

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

SMP Submittal accepted November 10, 2016, Resolution No. 16-216
Prepared by Kim Van Zwalenburg – August 21, 2017

Brief Description of Proposed Amendment: Lewis County has submitted a comprehensive update to their Shoreline Master Program (SMP) for review and approval by the Department of Ecology (Ecology). The master program contains locally tailored shoreline management policies, regulations, an environment designation map and administrative provisions. To protect critical areas, the county is adopting the Critical Areas Ordinance¹ (CAO) by reference into the SMP. Additional reports and supporting information and analyses as noted below, are included in the submittal.

Need for amendment: The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the county's Shoreline Master Program pursuant to RCW 90.58.080 and 100. The amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27 and to address land use and regulatory changes that have occurred since the original SMP was adopted.

SMP provisions to be changed by the amendment as proposed: The proposed updated SMP is intended to entirely replace the county's existing SMP which dates back to 1974. The county amended the existing program four times, most recently in 1998, but it has never been comprehensively updated. The SMP will regulate approximately 992 miles of stream and river shorelines and over 17,000 acres of lakes and reservoirs. These include the Chehalis, Skookumchuck, Newaukum, Cowlitz and Cispus rivers, Rainey, Salzer, Olequa and Lake Creeks, and Mayfield, Riffe, Scanewa and Mineral Lakes, to name just a few.

The following elements outline some of the differences between Lewis County's proposed SMP and the existing master program:

Shoreline Jurisdiction: The majority of the county's shoreline is associated with three major river systems and their tributaries: the Cowlitz, Nisqually and Chehalis². The existing SMP applies across the full floodplain except in those areas with mapped floodways. The new SMP uses the minimum jurisdiction allowed by statute. Floodway areas are defined by a combination of the adopted FEMA maps, the 2010 flood channel study areas and an area called the SMP Flood Course³.

Based on updated streamflow data from the U.S. Geological Survey study⁴ and updated methodologies for assessing lake size, the SMP includes numerous new lakes and streams now recognized as shorelines of the state and within shoreline jurisdiction. The existing SMP, based on WAC 173-20-440 and 450, recognized five lakes. The updated SMP lists 31 named lakes (three are shorelines of

¹ The county's CAO includes both Lewis County Code (LCC) Chapters 17.35, which applies only to agriculture, and 17.35A.

² Shoreline Inventory and Characterization Report for Lewis County, et.al, October, 2013.

³ The SMP Flood Course is defined as: "The basis for determining the extent of the floodway as agreed to by Ecology and the County in 2013 for the purposes of determining areas subject to the SMA. For the County, the 2010 flood channel study areas and the SMP Flood Course were used to determine the extent of the floodway..."

⁴ 1998. U.S. Geological Survey. Determination of Upstream Boundaries on Western Washington Streams and Rivers Under the Requirements of the Shoreline Management Act of 1971. Water-Resources Investigations Report 96-4208.

statewide significance) and 24 unnamed lakes. WAC 173-18-250 lists 87 streams and rivers. The updated SMP lists 156 streams and river, with four rivers having segments that are shorelines of statewide significance.

Shoreline Environment Designations (SEDs): The existing SMP uses four shoreline designations: Urban, Rural, Conservancy, and Natural. The proposed SMP establishes five SEDs⁵: Natural, Rural Conservancy, Shoreline Residential and High Intensity⁶, and Aquatic.

General Provisions: The SMP includes new provisions addressing archaeological, historic and cultural resources, vegetation management, protection of critical areas (the county is adopting the existing CAOs by reference⁷) and shoreline ecological functions including the use of mitigation sequencing, water quality and specific public access requirements.

Shoreline Uses and Modifications: The proposed SMP expresses a preference for water-oriented activities over nonwater-oriented developments. The proposed SMP expresses a preference for softer shoreline armoring and the demonstration of need. Provisions help ensure future development is located safely so that future need for protective structures is minimized.

Development Standards: The existing SMP establishes few explicit standards for development distances from the OHWM, requiring commercial/industrial development to provide a 50’ buffer zone between any structure and the ordinary high water mark” and 25’ setbacks for recreational camping lots and parking. All other uses or modifications have no setback standards. The updated SMP establishes shoreline buffers, which apply to all but water-dependent uses, ranging from 50’ in the High Intensity to 200’ in the Natural SED. A 15’ building setback from the edge of the buffer is also established.

