-26-221(2)(b)(v) states: <i>Promote human uses and values that are compatible with the other objectives of this section, such as public access and aesthetic values, provided that impacts to ecological</i></p>	Ecology agrees with the County’s responses and has incorporated the county staff recommendation for clarifying Section B, Element 3, Section 3.5.D into our approval document.

			<p>(2) Comp. Plan § 3.2.C. General Policy 1 – “To the extent possible, protect areas with unique and/or fragile geological or biological characteristics, from incompatible physical public access (<i>e.g.</i>, wetlands, dunes, unstable bluffs, shoregrass, etc.)”</p> <p>(3) Comp. Plan § 3.2.C. General Policy 2 – “Encourage the restoration of shorelines degraded by manmade causes or for the purpose of habitat enhancement. Restoration actions should use, where appropriate techniques to arrest the processes of erosion and sedimentation” Interference with these natural processes would contravene efforts to protect and restore system-wide functions per WAC 173-26-201(2)(c), which requires the protection of ecosystem-wide processes such as those associated with the flow</p>	<p><i>functions are first avoided, and any unavoidable impacts are mitigated.</i></p> <p>The proposed addition and citation are not consistent. WAC 173-26-221(2)(b)(v) emphasizes the supremacy of human uses and values and only references protection of ecological functions. The reference to ecological functions is consistent with the clear directive of WAC 173-26-186 (8)(b) which states <i>“Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.”</i> Regulations protecting the ecological functions of all shoreline critical areas can be found in Section 18 of the adopted ordinance and SJCC 18.35.005, 18.35.020 etc.</p> <p>2. It is not clear what the proposed amendment would achieve. Section 3.2 (C)(1) recognizes the imperfect starting point.</p> <p>3. A restoration project that involves interfering in the erosion and sedimentation processes is conceivable. The County recognizes that sometimes less than perfect methods may achieve beneficial outcomes. Regulations protecting the ecological functions of all shoreline critical areas can be found in Section 18 of the adopted ordinance and SJCC 18.35.005, 18.35.020 etc.</p>	
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			<p>and movement of water, sediment and organic materials.;</p> <p>(4) Comp. Plan § 3.2.C.iii. Policy 2 – “Prevent, <u>or if that is not feasible</u>, or mitigate the impacts of development which <u>that</u> may result in hazards to persons or property, or harm to hydrologic functions.”</p> <p>(5) Comp. Plan § 3.2.C.iv. Policy 3 – “Require that significant geological impacts resulting from development are either mitigated or avoided, <u>or if that is not feasible, mitigated</u>, within geologically hazardous areas;”</p> <p>(6) Comp. Plan § 3.2.E, Policy 1 – “Limit clearing and grading to the minimum necessary to accommodate shoreline development and minimize <u>prevent</u> adverse impacts to existing shoreline ecological functions, vegetation, water quality and wildlife habitat by means such as site planning, bank stabilization and erosion, sedimentation and drainage control.”</p> <p>(7) Comp. Plan § 3.2.F. Policy 5 – “Require that shoreline use and development <u>avoid, or if that is not feasible</u>, minimize erosion, siltation, and interference with the natural shoreline geophysical processes. Natural, dynamic processes of shoreline formation and change should not be interfered with except for urgent reasons of public necessity or benefit;</p>	<p>4. It is not clear what the proposed amendment would achieve. All projects subject to the mitigation sequence are required to demonstrate why avoidance is not feasible. Please see Sections 19, 20, and 21 of the updated SMP.</p> <p>5. It is not clear what the proposed amendment would achieve. All projects subject to the mitigation sequence are required to demonstrate why avoidance is not feasible. Please see Sections 18, 19, 20 and 21 of the adopted ordinance and SJCC 18.35.055-18.35.075 for actual regulations</p> <p>6. It is not clear what the proposed amendment would achieve. All clearing and grading activities are subject to critical area restrictions. The County is required to ensure that, on aggregate, there is no net loss of shoreline ecological functions. Please see Section 16 for regulations that limit clearing and grading.</p> <p>7. It is not clear what the proposed amendment would achieve. All clearing and grading activities are subject to critical area restrictions. The County is required to ensure that, on aggregate, there is no net loss of shoreline ecological functions. Please see Section 16 for regulations that limit clearing and grading.</p>	
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			<p>(8) Comp. Plan § 3.4.E Table 3.1. Griffin Bay should not be identified as a “barge landing site” essential public facility without undergoing a process to determine whether it qualifies as an EPF. To date, the County has obtained authority to use that site on only a very limited basis for barge landing, which is consistent with its documentation as critical forage fish spawning habitat.</p> <p>(9) Comp. Plan § 3.4.E Goal 2.a. – “Consider impacts on existing land uses, resource lands, open space, scenic resources, the shoreline, <u>critical areas</u>, and the natural and rural designations.”</p>	<p>8. The purpose of this comment is not clear. The list was introduced as proposed revisions to the goals and policies of the County Comprehensive Plan, Table 3.1 is neither a goal nor a policy. The site in question has been a barge landing at least since the 1960s. Staff has produced photographic evidence of the site being used as such in 1983, (See page 19 of the Staff Report dated February 5, 2016). As the comment clearly states, Griffin Bay is a barge landing site, and has been for many decades. At no time has the use or function been renounced by the County. The fact that it is proximate to a fecund forage fish spawning location indicates that the two are not mutually exclusive and suggests that the use as a barge landing site may have had minimal adverse impacts on the ecological functions.</p> <p>The statement “To date, the County has obtained authority to use that site on only a very limited basis for barge landing,” is apparently referencing a letter from DOE, dated September 17, 2002 that establishes the existence of a barge landing site at this location. The DOE directed the County to restrain the number of landings at the site to three times a year. The County has conformed.</p> <p>9. It is not clear what purpose this proposed amendment would achieve. Goal 3 of the same Section 3.4 (E), directs the County to prohibit the development of essential public facilities in critical areas unless there is no feasible alternative. This is consistent with the</p>	
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			<p>(10) Comp. Plan § 3.4.K. Goal – “Require that mineral extraction operations are conducted in a manner <u>that avoids, or if that is not feasible</u>, minimizes, the adverse impacts on water quality, fish and wildlife, <u>critical areas</u>, adjacent activities and properties, and the scenic qualities of the shoreline.”</p> <p>(11) Comp. Plan § 3.4.N. Goal -- “To ensure that single family residences and other more intensive forms of residential shoreline use are designed, located and constructed to conserve natural shoreline features and to <u>avoid minimize</u> adverse impacts on shoreline ecological functions.”</p> <p>(12) Comp. Plan § 3.4.O. new Policy 11 – “Locate and conduct the use of log transfer and barge landing sites and associated operations in a manner that will <u>avoid, or if that is not feasible</u>, minimize, adverse impacts on existing water quality, fish habitats and the shoreline environment in general.”</p> <p>(13) Comp. Plan § 3.4.O.i Policy 2 – “Parking lots should be located, designed, constructed and operated in a manner that will <u>avoid minimize</u> adverse impacts to water quality, aesthetics, public shoreline access, vegetation, <u>critical areas</u>, and wildlife habitat, and minimize stormwater runoff, noise and glare.”</p> <p>(14) Comp. Plan § 3.4.P Goal 2 – “To ensure necessary utility services do not adversely impact the visual character of the shorelines <u>and that they avoid adverse impacts to water quality, public shoreline access, vegetation, critical areas, and wildlife</u></p>	<p>WAC. Goal 3 renders the proposed amendment to goal 2 (a) moot.</p> <p>10. It is not clear what purpose the proposed amendment would serve. All development in the County is required to meet the critical area protection standard of no net loss shoreline ecological functions.</p> <p>11. The proposed amendment is unnecessary. The regulations in Sections 16, 17, 18, 19, 20, 21, 59 and 60 ensure that shoreline residential development is expected to achieve no net loss of shoreline ecological functions.</p> <p>12. The proposed amendment is unnecessary. The regulations in Sections 16, 17, 18, 19, 20, 21, 54, and, 61 (A)(1) and (H) establish the development standards for log dumps and barge landings. Section 54 (A)(8) requires the applicant to show there is no feasible alternative.</p> <p>13. The proposed amendment is unnecessary. The SMP is designed to protect shoreline ecological functions in all areas and for all types of development. Sections 16, 17, 18, 19, 20, 21, 61 (C) regulate shoreline parking.</p> <p>14. The proposed amendment is unnecessary. All shoreline development has to meet the critical area protections including protecting water quality, habitats, vegetation, and, wildlife conservation areas. Sections 16, 17, 18, 19, 20, 21, and 61 regulate utilities.</p>	
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			<p><u>habitat where feasible, and minimize and compensate for impacts where not feasible.”</u></p> <p>(15) Comp. Plan § 3.5.D. Introduction – “Structural shoreline stabilization includes both hard and soft measures to minimize erosion and/or damage caused by waves, wake action, currents, and wind.” Shoreline armoring does not address upslope drainage issues.</p> <p>(16) Comp. Plan § 3.5.D. Policy 12. -- “use naturally regenerating enhancement systems if:</p> <ol style="list-style-type: none"> a. The length and configuration of the beach will accommodate such systems; b. Such protection is a reasonable solution to the needs of the specific site; c. Such systems will not adversely impact existing habitat; and d. Shoreline Restoration/Enhancement will accomplish one (1) or more of the following objectives: <ol style="list-style-type: none"> i. Protect the structure from damage; ii. Recreate or enhance natural conditions; iii. Create or enhance natural habitat; iv. Mitigate excessive, unnatural erosion; and v. Enhance public access to the shoreline.” 	<p>(Section 63 regulates essential public facilities in the shoreline.)</p> <p>15. Staff recommends the following amendment to Section B, Element 3, Section 3.5.D introduction adopted as Exhibit A of Ordinance 1-2016:</p> <p><u>Structural shoreline stabilization includes both hard and soft measures to minimize erosion and/or damage caused by waves, wake action, currents, and wind and and drainage patterns of development upslope from the SMP jurisdiction.</u></p> <p>16. The proposed amendments are not necessary.</p>	
15m	Friends of the San Juans/Washington Environmental Council	Development Regulations III D.3.a.	SJCC 18.50.070 C., F. and G. should be reinstated.	See response to item 9d of this table.	See Ecology response.

15n	Friends of the San Juans/Washington Environmental Council	Section 4. N.3. Vesting III D.3.b.	The provision authorizing the indefinite vesting of possible future development should be removed for consistency with the SMA and Guidelines.	There is no provision in WAC 173-26 and WAC 173-27 that regulates the adoption of vesting language or vesting development rights. The provisions of Section 4 (N)(3)(b) are subject to conditions. It is conceivable that a proposal will be submitted that will meet standards established in Section 4 (N)(3)(a and b); however, the code provides for amendments to vested projects for health, safety and environmental protection. See Section 4 (N)(4-6).	Ecology agrees with the County's response. However, Ecology has suggested reinstating language that allows the County to void an application after one year based on inaction by the applicant.
15o	Friends of the San Juans/Washington Environmental Council	Armoring III D.3.c.(1)	SJCC 18.50.210 A.4. and 8. Should be retained.	See response to item 9f of this table.	See Ecology response.
15p	Friends of the San Juans/Washington Environmental Council	Armoring III D.3.c.(2)	The Update must be revised to limit shoreline modifications to those instances where there is an imminent threat of damage by restoring the pre-adoption language.	Shoreline modification is not limited to shoreline stabilization, it may involve shoreline restoration. Section 41 of the adopted SMP states that new shoreline stabilization measures will only be allowed to protect certain types of structures if damage is imminent. Section 42 of the updated SMP states that hard structural stabilization measures will only be approved if all other options including avoidance have been discounted.	Ecology agrees with the County's response.
15q	Friends of the San Juans/Washington Environmental Council	New Section 44. C.2. Shoreline Stabilization III D.3.c.(3)	The Update should be revised to require replanting of more than just 75% of the shoreline and more than an average of 10 feet. This minimal revegetation is inconsistent with the healthy functioning of shoreline riparian areas.	75% replanting is not minimal.	The adopted language is reasonable given that each site will be unique and the language says "as least 75%."
15r	Friends of the San Juans/Washington Environmental Council	New Section 47. B. Shoreline Stabilization III D.3.c.(4)	The Update should define a replacement at a threshold below 99.99%. By allowing essentially new construction on the footprint of existing armoring without evaluating its necessity or options for decreasing impacts, the Update fails to meet the Guidelines' requirement to plan for protection and restoration.	We disagree. Establishing a 99.99 percent threshold between repair and replacement is consistent with standard construal of the word 'replacement'. Standard English definitions of the word 'replacement'	Ecology guidelines provide the county discretion to clarify the distinction between repair and replacement.

				<p>emphasize the equivalence of the item or person that is standing in for the other.</p> <p>Empirically, 75 percent of an item is not the same as 100 percent of the same item and 75 percent of a bulkhead will not function as needed. Repairing an existing structure is exempt from a shoreline substantial development permit.</p> <p>See response to item 9g of this table.</p> <p>WAC 173-231 (3)(a)(iii)(C) indicates that replacement structures are to be evaluated as new. The repair and maintenance of hard stabilization structures often entails the removal of obsolete elements and insertion of new components into a single structure. Over time, it is possible that all the structural elements will be replaced as part of the repair, effectively creating a new structure. In order to comply with the direction of the WAC, a threshold between repair and replacement is established.</p>	
15s	Friends of the San Juans/Washington Environmental Council	New Section 41. A.5. Shoreline Stabilization III D.3.c.(5)	The Update should prevent the construction of hard or soft structural shoreline stabilization measures on documented forage fish spawning beaches by adding the following language: "New hard and soft structural shoreline stabilization measure will not be allowed on or adjacent to documented surf smelt or Pacific sand lance spawning habitat."	<p>Section 44 (H) of the updated SMP prohibits the construction of new hard structural stabilization measures adjacent to forage fish spawning beaches. (Replacement of existing hard structural stabilization measures, that qualify as 'new' are accepted.)</p> <p>If existing structures and forage fish spawning beaches currently co-exist, providing that all other factors remain equal, a replacement structure of the same configuration will not be expected to have a different impact on the critical area.</p> <p>The repair of a bulkhead requires a certificate of exemption which may be conditioned to</p>	The language suggested by the commenter and the county would seem to preclude soft stabilization to replace hard structures on a documented forage fish site. The result could be the repair and maintenance of a hard structure as opposed to a replacement soft structure of less impact. For this reason, Ecology has not included the county staff recommendation in approval documents.

				<p>result in no net loss of shoreline ecological functions.</p> <p>For consistency, staff recommends the following amendment to Section 44 (H) of Ordinance 1-2016:</p> <p><i>New <u>soft and hard structural shoreline stabilization measures are prohibited adjacent to documented forage fish spawning areas except replacements as defined in Section 47(A) of this ordinance.</u></i></p>	
15t	Friends of the San Juans/Washington Environmental Council	New Section 31. B. Docks III D.3.d.(1)	The Update must be revised to eliminate the new authorization for mooring buoys in critical areas and to state that, "Private, noncommercial and joint-use docks, piers, moorage and recreational floats serving fewer than 5 residences shall not intrude into or over shoreline critical areas."	See response to item 9g of this table.	See Ecology response.
15u	Friends of the San Juans/Washington Environmental Council	New Section 29. A.6. Overwater Structures III D.3.d.(2)	The existing SMP language at SJC 18.50.190.B.6. should be reinstated to avoid additional over-water shading.	There is no provision in RCW 90.58 and WAC 173-26 that prohibits the development of storage facilities on public boating facilities. All future docks will meet no net loss standards and are required to be consistent with Washington Department of Natural Resources design guidelines.	Ecology concurs with the county's response, and notes the requirement of Section 29. A. to avoid and minimize impacts.
15v	Friends of the San Juans/Washington Environmental Council	New Section 29.A.11. Overwater Structures III D.3.d.(3)	The Update prohibits only "boating facilities" that are "expected to interfere with the normal erosion-accretion process associated with feeder bluffs." For consistency with criteria to protect critical areas, the current language that "Docks or piers which can reasonably be expected to interfere with the normal erosion-accretion process associated with feeder bluffs shall not be permitted" should be reinstated.	This provision is consistent with the WAC 173-26-221 (2)(c)(iii)(C) standards for protecting shoreline critical areas. It is conceivable that, in the future, the broadest public interest might be served by a public dock that encroaches into or over a shoreline critical area. The updated SMP is alive to this possibility; however, Section 31 (B)(1-2) requires the applicant will be required to demonstrate that an alternative alignment is not feasible and that there will be no net loss of shoreline ecological function. Section 38 also requires the applicant to show that use	Ecology concurs with the county's response.

				<p>of or expansion of existing facilities would not serve the same end.</p> <p>Staff does not recommend making the proposed amendment.</p>	
15w	Friends of the San Juans/Washington Environmental Council	New Section 30. F. Boating Facilities III D.3.d.(4)	<p>The following language should be added: Applications for boating facilities shall not be approved until: a. It can be shown by the applicant that existing facilities are not adequate or feasible for use; b. Alternative moorage is not adequate or feasible; and c. The applicant shall have the burden of providing the information requested for in subsections (A) and (B) of this section, and shall provide this information in a manner prescribed by the administrator.</p>	<p>Section 31 (C) requires applicants for private and joint use docks to show that existing facilities are not adequate and that buoys are insufficient.</p> <p>Section 38 requires applicants for new boating facilities to demonstrate that there is a demand for a new boating facility and that the demand cannot be met by the expansions of the existing facilities on the island.</p> <p>See response to item 9g of this table.</p>	Ecology agrees with the County's response.
15x	Friends of the San Juans/Washington Environmental Council	New Section 29. A. Overwater Structures III D.3.d.(5)	<p>The over-water provisions should retain the current prohibition (SJCC 18.50.190.B.4.) on overnight or long-term moorage facilities in areas with poor flushing action and in included in New Section 29. A.</p>	<p>There is no clear definition of poor flushing and where it may be in the County's shorelines. The requirement to meet the no net loss of shoreline ecological functions includes water quality. If and when, flushing becomes an issue to be considered as part of a project permit, the County can add the condition to the permit.</p>	Ecology agrees with the County's response.
15y	Friends of the San Juans/Washington Environmental Council	New Section 18. A. Critical Areas III D.3.e.	<p>WAC 173-26-221(2) requires the protection of critical areas like fish and wildlife habitat conservation areas. The Update should add bull trout, federal listed as threatened, the short-tailed albatross, federally listed as endangered, and the bald eagle, listed by the state as a sensitive species.</p>	<p>WAC 365-190-130 (2)(a) directs the County to consider 'areas where endangered, threatened, and sensitive species have a primary association' for classification and designation as critical areas. SJCC 18.35.115 (A)(1) notes that Bald Eagles have been delisted but recognizes that other statutes protect it specifically, the Bald and Golden Eagle Act, The Migratory Bird Treaty Act, and the Lacey Act.</p> <p>The animals listed in SJCC 18.35.115 (A) were on the federal and state endangered species lists at the time the critical area regulations were adopted. Certainly, the state does not</p>	Ecology concurs with the county's response. The criteria in the county's code define fish and wildlife habitat conservation areas - the county will apply the most current list without needing to amend the SMP.

				expect the County's critical area regulations to be updated on the same schedule as the federal lists of endangered and threatened species.	
15z	Friends of the San Juans/Washington Environmental Council	New Section 18. A. Ecology Protection III D.3.e.	The Update should restore the following language at new Section 18.A: "If provisions of the critical area regulations and other parts of the SMP conflict, the provisions most protective of the ecological resource applies."	Section 8 (C)(3) states: <i>The SMA and the SMP comprise the basic state and local law regulating the use of shorelines in the County. Unless specifically provided otherwise, if the provisions of the SMP conflict with other applicable state or local policies, subarea plans, or other regulations, the most restrictive regulation controls.</i> (Emphasis added). The most restrictive regulation would be the one that allows the least change in the initial condition and that is most likely to be the regulation that has the least impact on ecological functions.	Ecology agrees with the County's response.
15aa	Friends of the San Juans/Washington Environmental Council	New Section 16. C.1. Clearing and Grading III D.3.f.	Base on the CAO, WAC 173-26-201(2)(a) and - 221(2)(c)(i), the language should be changed to read "(l)and clearing, grading, filling, or alteration of wetlands, natural drainage, and topography shall be limited to the area necessary for driveways, buildings, and view and solar access corridors."	See response to item 9a of this table.	See Ecology response.
15bb	Friends of the San Juans/Washington Environmental Council	New Section 16. C.2 Clearing and Grading III D.3.g.	It is suggested that the language be deleted because it indicates that removal of all brush and groundcover may be done absent a landowner's inquiry into the stability of a shoreline.	For clarity and consistency, staff recommends the following amendment to Section 16 (C)(2) of Ordinance 1-2016: 2. Removal of trees smaller than three (3) inches in diameter, as measured four (4) feet above grade, shall not be restricted unless there is evidence that the shoreline is unstable. The removal of smaller trees, brush, and groundcover may be restricted in unstable shorelines. Tree and foliage removal is subject to critical areas regulations. The provision proposed for deletion obscures that relationship.	Ecology has incorporated the county staff recommendation for amending Section 16(C)(2) into our approval document.