FINDINGS OF FACT

Amendment History, Local Review Process: The record shows the proposed SMP update originated in a local planning process that began in 2011 with the signing of a grant contract (# G1200468) with Ecology. The county entered into Interlocal agreements with the cities of Centralia, Chehalis, Winlock and Morton (Coalition) to combine grant funds and planning efforts for the purpose of developing comprehensive SMPs for each participating entity. The Coalition collaborated on public outreach and involvement along with the work necessary to develop supporting documents (e.g. Inventory and Characterization and Restoration Plan among others). The record shows the Coalition created a Citizen and Technical Advisory committees and held public visioning workshops in September and October of 2013⁸.

The record shows the county’s Planning Commission held a public hearing May 10, 2016, at which time a recommendation was made to the Board of County Commissioners (BOCC). Notice of the

⁵ A sixth designation, Urban Conservancy is proposed for certain areas within the Urban Growth Areas. The locally approved SMP did not include this designation. Because UGAs remain under county jurisdiction until annexed into the cities, Ecology is requiring this SED be added to the SMP and the maps.

⁶ The High Intensity designation criteria in the SMP Guidelines has been modified for use in the county.

⁷ The county currently has two CAOs. At the end of LCC 17.35, it contains the following: “Code reviser’s note: Ord. 1204 provides that Chapter 17.35, Critical Areas, is retained only as it applies to agricultural activities in accordance with the 2007 Legislative Session, Senate Substitute Bill 5284...”. In LCC 17.35A, there is the following: “Code reviser’s note: Ord. 1204 adds a new Chapter 17.35A, Critical Areas, that shall apply to all activities except agricultural uses.”

⁸ Two additional, city-specific workshops, were also held in this timeframe.

hearing was published April 20, 2016 in the East County Journal. On August 8, 2016, the BOCC adopted Resolution No. 16-216, authorizing county staff to forward the proposed amendments to Ecology for formal review.

Documentation of Current Conditions: Documentation of current shoreline conditions informs the development of the SMP, including environment designations, policies and regulations, to ensure the SMP can meet the requirement for no net loss of shoreline ecological functions in the SMP Guidelines. The county, together with four cities: Centralia, Chehalis, Morton and Winlock, collaborated in obtaining grant funding and developing shared documents including the *Shoreline Inventory and Characterization Report (2013)*.

Lewis County is the largest county in western Washington and stretches from the Cascade Range, abutting Yakima County west to the Coast Range abutting Pacific County. The report information is organized around four watersheds: WRIA 11 Nisqually, WRIA 13 Deschutes, WRIA 23 Chehalis and WRIA 26 Cowlitz, and these watersheds are further divided into 12 management areas⁹ for the purpose of assessing existing conditions. Overall, the county has over 990 miles of streams and rivers, and over 17,000 acres of lakes. Seven water bodies are shorelines of statewide significance: segments of the Chehalis, Cispus, Cowlitz and Nisqually rivers, and Alder, Riffe (Mossyrock) and Mayfield lakes.

The majority of the county's shorelines are part of the Cowlitz, Nisqually and Chehalis river systems. Major reservoirs, associated with large hydropower dams, are located on the Cowlitz and Nisqually rivers. Extensive diking is present along many of the rivers, particularly portions of the Nisqually, Chehalis and Cowlitz rivers. The county is bisected north-south by the Interstate 5 corridor and the Burlington Northern Rail line and east-west by Highway 12. Approximately one third of the county is designated as national forest and roughly 2% of the county is developed at an urban level. Much of the county supports a resource-based economy, including forestry and agriculture. The majority of the county population, and most of the urban level development is located in the valleys of the Chehalis and Cowlitz rivers and their tributaries. Significant flooding events have occurred along the Chehalis River, including the flood of record in 2007.

Finding: *Ecology finds that the Shoreline Inventory and Characterization Report adequately inventoried and analyzed the current conditions of the shorelines located in Lewis County. The report synthesized existing information and was used to inform the master program update as well as provide a basis for future protection and restoration opportunities in the county's shoreline jurisdiction (WAC 173-26-201(3)(c)).*

Cumulative Impacts Analysis: The *Cumulative Impacts Analysis (2016)* indicates the majority of vacant parcels are located within the Rural Conservancy SED. Potential development includes residential, forestry and agricultural uses. The Cascade foothills along with areas of the Coast Range and Willapa Hills are largely in forestry uses. The Forest Practices Act regulates these activities. In areas with new agricultural activities, these will need to be consistent with the SMP. Areas slated for residential development are generally located along the lower reaches of the Cowlitz, Chehalis and Newaukum rivers and their tributaries. Shoreline buffers are 150' which should ensure development impacts are minimized. Most areas suitable for industrial or commercial development are already developed. The area most likely to develop with future industrial uses is the heavily altered TransAlta mine site which is slated to become an industrial park. The CIA indicates potential impacts on

⁹ Four additional management areas addressed the shorelines in the four cities.

shoreline ecological functions for all potential uses will likely be limited by provisions in the SMP including the requirement for mitigation sequencing and will ensure no net loss.