15cc	Friends of the San Juans/Washington Environmental Council	SJCC 18.35.095 Small Wetlands III D.3.h.	The Update must add the wetland exemption to the list of provisions that do not apply in the shoreline district at New Section 18.	<p>The County's BAS contains an entire section establishing minimum size thresholds for regulating wetlands. (Chapter 2, Section 2.4.4.). The County recognizes that for practical administrative purposes identifying a regulation threshold for low functioning wetlands is necessary.</p> <p>The County mapped the County's wetlands by LiDAR. Using this technology, wetlands smaller than 1,000 square feet could not be detected. Approximately three percent of wetlands in the County are smaller than 2,500 square feet.</p> <p>The County's regulations protect ninety-seven percent of all wetlands in the County. This provision is more restrictive than the previous exemption for wetland protection on parcels of one acre or less.</p> <p>The County provided a compelling rationale for departing from the standards suggested by the BAS.</p> <p>In the final unpublished opinion of the Washington Court of Appeals, Case No. 72235-2-1 dated August 10, 2015, the Court stated, "Excluding small, isolated wetlands, is, perhaps, not ideal. But as both the Board and superior court found, it is not necessarily a violation of the Act." (The term "Act" in this case refers to RCW 36.70A, the Growth Management Act, which includes the 'no net loss' provision in RCW 36.70A.480 (4) and ties it directly to that in WAC 173-26).</p>	Ecology concurs with the county's recommendation to retain the application of Section 18.35.095 in shoreline jurisdiction. However, while Ecology's most recent technical assistance documents acknowledge that these smaller wetlands do not need to follow the <i>avoidance</i> step, there is scientific evidence that impacts to these small wetlands should be mitigated to ensure no net loss. Ecology has recommended clarifications to Section 19 on mitigation to ensure the small wetlands listed in Section 18.35.095 are administered in shoreline jurisdiction so that mitigation is required for wetlands fill.
15dd	Friends of the San Juans/Washington Environmental Council	New Section 49. A.9. Commercial Development	The Update would allow commercial accessory developments like warehouses, outdoor storage, and waste storage and treatment as close as just landward of the OHWM. Recommendation: These developments	See response to comment 579, page 47 of DOE Submission, public comment spreadsheet, dated June 20, 2016. All shoreline development must meet critical	Ecology agrees with the County's response.

		III D.3.i.	should be set back behind natural shoreline vegetation consistent with the Guidelines and current science.	area regulations only water dependent commercial developments are allowed at the water's edge.	
15ee	Friends of the San Juans/Washington Environmental Council	New Section 60.C.5. Residential Development III D.3.j.1	The Update's residential provisions fail to protect and restore shoreline functions by limiting tree stocking levels to those in the Tree Protection Zone. Recommendation: for consistency with the Guidelines' vegetation provisions, shoreline vegetation should be retained largely unchanged.	Generally, in TPZ 1 no removal of trees is permitted. The required tree stocking levels in TPZ 2 have been found to be an effective method of protecting fish and wildlife habitat conservation areas. See the BAS, pages 75 and 76. Section 16 of the adopted ordinance limits clearing and grading for each project to activities that are consistent with the County's critical areas protections.	Ecology agrees with the County's response.
15ff	Friends of the San Juans/Washington Environmental Council	New Section 60.C.6. Setbacks III D.3.j.2	The subsection is inconsistent with current science and requirements to conserve shoreline vegetation. Recommendation: Delete New Section 60.C.6.	DOE Submission, public comment spreadsheet, dated June 20, 2016, answer to comment #463, page 39.	Ecology agrees with the County's response.
15gg	Friends of the San Juans/Washington Environmental Council	New Section 14 Nonconforming Structures III D.3.j.3	Unlimited expansion of nonconforming residences, rather than the current 25% limit. (Compare Update, at New Section 14 with SJCC 18.50.330.D.2.e.i.). This is inconsistent with the Guidelines' requirement to protect and restore.	See DOE Submission, public comment spreadsheet, dated June 20, 2016, answer #498, page 41.	Ecology agrees with the County's response.
15hh	Friends of the San Juans/Washington Environmental Council	New Section 59 Land Division III D.3.k.1.	A new subsection L should be added that reads as follows: "New lots shall be designed and located so that the building area lies landward of areas likely to be inundated occasionally by sea level rise by 2100."	See DOE Submission, public comment spreadsheet, dated June 20, 2016, #189 on page 19. The County's SMP is likely to be revised before 2050. By that time, the scope of potential sea level change should have narrowed to a more predictable range. Both Mote et al and the National Research Council offer a very similar range of sea level rise options in 2050. Mote et al provides a range of potential sea level rise in this area spanning from -5 inches to +14 inches in 2050. The National Research Council suggests the range of sea level rise in this area is between -1 and +18 inches. Although the	Ecology agrees with the County's response.

				distribution is slightly different, both studies conclude that the range of sea level rise in this area is 19 inches. Both projections begin with a drop in sea level rather than a rise. The studies suggest that the sea level change in the County could be negative by 2050.	
15ii	Friends of the San Juans/Washington Environmental Council	New Section 60 Residential Development III D.3.k.3.	A new subsection A.5 should be added that reads as follows: "New structures shall be located landward of areas likely to be inundated occasionally by sea level rise by 2100."	See DOE Submission, public comment spreadsheet, dated June 20, 2016, #189 on page 19.	Ecology agrees with the County's response.
15jj	Friends of the San Juans/Washington Environmental Council	New Section 21 A.2 Mitigation III D.3.l.	The Update would allow approval of mitigation plans subject to a maximum payment of projected costs plus 15%, without ultimately guaranteeing that a mitigation project addresses the functions likely to be lost or actually replaces them. The regulations should be revised so that the Update states that "Mitigation actions must either avoid impacts to ecological functions and values or replace those lost in kind and quantity." Mitigation should also be in the same watershed.	Neither WAC 173-26 nor RCW 90-58 require that mitigation entails restoration of the 'kind and quantity' of impacted ecological functions. Such a provision suggests that each square foot of impervious surface created must be mitigated by the elimination of another square foot of impervious surface elsewhere. Not only is this suggestion inconsistent with state statutes and guidelines, such a provision would unduly constrain the County's ability to craft mitigation plans that are responsive to different projects within different geographic settings. The County's mitigation preferences are consistent with the state's guidelines. Chapter 4 of the DOE SMP Guidebook, defines no net loss as: <i>Over time, the existing conditions of shoreline ecological functions should remain the same the SMP is implemented...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.</i>	Ecology agrees with the County's response. Note Ecology has suggested clarifications to monitoring and adaptive management programs in Section 20F.

				<p>While the mandatory mitigation sequence established in WAC 173-26-201 (2)(e), emphasizes avoidance as the first step, it is clearly expected that there may be developments which require mitigation.</p> <p>The WAC establishes mitigation as an intrinsic element of achieving no net loss of ecological functions. The relationship between mitigation and no net loss is established in WAC 173-26-201 (2)(c) which states: <i>Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:</i></p> <ul style="list-style-type: none"> • <i>Environment designations with appropriate use and development standards; and</i> • <i>Provisions to address the impacts of specific common shoreline uses, development activities and modification actions; and</i> • <i>Provisions for the protection of critical areas within the shoreline; and</i> • <i>Provisions for mitigation measures and methods to address unanticipated impacts.</i> (Emphasis added). <p>In addition, WAC 173-26-201 (2)(e)(ii)(A) states that mitigation cannot be used to meet restorative goals: <i>(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</i></p>	
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				<p><i>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. (Emphasis added.)</i></p> <p>The May 17, 2016, Cumulative Impact Analysis, evaluates the impacts of ‘reasonably foreseeable future development’ and determined that the combination of the County’s critical area regulations, shoreline designations, development regulations, and the identified restoration opportunities is sufficient to protect the existing shoreline functions.</p> <p>The Cumulative Impacts Analysis finds that: <i>The proposed SMP is expected to, at a minimum, maintain existing shoreline functions within San Juan County while accommodating the reasonably foreseeable future shoreline development.</i> San Juan County Cumulative Impacts analysis. May 17, 2016. Page 68. (Emphasis added).</p>	
15kk	Friends of the San Juans/Washington Environmental Council	New Section 61 H.1. & G.3. Transportation III D.3.m.	<p>Temporary barge landings (12 in 24 months) now allowed anywhere through an exemption.</p> <p>Non-commercial float plane use without public notice or review. This use currently requires a conditional use permit as an unnamed use. SJCC 18.50.160.A.</p> <p>Recommendation: Both of these activities should require a conditional use permit to ensure that they do not adversely impact sensitive shoreline resources.</p>	<p>Under the current SMP temporary barge landings are unregulated and unreported.</p> <p>Non-commercial float plane used to access personal property is currently unregulated and the equivalent to using either a boat or a car to access personal property. See response to item 9i of this table.</p> <p>The noise of an airplane in flight is specifically exempted from the County’s noise ordinance, SJCC 09.06.050 (A). Generally, a loud and sustained noise between 10 p.m. and 7 a.m. is prohibited regardless of source.</p>	Exemptions can be conditioned. It is the County’s choice not to require a CUP for float planes.

15II	Friends of the San Juans/Washington Environmental Council	New Section 62. B. Desalination III D.3.n.	Desalination plants as the primary water source for new subdivisions. The Update should evaluate the potential energy requirements of new desalination impacts and prevent their siting in areas with poor flushing action.	The County does not evaluate energy requirements of other forms of development activity. There is no requirement in the SMA or WAC 173-26 to evaluate energy use or energy efficiency of water systems.	Ecology concurs with the County's response. The section includes regulations for environmental protection.
15mm	Friends of the San Juans/Washington Environmental Council	New Section 66 Use Table III D.3.o.	<p>Commercial aquaculture should not be allowed in natural districts and should require a Conditional Use Permit in conservancy districts.</p> <p>Due to their significant adverse impacts to shoreline ecological functions, new hard and soft shoreline stabilization should not be allowed in the conservancy designation and replacement shoreline stabilization should be allowed in natural and conservancy districts only with a Conditional Use Permit.</p>	<p>Thank you.</p> <p>This suggestion is inconsistent with WAC 173-26-221(2)(c)(iii)(C) which states: <i>(C) Standards. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:</i></p> <ul style="list-style-type: none"> • <i>The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;</i> • <i>Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</i> • <i>The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.</i> • <i>The project is consistent with the state's interest in resource protection and species recovery.</i> <p><i>Private, noncommercial docks for individual residential or community use may be authorized provided that:</i></p>	Ecology concurs with the County's response.

			<p><i>Due to their significant potential for impacts, barge landing sites should be processed as Conditional Use Permits in conservancy districts.</i></p> <p>Desalination facilities should not be allowed in the natural designation and should be processed as Conditional Use Permits in conservancy districts.</p>	<ul style="list-style-type: none"> • <i>Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;</i> • <i>The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat. (Emphasis added).</i> <p>It is clear from the WAC that if, and where appropriate, shoreline stabilization is an allowed use. The adopted ordinance curtails the range for which stabilization may be deployed, and simultaneously, requires that an applicant demonstrate the infeasibility of other approaches.</p> <p>Permanent barge landing sites require a CUP in the Conservancy designation. See Section 66 (C) Table X.</p> <p>Subdivision of parcels in a Natural shoreline designation is not possible. It is; however, possible to have a single family residence on Natural parcels. If desalination is prohibited for those parcels, a situation wherein homeowners are required to truck water service residential units, may be created.</p> <p>Recent scientific studies suggest the direct and measurable impact of brine plumes on marine biota only become observable at brine discharge volumes that are inconceivable for the County. Studies indicate that, while there are some issues with desalination processes, it offers a relatively safe, effective method of providing water to County properties and, in doing so, relieves pressure on the County's groundwater supply.</p>	<p>Ecology agrees with the County's response.</p>
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				<p>The document <u>'The Current Status of Desalination Systems in San Juan County, Washington Executive Summary and Technical Supplement, 2009'</u> Appendix 2, <i>Avoiding or Minimizing Potential Impacts of RO Desalination in San Juan County</i>, cites a Spanish study where the increased salinity of the brine has changed the animal profile in the vicinity of the outlet from worms, crustacea and invertebrate Mollusca to one dominated by roundworms as evidence that desalination plants may impact marine life. It is important to recognize that the daily brine output of the studied facility far surpassed the daily water consumption of the County. The brine output of the desalination plant in Spain was 17,171,183 gallons per day (gpd).</p> <p>In contrast, the County's total daily water use is less than 12% of the studied desalination plant's daily brine output. (The County has approximately 15,769 people, divided into approximately 7613 households, which use approximately 250 gpd per household or with a combined water use of 1,903,250 gpd.)</p> <p>The County's BAS states: <i>For a small desalination plant, pumping about 50,000 gallons per day, and with brine mixed to within one part per thousand close to the outfall, under most circumstances the currents from tides and winds are expected to be adequate to further mix the water. A total capacity of 50,000 gallons per day is a small fraction of the volume at low tide in many of the bays.</i> (BAS, Chapter 3, page 82).</p>	
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				Groundwater wells in the Conservancy district do not require a CUP. There is no indication that desalination facilities are inherently more harmful to ecological functions than groundwater wells.	
15nn	Friends of the San Juans/Washington Environmental Council	New Section MM Findings III E.	Numerous comments are made. See original letter.	<p>Ordinance findings provide information regarding the background or purpose of certain ordinance sections. These legislative declarations are not intended to provide a complete description of the record that supports the decisions and content of the ordinance. The ordinance and adopted SMP regulations are supported by the entire record.</p> <p>The assertions regarding the absence of critical scientific information in the County's I&C are false as are many of the subsequent assertions and conclusions.</p> <p>It is asserted that the County's I&C "<i>omits significant ecological information about shorelines, including information about the presence and abundance of both listed and non-listed salmon, like threatened Puget Sound Chinook. This information can be found in Eric Beamer and Kurt Fresh, Juvenile salmon and forage fish presence and abundance in shoreline habitats of the San Juan Islands, 2008-2009: Map applications for selected fish species. Skagit River System Cooperative, La Conner WA (2012).</i></p> <p>This assertion is not born out by the evidence. See Section 3.7 <u>Marine Shoreline Types</u>, pages 68-77 and Section 3.11 <u>Predicted Juvenile Fish Presence Based on Shoreline</u></p>	Comments are noted.

				<p>Type, Pages 101-109 of the County's April 2013 I&C report.</p> <p>Incorporating this report into the I&C was challenging. The study had not been completed when the first and second drafts of the I&C were being compiled. While developing the BAS, the County considered reports and studies from all sources; however, the credence assigned to studies that had not been published in peer reviewed journals was reduced. The Beamer and Fresh study, has not been subject to the rigorous peer review that attends publication in an academic journal.</p> <p>In addition to the discussion in the text of the Beamer and Fresh study, the I&C includes a series of maps (27-33) that graphically depict the Beamer and Fresh data.</p> <p>The comments refer to the paucity of drift cell analysis in the I&C, yet fail to acknowledge the lack of drift cells in the County. Drift cells may be suitable for delineating shoreline reaches in areas where sediment rich soils are present; however, the majority of San Juan County's shorelines are bedrock and <i>"cannot be mapped into drift cells."</i>² And, as the authors of the I&C point out, even in those areas that possess littoral sediment, <i>"it exhibits different characteristics than in Puget Sound. In addition, several features are found in the San Juans (such as tombolos and pocket beaches) that do not readily fall within the drift cell model."</i></p>	
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² Shoreline Inventory and Characterization Report, San Juan County, Herrera Environmental Consultants, Watershed Company, April 2013. Page 10.

				<p>The I&C includes a series of maps showing the patterns of near shore drift (drift cells) in the County (Map 13).</p> <p>The claim that the I&C does not include pocket beaches, feeder bluffs or armoring is inaccurate. Map 41 depicts the locations of shoreline pocket beaches, feeder bluffs and armoring. This is derived from the data that the comment states the consultants failed to use.</p> <p>It is asserted that the I&C does not include “existing draft [sic] cell data” and ‘Friends’ shoreline modification inventory”³ instead, the comment letter contains the claim “the consultants used “professional judgement based upon aerial photographic analysis,”⁴ to evaluate drift cell data and shoreline modifications. The statement erroneously attributed to the consultants does not appear on page 17 in the I&C. A quick word search of the published document reveals that ‘professional’ appears once in the entire 377 page document.</p> <p>On page xv, the consultants acknowledge the report’s limitations:</p> <p><i>As with any report, there are limitations (inherent or otherwise) that must be acknowledged. This report is limited to the subjects covered, materials reviewed, and data available at the time the report was prepared. The authors and reviewers have made a sincere attempt to provide accurate</i></p>	
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³ See page 53, Friends/WEC comment letter dated 26-8-2016

⁴ See page 53, Friends/WEC comment letter dated.26-8-2016

				<p><i>and thorough information using the most current and complete information available and their own best professional judgment.</i></p> <p>While ‘professional judgement’ is hard to quantify, it is noted that the comment letter is relying on the very notion of presumed expertise to add weight to its claims.</p> <p>Deploying incomplete information and faulty logic, the argument that the County “downplays the risks associated with sea level rise” (SLR) is advanced. The comment letter cites the National Research Council study, <u>Sea-level rise for the Coasts of California, Oregon, and Washington: Past, Present and Future</u>. It is stated that on page 96 of the study, a justification for a projected change of local sea levels of 16 inches by 2050 may be found. The submission did not include enough of the reference text to verify the assertion. Also missing was an accurate representation of the range of sea level change in the area projected by the chosen document. The National Research Council establishes the range of SL change for coastal areas north of Cape Mendocino as between - 1 inch and +18 inches by 2050 and between +4 inches and 56 inches (4.6 feet) by 2100.</p> <p>The County referenced the DOE’s SMP update guidebook, Appendix A, <u>Addressing Sea Level Rise in Shoreline Master Programs</u> cites the study, <u>Sea Level Rise in the Coastal Waters of Washington State</u> by Mote et al. This study projects low, medium and high levels of SLR in the San Juan area by 2050 and 2100 as -5 inches, 0 inches and 14 inches (2050) and -9</p>	
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				<p>inches, +2 inches, +35 inches (2100) respectively.</p> <p>As noted above, both Mote et al. and the National Research Council feature sea level change projections for 2050 with a 19 inch spread. Both projections for 2050 start with negative SLR. The studies point to the possibility that sea level change in Friday Harbor and the San Juan Islands may be between -5 and -1 inches below the Salish sea's current level.</p> <p>In 2016, the DOE affirmed the Mote et al study as an accurate description of the range of possible SLR in the next century. The DOE standard is consistent with the citation in the County's I&C, page 340.</p> <p>The SLR projections offered by the authors of the <u>Sea-level rise for the Coasts of California, Oregon, and Washington: Past, Present and Future</u> study and those preferred by the DOE, Mote et al, are slightly different. The differences; however, are of degree rather than differences of kind.</p> <p>The low to medium projections indicate minimal interference with shoreline processes over the next 34 years. As predictive models improve future SMP's will reevaluate potential impacts.</p> <p>The comment illegitimately attempts to combine two distinct issues with the conceit that their typographic proximity to one another will be read as an effective argument. All development in the shoreline must meet the no net loss standard, and consistent with the RCW 90.58.020, the County has shoreline</p>	
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			<p><i>Finding MM.III.2, which erroneously states that the County's alternative designation system "provides equal or better implementation of the SMA because it better reflects local conditions specific to the San Juan Islands." The County's new PMT designation replaces significant stretches of biologically important habitat and thus does not better implement the SMA.</i></p>	<p>designations that allow for appropriate development that is consistent with ecological protection.</p> <p>The County shoreline designation system is one part of broader regulatory network that achieves no net loss of shoreline ecological functions. The shoreline regulations are required to allow for appropriate development while protecting shoreline ecologies.</p> <p>Documents like the I&C take time to prepare. They involve collecting, collating and analyzing documents and data from disparate sources. The I&C represents a snapshot of the shoreline conditions at a certain time.</p>	
16	Cofrancesco, Beverly	Aquaculture	<p>How is "small scale" aquaculture defined? How will growth and subsequent impacts be monitored? What process is in place that includes public notification and comments as the business grows?</p>	<p>To be considered small scale aquaculture the operation must qualify for an exemption from a shoreline substantial development permit. The standard for an exemption is in Section 10 (D)(1).</p> <p>Section 28 (B) (1) states: <i>1. Shellfish aquaculture and supplemental wildstock seeding that does not adversely impact shoreline ecological functions or aesthetic qualities is allowed in the nearshore waters with a certificate of exemption provided that it does not:</i></p> <p><i>a. Intrude into critical saltwater habitats on shorelines of statewide significance unless there is no feasible alternative, and</i></p> <p><i>b. Exceed the shoreline substantial development permit exemption criteria in Section 10 of this ordinance.</i></p> <p>Section 10 (D)(1) states:</p>	<p>Ecology concurs with the County's response.</p>

				<p><i>With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173-27-040 (2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials.</i></p>	
17	Martindale, Lloyd	Snug Harbor Redesignation	<p>How does the county justify making Snug Harbor Marina conforming simply based on it being there when it conflicts with the rural residential character of the area and will likely expand?</p>	<p>Over time, community values and land use regulations change. Given the community's preference for the expansion of existing facilities over the development of new ones, it is imperative to identify the existing facilities accurately.</p> <p>The Snug Harbor Marina has been in place since before the first SMP was adopted and largely defined the character of the area for the last fifty years. The Snug Harbor Marina predates at least 31 of the 37 nearby residences on either side of the bay.</p> <p>Any future development will require the appropriate permits and will conform to the SMP.</p> <p>San Juan County Comprehensive Plan Section B, Element 3 contains the following goals and policies indicating the community's preference for maintenance and expansion of marinas and other joint use boating facilities over the proliferation of private docks.</p>	<p>Ecology agrees with the County's response.</p>

				<p><i>3.5.B.ii (2)</i> <i>Give preference to the joint use of a single structure by several shoreline property owners, as opposed to the construction of several individual structures to spare San Juan County from the so-called "porcupine effect" created by dozens of individual private docks and piers on the same shoreline segment.</i></p> <p><i>3.5.B.iii (3)</i> <i>Minimize the consumption of limited shoreline resources in marina development. To accomplish this as well as providing moorage opportunities for inland and shoreline residents, the following sequence is preferred:</i></p> <ul style="list-style-type: none"> <i>a. The expansion of existing marinas over the addition of new marina sites;</i> <i>b. The provision of a reasonable proportion of permanent moorage spaces to reduce the demand for, or proliferation of, individual docking facilities for numerous private, noncommercial pleasure craft; and</i> <i>c. The use of boat launching ramps and dry storage of recreational boats as favorable alternatives to sheltered, year-around wet-moorage of watercraft.</i> <p>With the establishment of the Ports, Marinas and Marine Transportation designation, the question is whether the proposed amendment meets the designation criteria.</p> <p>The designation criteria for the Ports, Marina and Marine Transportation designation is established in Section B, Element 3, subsection 3.3.G of the San Juan County Comprehensive Plan:</p>	
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				<p><i>Designation Criteria: Areas that may be designated as Ports, Marinas and Marine Transportation may include:</i></p> <p><i>Existing marinas, mooring buoys, boating facilities, docks, boat ramps, ferry and barge landing sites.</i></p>	
18	McGovern, John	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s responses.
19	Swan, Alice	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s responses.
20	Bronsema, Lennon	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s responses.
21	Taylor, Liz	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s responses.
22	McDonough, Rebecca	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s responses.
23	Howard, Robb	Snug Harbor Redesignation	The redesignation of Snug Harbor Mariana from C to RMT is short-sighted. How does the redesignation protect the habitat of the bay?	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 9c, 15, and 17 and 30 of this table.	See Ecology’s responses.
24	Turnoy, David	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s response.
25	Ellsworth, Linda	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s response.
26	Ehle, Lisa	Multiple Issues	See comments 9a – g. Also, suggests that the coastline be made public.	See responses to items 9a-g of this table. Tideland between OHWM and Extreme Low Tide is public except in those locations where the Department of Natural Resources sold the tidelands to private land owners.	See Ecology’s response. Ecology concurs.
27a	Hale, Shireene	Acronyms	Acronyms are only defined the first time they are used. It is suggested that a list of all acronyms used in the document be listed at the beginning of the definitions section for easy reference.	Acronyms are not regulatory and should not be included as a separate list in the regulatory code.	A list of acronyms would be helpful to include as part of the SMP, but it is the County’s choice.
27b	Hale, Shireene	Section 4 SJCC 18.80.110 Permits	To help people understand the permits required for particular projects, somewhere in this section the table of required permits in Section 66 should be referenced.	Staff recommends the following amendments to Section 4, 18.80.110 (A)(1) of Ordinance 1-2016: <i>This section includes the procedures necessary to ensure that the provisions of the Shoreline Master Program (SMP) (Element 3 of the Comprehensive Plan and Chapter 18.50 SJCC) (SMP) are implemented and enforced, and to ensure that all persons affected by the master</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<i>program SMP are treated in a fair and equitable manner. See Section 66 for the table of uses and permit types by shoreline designation.</i>	
27c	Hale, Shireene	Section 4 SJCC 18.80.110 Pre-Application Meeting	Rather than a stand-alone paragraph at the beginning of Section 4, the paragraph on pre-application meetings would be more appropriately located after Section 4.A (Purpose and Applicability), perhaps as a New Section 4.B.	Thank you.	Ecology has no opinion.
27d	Hale, Shireene	Section 4.A.1. SMP Components	<p>If the components of the Shoreline Master Program are going to be listed here, they should all be listed, including the official map and the restoration plan. It has been suggested the official map is part of the Comprehensive Plan, but I have yet to find anything in the Comprehensive Plan saying that is the case.</p> <p>Alternatively, the components of the San Juan County Shoreline Master Program are listed in Section 8, so the text in parenthesis in this section could be eliminated.</p>	<p>Staff recommends the following amendments to Section 4, 18.80.110 (A)(1) of Ordinance 1-2016:</p> <p><i>This section includes the procedures necessary to ensure that the provisions of the Shoreline Master Program SMP (Element 3 of the Comprehensive Plan and Chapter 18.50 SJCC (SMP) are is implemented and enforced, and to ensure that all persons affected by the master program SMP are treated in a fair and equitable manner. See Section 66 for the table of uses and permit types by shoreline designation.</i></p> <p>Staff also recommends the corresponding amendments to Section 8 (A) of Ordinance 1-2016:</p> <p><i>This Chapter of the San Juan County Unified Development Code (UDC), together with Element 3 and of the Comprehensive Plan, and SJCC 16.55.040, 16.55.210(E)(2)(d), Section 2(B), figures 130-7, 130-6 of the Eastsound Subarea plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC 18.80.110 is the Shoreline Master Program</i></p>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<p><i>(SMP) for San Juan County, Washington.</i></p> <p>It is difficult to interpret the comment that the comprehensive plan maps should be identified separately from the other elements of the SMP. Harder still to parse is the implication that there is no clear connection between maps showing the shoreline designations and the regulations. Section 8 (D) of the update explicitly identifies the official maps and describes their purpose.</p> <p>Staff recommends the corresponding amendment to Section 8 (D)(1) of Ordinance 1-2016:</p> <p><i>A map, known officially as the “San Juan County Comprehensive Plan Land Use and Shoreline Master Program <u>Designation Map</u>,” (a.k.a., the “map” or “official map”) is part of the SMP. The map shows all areas of the County under the jurisdiction of the SMP and the official shoreline designations established by Element 3 of the Comprehensive Plan for all affected lands and waters.</i></p> <p>The Shoreline Restoration Plan is not part of the SMP.</p>	
27e	Hale, Shireene	Section 4.A.2.	<p>Rather than saying this section applies to all persons and agencies “as described in Chapter 18.50 SJCC”, and expecting the reader to figure out what this means, it would be more helpful to reference ordinance Section 9 on applicability of the SMP.</p>	<p>Staff recommends the following amendments to Section 4 (A)(2) of Ordinance 1-2016:</p> <p><i>This section applies to all lands and waters within the jurisdiction of the master program <u>SMP</u> and to all persons and agencies as described in Section 9, subsections (B) and (C) of this Ordinance. <u>Chapter 18.50 SJCC.</u></i></p>	<p>Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.</p>

27f	Hale, Shireene	Section 4.A.3.	For those that do not regularly use this code, an explanation that shoreline permits are a type of project permit would be helpful. This term is used later in Section 4.D. without prior explanation. Also, mentioning that required shoreline permits are listed in the table in Section 66, would help those trying to determine permit requirements.	<p>Staff recommends the following amendment to Section 4 (A)(3) of Ordinance 1-2016:</p> <p><i>The following <u>project permits</u> are referred to as “shoreline permits” and are subject to <u>SMP this review procedures</u>:</i></p> <p><i>a. Shoreline substantial development permits;</i></p> <p><i>b. Shoreline conditional use permits; and which include:</i></p> <p><i>i. — Uses which are permitted under the provisions of the master program only as conditional uses;</i></p> <p><i>ii. — The expansion of nonconforming uses; and</i></p> <p><i>iii. — Uses which are unnamed or not contemplated in the master program.</i></p> <p><i>c. Shoreline variances.</i></p>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27g	Hale, Shireene	Section 4.F.	Because it has no overall summary or explanation, this section on exemptions from the requirement for a Shoreline Substantial Development Permit will confuse those who are unfamiliar with the requirements. It would help to start this section with a clear, concise description of how the exemption requirements are organized and how they work. It is not necessary to state the Director will make an administrative determination as to whether a proposal is exempt, or that the Director may make site inspections. Under SJCC 18.10.030, 18.80.010.B., and 18.80.070.E., and Section 8.E of this ordinance, the director is responsible for administering the Unified Development Code including the SMP, and already has authority to make site inspections. Section 4.F.5. is also not necessary because that requirement is part of WAC 173-27-050 that is	<p>An introductory description of what shoreline substantial development permit exemptions are and how they work is not appropriate for a regulatory document. Staff recommends the following amendment to Section 4(F)(2) of Ordinance 1-2016:</p> <p><i>12. Developments which that are exempt from the need to obtain a shoreline substantial development permit are set forth established in WAC 173-27-040 and SJCC 18.50.020 (F) and (G) Sections 10 and 11 of this Ordinance. In making this determination, the director administrator shall will consider the ultimate scope of a proposal development and the extent to</i></p>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

			<p>already listed in Section 4.F.3. (See comment letter for example.)</p>	<p>which the development is its consistency with the policies and regulations of the SMP SMA and master program. The administrator director may request additional information from the applicant and may make site inspections, if necessary. A use classified as a conditional use or a use not named or contemplated in this Chapter is allowed only as a conditional use and is ineligible for shoreline permit exemption.</p> <p>Staff recommends deleting redundant Section 4 (F)(5) of Ordinance 1-2016:</p> <p>5. 7. A certificate of exemption. An administrative determination shall will be prepared in the format described in WAC 173-27-050 for any proposal which is exempt from shoreline substantial development permit requirements under Chapter 18.50 SJCC whenever:</p> <p>a. A U.S. Army Corps of Engineers (ACOE) Section 10 permit under the Rivers and Harbors Act of 1899 is required (see WAC 173-27-050(1)(a));</p> <p>b. A Section 404 permit is required under the Federal Water Pollution Control Act of 1972 (see WAC 173-27-050(1)(b)).</p> <p>Section 4 (F)(5) of Ordinance 1-2016 repeats regulations that can be found in Section 11 (B)(3) and are referenced in Section 4 (F)(2) and 4 (F)(3).</p>	
27h	Hale, Shireene	Section 4.I.5.	<p>This paragraph could be clearer. For example, it could say "Requests to vary the use of a shoreline area are processed as a conditional use permit rather than a variance. Uses that are prohibited by the SMP may not,</p>	<p>Staff recommends the following amendments to Section 4 (I)(5) of Ordinance 1-2016:</p>	<p>Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.</p>

			<i>however, be authorized through either a variance or a conditional use permit”.</i>	<i>5. Requests for to varying the use to which of a shoreline area is to be put are not requests for variances, but rather processed as a requests for shoreline conditional uses permit rather than a shoreline variance. Such requests shall be evaluated using the criteria set forth in subsection (J) of this section. Variances from the u Uses that regulations are prohibited by the SMP may not be authorized by a variance or a conditional use permit.</i>	
27i	Hale, Shireene	Section 4.J.4.d.	This provision does not appear to be consistent with the SMA requirement to protect shoreline ecological functions; it just protects those in the land use designation where the activity is located (which could potentially change at the property line). To correct this the last part of this sentence (after “functions”) should be deleted.	Staff recommends the following amendments to Section 4(J)(4)(d) of Ordinance 1-2016: <i>d. The proposed use will cause no unreasonably adverse effects to the shoreline environment result in no net loss of shoreline ecological functions in the shoreline designation in which it is to be located;</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27j	Hale, Shireene	Section 4.K.	Since the adopted SMP is already consistent with the SMA, I don’t believe review for compliance with the SMA is necessary or appropriate and suggest this requirement be removed. This process would make more sense if the director made the decision as to whether the proposed changes are consistent with the scope and intent of the original permit and the requirements of the SMP, and if they are, the director approves the application. If the director finds the proposal is not in keeping with the scope and intent of the original permit, then a new application is required. If the director finds the proposal is not consistent with the SMP, the application is denied. If the applicant disagrees with any of these	Staff recommends the following amendments to Section 4(K)(1) of Ordinance 1-2016: <i>1. When an applicant seeks to revise a shoreline permit, an application in a form prescribed by the director administrator together with detailed plans and text describing the proposed changes shall must be filed with the department director administrator. Following receipt of this information, the administrator shall schedule a public hearing on the request. The director will determine whether the proposed changes are within the scope and intent</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

			actions, like all administrative decisions, they can be appealed to the hearing examiner.	<u>of the original permit and are consistent with the SMP and the SMA.</u> <u>The director may find the P proposed revisions are within the scope and intent of the original permit if all the following conditions are met:</u>	
27k	Hale, Shireene	Section 4.K.1.b	“More than” and “a maximum of” are redundant. To make this sentence more concise eliminate one or the other.	Staff recommends the following amendment to Section 4 (K)(1)(b) of Ordinance 1-2016: <u>b. The building footprint and height are not increased by more than a maximum of ten percent (10%) from the provisions of the original permit;</u>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27l	Hale, Shireene	Section 4.N.1 and 2	They say the same thing.	The comment is incorrect. The language subtle; however, section 4 (N)(1) addresses projects submitted prior to the effective date of the ordinance while Section 4 (N)(2) addresses project permits submitted after the effective date of the ordinance.	Ecology concurs with the County’s response.
27m	Hale, Shireene	Section 4.N.3	<u>Suggested changes are shown in bold:</u> <u>3. a. If a A vested permit application that contemplates one (1) or more future uses or structures permits on the property that are subject to that permit approval, then; and the application</u> <u>a. If that permit approval contains a detailed site plan and description of the uses and improvements and a detailed site plan consistent with all laws and regulations in effect at the time the original application vested, then subsequent permit applications filed for those future use(s) are vested to the laws and regulations in effect at the time original permit application vested.</u>	Staff recommends the following amendments to Section 4 (N)(3) of Ordinance 1-2016: <u>3. a. If a A vested permit application that contemplates one (1) or more future uses or structures permits on the property that are subject to that permit approval, then; and the application</u> <u>a. If that permit approval contains a detailed site plan and description of the uses and improvements and a detailed site plan consistent with all laws and regulations in effect at the time the original application vested, then subsequent permit applications filed for those future use(s) are vested to the</u>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<u>laws and regulations in effect at the time original permit application vested.</u>	
27n	Hale, Shireene	Section 4.N.4.	The intent of this paragraph, which is an exception to the vesting provisions, is not clear. What are “conditions based on development permits?” If the intent is that the County can impose conditions on development permits to mitigate potentially adverse environmental impacts that needs to be more clearly stated.	Staff recommends the following amendments to Section 4 (N)(4) of Ordinance 1-2016: <u>4.The County may impose conditions based on development and project permits pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and SJCC 18.80.050 to mitigate potentially adverse environmental impacts.</u>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27o	Hale, Shireene	Section 8.A.	The official map and restoration plan should be added to the list of documents comprising the SMP.	See response to item 27d of this table.	Ecology concurs with the county. It is not necessary to formally adopt the Restoration Plan into the SMP. The plan may be amended and improved over time more readily as a separate document.
27p	Hale, Shireene	Section 9.C.2.	Suggested changes. The shoreline permit system applies to nonfederal activities constituting developments and or conditional uses by non-federal interests (e.g. private individuals, corporations, local and state government) undertaken on lands subject to nonfederal ownership, on and within federal lands. lease, or easement even though such lands may fall within the external boundaries of federally owned lands.	The proposed amendment does not reflect the meaning and intent of the adopted text.	Ecology concurs with the County.
27q	Hale, Shireene	Section 10.D.	At the beginning of this section consider adding a brief explanation of when a Certificate of Exemption is required for listed development (rather than saying it may be required).	Staff recommends the following amendments to Section 10 (D) of Ordinance 1-2016: <i>The following developments, as defined in WAC 173–27–040, are not shoreline substantial developments and require a certificate of exemption when not considered as part of a larger project or development permit:</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27r	Hale, Shireene	Section 11.B.2.	In some cases a Shoreline Substantial Development Permit is required for development included on this list (e.g. replacement of a shoreline stabilization structure).	Staff recommends the following amendment to Section 11 (B)(2) of Ordinance 1-2016:	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

			<p>To more clearly describe the requirements, consider the following change:</p> <p><u>2. When a Shoreline Substantial Development Permit is not required, a certificate of exemption is required for: . . .</u></p>	<p><u>2. When a Shoreline Substantial Development Permit is not required, a A certificate of exemption is required for:</u></p>	
27s	Hale, Shireene	Section 11.B.4.	<p>For internal consistency, consider replacing the term “building permit” with “development permit” which is the term used in the San Juan County Unified Development Code (building permits are only one type of development permit – others include demolition and clearing and grading permits).</p>	<p>Staff recommends the following amendment to Section 11 (B)(4) of Ordinance 1-2016:</p> <p><i>A certificate of exemption is not required for residential development, including normal residential appurtenant structures, when a building project or development permit application is required. In addition to the conditional use permit required by Section 60(D)(2) of this ordinance, normal residential appurtenances that are not considered as part of original development permit are required to obtain a certificate of exemption.</i></p>	<p>Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.</p>
27t	Hale, Shireene	Section 14.B.3.	<p>To ensure people understand that modification of structures must meet the all applicable County regulations, including things like road setbacks and flood hazard reduction requirements that are not a part of the SMP, consider the following change:</p> <p><i>. . .the proposed action will not: . . .</i></p> <p><u>3. Create a new nonconformance or increase the degree of inconsistency with the provisions of this SMP and other applicable provisions of the County Code.</u></p>	<p>Generally, each regulatory provision of the code is taken in context of all the others. Consistency with this proposal could conceivably entail appending multiple code sections to each regulation.</p>	<p>Ecology agrees with the County’s response.</p>
27u	Hale, Shireene	Section 14. Graphic	<p>I am not sure the graphic in this section accurately depicts what is required by the regulations, particularly the “potential location of expansion area” in the center illustration. Does this mean a structure that does not meet the required setbacks could be expanded laterally, further encroaching into what is supposed to be a setback area? It seems this would be an increase in the</p>	<p>Thank you for your comments. Since there was a significant amount of confusion and varying interpretation about what constitutes an “<i>increase [in] the degree of inconsistency with the provisions of this SMP</i>” during the hearings, the drawings were added to clarify what is considered to not “<i>increase the</i></p>	<p>Ecology agrees with the county’s interpretation, though arguable the graphic could be clearer. Other SMP provisions will still apply to any expansion, ensuring adequate protections to ensure no net loss.</p>

			“degree of inconsistency with the provisions of this SMP” which is not allowed under Section 14.B.3. Also, it would help if the lot size in all three illustrations was the same, and if it was clearer that the example on the left is wider than what is allowed.	<i>degree of inconsistency with the provisions of this SMP</i> ”. It is correct that the middle drawing would allow a structure that is non-conforming as to waterfront setback to expand to the maximum conforming width and maintain the existing nonconforming waterfront setback. This is an example of what would not “ <i>increase the degree of inconsistency with the provisions of this SMP</i> ”.	
27v	Hale, Shireene	Section 16.C.1.	To ensure that critical area protection requirements are met, tree removal plans for residential construction should demonstrate how tree protection requirements for buffers and tree protection zones will be met, and should include a report by a certified arborist for hazard tree removal.	Section 16 (A)(1) requires all clearing, grading, fill and excavation actions to be consistent with the critical area regulations. Critical area regulations require the demonstration of compliance with their provisions.	Ecology agrees with the County’s response.
27w	Hale, Shireene	Section 18.B.6.	Grammatical error.	Staff recommends the following amendments to Section 18 (B)(6) of Ordinance 1-2016: <i>Critical area reduced provisions for reduced water quality buffers and tree protection zones when views of the water are blocked by existing houses on adjoining waterfront parcels, do not apply in shoreline jurisdiction. Specifically SJCC 18.35.130(F) does not apply.</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27x	Hale, Shireene	Section 22.B.2.b.	I don’t believe an engineer is necessarily the appropriate professional to analyze potential impacts to critical areas. I suggest this requirement be moved out of the engineering report and included as a separate item to be prepared by an appropriate qualified professional.	Staff recommends the following amendments to Section 22 (B)(2)(b) of Ordinance 1-2016: <i>New structural flood control works are only allowed in the shoreline jurisdiction if it is demonstrated by an engineering analysis analyses prepared by qualified professionals that:</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27y	Hale, Shireene	Section 31.D.	This should say “maximum” dimensions. Dimensions smaller than those listed in the table should be allowed.	Staff recommends the following amendments to Section 31 (D) of Ordinance 1-2016: <i>The <u>maximum</u> size and dimensions of single family and joint use docks, moorage and</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<i>recreational floats are provided in Table X.</i>	
27z	Hale, Shireene	Section 31. Table.	After “Number” (the first row in this table) the word “generally” should be removed because it is too vague to be fairly and consistently applied.	‘Generally’ is appropriate because there are exceptions. The exceptions are detailed in subsequent sections.	Ecology agrees with the County’s response.
27aa	Hale, Shireene	Section 39.	This section should be combined with Section 33 (the marina regulations). Otherwise it may be missed by someone trying to understand the requirements for marinas.	No, this section follows the standard format for the rest of the regulations.	Ecology agrees with the County’s response; however, either would work.
27bb	Hale, Shireene	Section 41.B. & C	Does “them” in this sentence refer to the development listed above in Section 41.A, or to the shoreline stabilization measure? I believe it was intended to apply to the development that is threatened within 3 years, in which case the sentence needs to be revised to make this clear.	Staff recommends the following amendment to Section 41 (B) & (C) of Ordinance 1-2016: <i>B. New, replaced, or enlarged hard structural shoreline stabilization measures may be allowed when damage to them the structures identified in Section 41 (A)(1-4) is expected within three (3) years.</i> <i>C. New, replaced, or enlarged soft structural shoreline stabilization measures may be allowed when there is a significant possibility that development the structures identified in Section 41 (A)(1-4) will be damaged as a result of erosion caused by waves and currents.</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27cc	Hale, Shireene	Section 44.G.	Consider relocating the requirement for a Shoreline Substantial Development Permit or Conditional Use Permit because it is not a design standard (as described in the title of this section). Also, explain how one determines which permit is needed.	Thank you.	It is the County’s choice how to organize the standards. Table X should explain when a CUP is required.
27dd	Hale, Shireene	Section 45.C.2.	To improve sentence structure, remove “Size and place materials so they will” . . .	Staff recommends the following amendment to Section 45 (C)(2): <i>Size and place materials so Ensure they will remain stable during a two (2)-year flood event and under typical currents, boat wakes and wind-driven waves including those occurring during storm events if the proposal is near a stream or drainage outlet;</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

27ee	Hale, Shireene	Section 49.B.	<p>To help ensure people understand the requirements, the setbacks in this section should mention that these are the setbacks in the absence of critical areas and their buffers and tree protection zones. Section 49.B.2.a. mentions critical areas and buffers but not tree protection zones; the other sections with setbacks don't mention any of them.</p>	<p>Section 60 (C)(2) states, <i>“Development may also be subject to critical buffers and restrictions in Chapter 18.35 SJCC.”</i></p> <p>Staff recommends the following amendment to Section 34 (E) of Ordinance 1-2016:</p> <p>A. <i>Marine railways shall be located on unaltered grade where feasible. They shall not obstruct public access to and along the shoreline or across publicly-owned tidelands. A boathouse is allowed at the landward end of a marine railway above the OHWM if it meets the required <u>critical area buffers or setbacks.</u></i></p> <p>Staff recommends the following amendment to Section 49 (B) of Ordinance 1-2016:</p> <p>1. <i>Urban.</i></p> <p><i>a. Commercial developments and uses shall be set back at least 50 (fifty) feet from the OHWM unless an alternate setback is approved in a variance. <u>Set back is subject to critical area regulations.</u></i></p> <p>2. <i>Rural.</i></p> <p><i>Commercial developments and uses that will not significantly alter the character of the area may be allowed in the rural designation by conditional permit. In the absence of critical areas, and their protective buffers all commercial structures, facilities and uses shall be setback at least one hundred (100) feet from the OHWM; <u>subject to critical area provisions.</u></i></p> <p>4. <i>Conservancy.</i></p>	<p>Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.</p>
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				<p><i>a. Low intensity recreational commercial developments and uses that will not significantly alter the character of the area are allowed in the conservancy designation. Low intensity developments that will not significantly alter the character of the area such as birdwatching and hiking are those:</i></p> <ul style="list-style-type: none"> <i>i. That do not require new services,</i> <i>ii. Include minimal land disturbance,</i> <i>iii. That provide sustained resource use; and</i> <i>iv. That are located where shoreline conditions support the use.</i> <p><i>Other low intensity commercial uses require conditional use permits.</i></p> <p><i>b. With the exception of water-dependent structures, commercial structures and facilities shall be set back at least one hundred (100) feet from the OHWM- <u>subject to critical area regulations.</u></i></p> <p><i>5. Ports, Marinas and Marine Transportation. New commercial developments and uses must be water-dependent, water-related or water-enjoyment uses. <u>Subject to critical area regulations, non nonwater-dependent commercial structures and uses shall be set back at least 50 (fifty) feet from the OHWM unless an alternate setback is approved in a shoreline variance. Commercial developments and uses must provide public access to the shoreline in accordance with Section 23 of this ordinance.</u></i></p> <p>Staff recommends the following amendment</p>	
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				to Section 61 (A) of Ordinance 1-2016: <u>5. All development and setbacks subject to critical area regulations.</u>	
27ff	Hale, Shireene	Section 51.A.3.c.	Grammatical/ sentence structure error.	Staff recommends the following amendments to Section 51 (A)(3) of Ordinance 1-2016: <i>3. If there is a likelihood of conversion to nonforest uses, forest practice conversions and other Class IV General forest practices shall:</i> <i>a. Result in no net loss of shoreline ecological functions;</i> <i>b. Maintain the ecological quality of the watershed’s hydrologic system; and</i> <i>c. Prevent significant adverse impacts to other shoreline uses, resources, and values; and provide a benefit with respect to the objectives of the SMA as navigation, recreation and public access.</i> <u><i>d. Provide a benefit with respect to the objectives of the SMA such as navigation, recreation and public access.</i></u>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
27gg	Hale, Shireene	Section 56.C.	Rather than a list of things that will be considered, with no guidance on when an application may be approved and when it must be denied, this should be rewritten as a list of requirements. e.g. the bank must remain stable; the requirements for critical areas and their buffers and tree protection zones must be met; adjacent areas that will be disturbed must be capable of being revegetated; the proposed structure must be stable and meet the applicable requirements of building codes; the color of structures must blend with the surrounding rock and vegetation.	Thank you.	While the suggestion is not without merit, Ecology defers to the County’s choice to maintain the language as written.

27hh	Hale, Shireene	Section 59.C.3.	Is the two-acre minimum requirement for the residential lots? If so it would be better located in a separate section rather than this section on community access standards.	Section 59 (C)(3) states: <i>This is not a minimum lot size and does not preclude the clustering of units within the shoreline jurisdiction.</i> This indicates it is not a minimum lot size. It is appropriately sited because it is an integral element of 'common area lots' that are to be completed as part of the shoreline subdivision process.	The County's response clarifies the intent.
27ii	Hale, Shireene	Section 60.E.5.	A day's travel on the water is too far away for a pump-out facility for live aboard vessels. The overboard discharge from these vessels may negatively affect shoreline ecological functions. If a marina wishes to offer live aboard moorage they should be required to provide an easily accessible pump-out facility.	Thank you.	Ecology has proposed alternative language intended to provide an objective basis for when pump-outs are required. Relying on a "one day travel time" would be a challenging criterion to implement fairly and consistently since travel time varies depending on the vessel in question. Ecology recommends clarifying that if a marina having up to 10% liveaboards does not provide upland restroom facilities, it should have a pump out available. The change provides a simpler rule to administer and is consistent with WAC 173-26-241(3)(c)(v) and (vi).
28a	WA State DNR	MM V. 28 Mooring Buoy Regulations	The statement that DNR has permitting authority is incorrect. DNR exercises its proprietary authority to authorize (or not) a proposed use. Suggest changing language to "...references to WDNR <u>authorization</u> permitting authority and..."	Staff recommends the following amendment to the background section of ordinance 1-2016, Finding: MM.V.28 <i>10. Section 35 updates mooring buoy regulations. It provides requirements for their location, references to the WDNR <u>authorization</u> permitting authority and prohibits impeding access to private property.</i>	While this comment may be correct, the County's Findings are not part of the SMP, so the correction will not be included in SMP approval documents.
28b	WA State DNR	Section 25 Lighting	Suggests adding: " <u>Artificial night lighting on and from overwater structures must be minimized.</u> "	There are no clear parameters to this suggestion. It is not clear how lighting minimization may be established. Staff does not recommend making this change.	Ecology concurs with the county, no change is needed. The SMP includes some specificity about how to minimize in Subsection (A) "Except as necessary to meet federal, state, and local safety or navigation standards, all

					external lighting fixtures must be shielded, recessed and dark sky rated.”
28c	WA State DNR	Section 29 Over-water Structures	Suggests change to B. 1 d. “Treated wood can be used for all structural <u>framing</u> elements of the over-water structure.”	Staff recommends the following amendment to Section 29 (B)(1)(d) Ordinance 1-2016: <i>Treated wood can be used for all structural <u>framing elements of the over-water structure.</u></i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
28d	WA State DNR	Section 35 G. Mooring Buoys	Suggest changing language to “Mooring buoys shall be clearly marked and labeled with the owner’s name and contact information and WDNR permit <u>authorization</u> number(s).” Same reasoning as 28a.	Staff recommends the following amendment to Section 35 (G) of Ordinance 1-2016: <i>Mooring buoys shall be clearly marked and labeled with the owner’s name and contact information and WDNR permit <u>authorization</u> number(s).</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
28e	WA State DNR	Section 54 A.4. Log Rafting	Reference is outdated, should replace “Special Provisions for Booming and Rafting Leases, 17-2-72” with “12.1 Log Booming and Log Storage, 9/1994.”	Staff recommends the following amendment to Section 54 (A)(4) of Ordinance 1-2016: <i>Easy-let-down devices are preferred over the free-fall dumping of logs into the water in conformance with WDNR established policy (“<u>12.1 Log Booming and Log Storage, 9/1994</u> Special Provisions for Booming and Rafting Leases, 17-2-72). The free-fall dumping of logs in a manner that would do avoidable damage to the shoreline ecological functions is prohibited.</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
28f	WA State DNR	Section 65 C.3. Restoration	In some instance, prior uses or lease agreements may preclude restoration and beach enhancement projects on state-owned aquatic lands. DNR would like to suggest adding the following language: “Before project design and implementation, applicant shall consult with DNR to assess if proposed restoration project is located on state-owned aquatic lands.”	Staff recommends the following amendment to Section 65 (A)(2) of Ordinance 1-2016: <i>Shoreline habitat and natural systems enhancement applications will not be approved unless the applicant demonstrates that the project will:</i> <i>a. Occur at a time of year that will not impact spawning, nesting, or breeding, shoreline habitat, and</i> <i>b. Increase ecological functions that have been identified as degraded at the project site and</i> <i>c. Is approved by DNR if it is located on state</i>	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<u>owned aquatic lands.</u>	
28g	WA State DNR	Section 72 Definitions "Live aboard vessel"	The definition for live aboard vessel mixes residential and commercial uses. This would create confusion for regulatory and proprietary purposes. Please clarify what a "safety registration" is, and better define what are the legal constraints of "a place of business."	Staff proposes the following amendment to Section 72 of Ordinance 1-2016: "Live aboard vessel" means a vessel having a currently safety-registered with federal, state and local agencies that is used primarily as a place of residence or vacation rental, or a place of business. A live aboard vessel has a seaworthy hull design that meets the U.S. Coast Guard standards for floatation, safety equipment, fuel, and electrical and ventilation systems. It is capable of travel in open water and waterborne movement in general. It has permanent equipment for water travel, including a method for steering and propulsion, deck fittings, navigational equipment, and marine hardware.	Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.
29a	Hubbard, Shaun	Multiple Issues	See comments 9a – i.	See responses to items 9a-i of this table.	See Ecology response.
29b	Hubbard, Shaun	Aquaculture	What does the SMP update offer those concerned about impacts from proposed aquaculture operations? Same questions as #16 but not limited to small scale operations. In a letter dated August 31, 2016 the commenter wrote: <i>A major draw for San Juan visitors and potential shoreline property owners is views of, and access to, our scenic shorelines. The SMP Update needs to address how commercial aquaculture/geoduck operations will impact residents, tourist sites, shoreline homeowners, and adjacent shoreline properties (including public lands). What options does the SMP update offer to those concerned about impacts from proposed aquaculture operations? The SMP Update relies on application-by-application mitigation if adjacent shoreline property owners ask to be able to retain their beach and water access; and it requires homeowners to go through the clumsy and iffy conditional use permitting process in order to address</i>	It appears that intent of this comment is rhetorical rather than requesting further information. The state has identified aquaculture, like single family residences, as a preferred use of the shoreline. The adopted SMP prohibits fin fish net pens but allows other forms of aquaculture. The idea of informing all those 'properties within view' of a proposed operation would be impossible to apply consistently. County officials do not have access to all properties and therefore no accurate method of determining whether a facility may be visible from a specific location. Moreover, even with complete access to all properties, the view	Ecology agrees with the County's response.

			<p><i>impacts from commercial aquaculture on their private property. This does not protect the rights of single-family homes on the shoreline, nor protect the valuable island environment and scenic assets. The SMP Update also needs to include: notification to all properties within view of a proposed commercial aquaculture operation as part of the permit application process, and; on-going and independent monitoring (as the responsibility of the aquaculture project owners) to ensure that all permit conditions (including those that mitigate impacts to neighboring properties) are maintained, and to ensure no net loss in property values and tourism value.</i></p>	<p>sheds would be a product of physiology, topography and the relative position of the viewer within a landscape to an imaginary object. The indeterminacy of object and location would make it impossible to accurately identify which property owners would be able to see the project. Inconsistent application of the regulations would expose the County to litigation.</p> <p>Where the shorelands are not privately held, they are publicly owned. Private land owners do not have proprietary rights to public lands. In this context, it is not clear what the referenced ‘rights of single family homes on the shoreline’ are.</p> <p>Section 28 (A)(14) requires operational monitoring for compliance with permit conditions.</p> <p>The Department of Natural Resources holds the tidelands and would need to authorize any aquaculture that would take place there.</p> <p>The SMA or the Guidelines do not direct the SMP to “ensure no net loss of property values and tourism value.”</p>	
30	Zygocki, Dave	Snug Harbor Redesignation	The writer offers multiple arguments why the facility was inappropriately redesignated PMT. How could the county redesignate the facility based on the existing use pattern, biological and physical characteristics of the shoreline, and consistency with the goals and aspirations of the community?	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 15, and 17 of this table.	See Ecology’s response.
31	Niendorf, John	Multiple Issues	See comments 9a – g.	See response to items 9a-g of this table.	See Ecology’s response.
32	Armon, Caroline	Multiple Issues	See comments 9a – i.	See responses to items 9a-g of this table.	See Ecology’s response.
33	Zygocki, Rhoda	Snug Harbor Redesignation	See comment 30.	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 15, and 17 and 30 of this table.	See Ecology’s response.

34	Turksel, Judy	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology’s response.
35	Brown, Barbara	Multiple Issues	See comments 9a – g.	See response to items 9a-g of this table.	See Ecology’s response.
36	Futurewise	Multiple Issues	Same as comment 15.	See response to item 15 of this table.	See Ecology’s response.
37	Rasmussen, Gerald	Designation Changes	Same as 5a and 30.	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 15, and 17 and 30 of this table.	See Ecology’s response.
38/39	Cooke Aquaculture Pacific	Finfish Net Pen Prohibition	How does the county justify the prohibition given that: the SMA recognizes aquaculture as a high priority, water dependent use; the decision is not based on current scientific evidence; it is not consistent with recent court decisions?	The prohibition is consistent with WAC 173-26 precautionary principle Consistent with public concerns, other Counties, and inadequate scientific direction from DOE.	Ecology agrees with the County’s response.
40a	Wright, Bill	“Current Science”	Where is it shown that the county used “the most current science, accurate and complete scientific and technical information” as a basis for the updated SMP?	Please see bibliography of both Best Available Science and Inventory and Characterization report. Please see response to comment #20, October 2012 response to public comments on the January 2012 I&C.	Ecology agrees with the County’s response.
40b	Wright, Bill	SMP Consultant	The writer believes the county failed to obtain a qualified consultant.	The consultant team included members with the following qualifications: 1. Master of Science: University of Washington (UW), Bachelor of Science: Pacific Lutheran University (PLU), Certified Erosion and Sediment Control Lead Certification; 2. Bachelor of Science, Zoology; Bachelor of Science, Environmental Science: Washington State University (WSU); DOE training for using and interpreting shoreline characterizations; 3. Master of Science: Fisheries Biology; Bachelor of Science: Civil Engineering: UW; Certified fisheries professional. 4. Master of Science: Wildlife Biology, Michigan State University, Bachelor of Science, Biology: Stockton College, Senior writer for WSDOT biological assessments; 5. Master of Urban Planning: UW, Bachelor of Science: Public Planning; Northern Arizona University;	Ecology agrees with the County’s response.

				<ol style="list-style-type: none"> 6. Master of City Planning: University of California, Berkley; Bachelor of Arts: Social Ecology; 7. Master of Urban Planning: Texas A&M University; Bachelor of Arts: Environmental Design; 8. Master of Science, Environmental Engineering and Science: UW; Bachelors of Landscape Architecture: UW, Certified wetland scientist. 9. Master of Science, Fisheries: UW; Bachelor of Science, Fisheries: UW; 10. Doctor of Philosophy (Ph.D.) Civil and Environmental Engineering: University of Illinois-Urbana Champaign; Master of Science, Civil and Environmental Engineering: University of Illinois-Urbana Champaign; Bachelor of Science: Civil and Environmental Engineering: University of Illinois-Urbana; Affiliate Professor, UW; 11. Bachelor of Arts, Environmental Studies: Evergreen College; Certificate of Wetland Science and management: UW; 12. Masters of Science, Conservation Social Sciences, University of Idaho; Bachelors of Arts, English Literature: University of New Hampshire; 13. Doctor of Philosophy (Ph.D.), Wildlife Science; Masters of Science, Biology; Bachelors of Science, Wildlife Science; 14. Master of City and Regional Planning, Bachelor of Arts, Psychology; 15. Masters of Science, Civil Engineering; Bachelors of Science, Civil Engineering, PE; and 	
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				16. Doctor of Philosophy (Ph.D.) Fluvial geomorphology, Bachelors of Arts, Geology, PE, LEG, CFM. The County evaluated the consultants on the basis of both qualifications and experience and determined that the group possessed sufficient quantities of both.	
41	Williams Partners	Section B, Element 3, Section 3.2B Pipelines	Sites the benefits of Natural Gas, pipeline safety, environmental protection, and other reasons not to prohibit banning all natural gas pipelines.	Thank you.	The County has chosen to eliminate the chance of possible failure of natural gas pipelines in its waters.
42	Shubert, Stephen	Multiple Issues	See comments 9a – g.	See responses to items 9a-g of this table.	See Ecology's response.
43a	Common Sense Alliance	Dock Demand Analysis	The requirement is overly burdensome.	Thank you.	Docks have adverse impacts. The proliferation of docks is something the County has chosen to limit.
43b	Common Sense Alliance	Public Access	Public Access Standards require public access to privately owned land when five or more lots are created. In the land division section of the SMP there is an option to only provide lot owners an easement to the OHWM. The code needs to be corrected.	WAC 173-26-221 (4) (d) (iii) requires that any subdivision that creates more than four parcels must, with caveats, provide shoreline public access. In the case of subdivisions, WAC 173-26-241(3)(j) states: <i>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.</i> (Emphasis added). Section 23 allows for either public or community access depending on the circumstances and type of project.	Ecology agrees with the County's response.
43c	Common Sense Alliance	Property Rights	Public access should not be required for all boating facilities.	WAC 173-26-221 (4)(d)(ii) requires, with caveats, that all public entities include shoreline public access as part of their developments. Where public access is expected to create a health hazard or imperil critical areas it is not required.	Ecology agrees with the County's response.

43d	Common Sense Alliance	Boat Lifts	The prohibition is a restriction on the enjoyment of property.	Thank you.	The County's limits are within the range of local discretion.
43e	Common Sense Alliance	Dock Application Requirement	The requirement to show the approved boating facilities, or pending applications within service range should be done by the county. "Service range" is not defined.	<p>Staff recommends the following amendment to Section 38 of Ordinance 1-2016:</p> <p>A. <i>For all new or expanded boating facilities, docks, piers, floats, and ramps, applicants must provide a demand analysis demonstrating the need for the proposal that addresses at least the following criteria:</i></p> <ol style="list-style-type: none"> 1. <i>The total amount of moorage proposed (except for ramps);</i> 2. <i>The total number of commercial moorage spaces on the island of the proposed facility, including vacancies or waiting lists at facilities existing on the date of the application;</i> 3. <i>The expected service population and boat ownership characteristics of the population, if necessary for specific design elements related to facility length or necessary water depth;</i> 4. <i>Approved facilities, or pending applications, <u>within the service range on the island</u> of the proposed new facility.</i> 5. <i>Proposals for new boating facilities docks, piers, floats, and ramps shall provide documentation demonstrating that expansion of facilities <u>on the island of the proposed new facility</u> existing at the time of application is not feasible or would not be adequate to meet current demand; and</i> 	Ecology agrees with the County's response. Ecology has incorporated the county staff recommendation for addressing this comment into our approval document.

				<p>6. For new or expanded ramps:</p> <p>a. Identification of the nearest public or commercial ramp <u>on the island of the proposed new facility</u> existing at the time of application;</p> <p>b. Demonstration that planned expansion of existing facilities <u>on the island of the proposed new facility</u> will not meet current or future demand; and</p> <p>c. Any other relevant factors related to the need for safe or efficient access to public waters if that information supports justification for specific design elements.</p>	
43f	Common Sense Alliance	Land Division of Five or More Lots	Not letting the landowner use the entire lot to meet the density of the underlying zone could be considered a taking. However, there is no minimum lot size.	There is no requirement to create a common area lot, public or community access requirements can be met through easements.	Ecology agrees with the County's response.
43g	Common Sense Alliance	CAO Buffers	CAO buffers conflict with commercial timber harvest.	See response to item 9 c of this table.	See Ecology's response.
43h	Common Sense Alliance	Float Stops	Stops should only be required when shown to be necessary.	Thank you.	Ecology reads the regulation to mean stops are only required when necessary.
43i	Common Sense Alliance	Takings	SMP requirements when not necessary to mitigate specific development is an illegal taking.	Thank you.	The commenter correctly notes that restoration cannot be required except as mitigation for project impacts. Ecology's analysis concludes the county mitigation requirements are connected to impacts of development in order to meet the no net loss standard.
44a	Pratt, Lovel	Geoduck Aquaculture	The SMP fails to address impacts of geoduck aquaculture on upland home owners and recreational use.	Aquaculture projects will be evaluated on a project by project basis. Expected offsite impacts can be addressed at that project level.	Ecology agrees with the County's response.

44b	Pratt, Lovel	Geoduck Aquaculture Permitting	All properties in view of the proposal should be notified. Applicants should pay on-going independent monitoring.	See response to item 29b of this table. Project permits may be conditioned to require monitoring.	Ecology agrees with the County's response.
45	Mower, Amy L	Multiple Issues	See comments 9a – i.	See response items 9 a-i of this table.	See Ecology's response.
46a	Grout, Richard	Designation Changes	How does the county justify lessening environmental protection by removing the Conservancy designation in several areas of the county?	See response to item 3 of this table.	See Ecology's response.
46b	Grout, Richard	Regulations	Many of the regulations are too complex and vague, creating broad administrative discretion.	Thank you.	The County may develop administrative interpretations or may amend the SMP should regulations be found to be vague.
46c	Grout, Richard	Mitigation Sequencing	The SMP emphasizes compensation over avoidance.	The comment is not accurate. All future development is expected to meet critical area protections. If critical area protections cannot be met, the project is subject to mitigation sequencing. The first step of the mitigation sequence is avoidance. Proponents of a particular project have to show why avoidance is not feasible. Compensation is the last possible option. The presence of a last option is not, typically, interpreted as an emphasis on that option. See Section 19.	Ecology agrees with the County's response.
47	Schumacher, Fred	Snug Harbor Redesignation	Supports the redesignation from RR/C to PMT.	Thank you.	Comment noted.
48	Hedrick, Rick	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
49	Carlson, Mike	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
50	Krieger, Johannes	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
51	Seely, Elizabeth	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
52	Newbury, Carrie	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
53	Christensen, Ken	Snug Harbor Redesignation	Same as 47.	Thank you.	Comment noted.
54	Everett, Carol	Multiple Issues	See comments 9a – i.	See response to item 9a-i of this table.	See Ecology response.

55a	Bryan, Johnathan	No Net Loss	Believes that the “no net loss” requirement was not considered in the planning process for redesignations as required by the Guidelines.	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 15, 17 and 30 of this table.	See Ecology response.
55b	Bryan, Johnathan	Community Input	Feels that community input around the islands was not heard and that the county took a top down approach.	For a list of the primary public outreach activities undertaken by the County as part of the SMP update please see Ordinance 1 – 2016, Background sections I through NN.	Ecology agrees with the County’s response.
55c	Bryan, Johnathan	Marine Resource Committee	Same as 4a.	See response to item 4a of this table	See Ecology’s response.
55d	Bryan, Johnathan	Regulations	Believes regulations were incorrectly removed that the county believed would be upheld somewhere else.	Thank you.	General comment noted.
55e	Bryan, Johnathan	Snug Harbor Redesignation	Similar to 30.	See responses to items 3, 4a, 4b, 4c, 5a, 5b, 5c, 15, 17, and 30 of this table.	See Ecology’s response.