Finding: Ecology finds that the county’s Cumulative Impact Analysis (CIA) provides an accurate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).

Restoration Plan: Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions. The *Shoreline Restoration Plan* (2016) identified restoration priorities by watershed along with site specific restoration opportunities. Some of the watershed scale restoration priorities include: restoration of riparian areas, actions to correct water quality impairments including temperature, nutrient and sediment issues, culvert replacement and creation of off-channel habitat. Restoring floodplain connectivity and reducing flood hazards is also highlighted. The SMP includes policies and regulations in Section 6.06 that permits and promotes restoration efforts and links restoration actions to the Restoration Plan.

Finding: Ecology finds that the county’s Shoreline Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).

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

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

Consistency with SEPA Requirements: Evidence of SEPA compliance was provided in the record in the form of a SEPA checklist and a Determination of Non-Significance (DNS) for the proposed SMP amendments which was issued on June 1, 2016. Notice of the DNS ran in the East County Journal on June 1, 2016. Ecology did not comment on the DNS.

Studies or Analyses supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared for the county in support of the SMP development:

- *Public Participation Plan, February 2013*
- *Shoreline Inventory and Characterization Report, October 2013*
- *Cumulative Impacts Analysis and No Net Loss Report, May 2016*
- *Shoreline Restoration Plan, May 2016*

Ecology Review Process: The proposed SMP was received by Ecology for state review on October 24, 2016 and verified as complete in a letter sent to the county on November 10, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the county on January 30, 2017 by mail and email, in compliance with the requirements of WAC 173-

26-120. Five tribal governments: the Chehalis, Cowlitz, Nisqually, Yakama and Quinault tribes were individually and specifically notified and invited to comment.

Notice of the comment period, including a description of the proposed SMP and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views was also provided on Ecology’s website:

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/LewisCounty.html>

The state comment period began on February 14, 2017 and continued through March 16, 2017. Ecology received comments from one state agency.

Summary of Issues Raised During the Public Review Process: A single comment letter was received from the Washington Department of Natural Resources. Ecology prepared a summary of the comments and forwarded this, along with a copy of the letter, to Lewis County on March 21, 2017. The county provided responses to these comments on May 4, 2017. A general list of topics raised during the comment period include: DNR’s role in managing state-owned aquatic lands and interest in projects and mitigation proposals that may occur on these lands; aquatic vegetation management and the placement of fill on state-owned aquatic lands; the definition of moorage covers and the placement of boathouses. The comment summary and the county’s responses are set forth in Attachment D.

Summary of Issues Identified by Ecology as Relevant to Its Decision: Ecology has identified two issues which need to be addressed in the SMP: corrections to the listed shoreline waterbodies found in Appendix 3, and corrections to ensure the Urban Growth Areas (UGAs) are addressed in the SMP.

Shoreline waterbodies are listed in tables A-1 and A-2 in Appendix 3: *Specific Waterbodies Subject to the SMP*. Corrections are needed to both the streams and lakes lists, largely to address inadvertent omissions or inclusions. In addition, the lakes list includes 24 unnamed lakes¹⁰. Ecology determined these need to be distinguished in some manner. The county has proposed adding a third table and identifying these lakes by the U.S. Geological Survey map quadrangle, where the waterbody is located, similar to the location information provided for streams.

SED mapping in the UGAs: Urban Growth Areas remain under the jurisdiction of the Lewis County SMP until such time as these areas are annexed by their respective cities. The SMP maps contained in Appendix 1: *Shoreline Environment Designation Maps*, have undesignated shoreline segments in some of the UGAs. Additionally the SMP doesn’t include the Urban Conservancy designation. Changes include corrections to the shoreline maps in those UGAs where SED mapping is incomplete, and the addition of provisions for the Urban Conservancy designation, which will apply only in the UGA, to the SMP.

Ecology and county staff also identified a number of recommended changes, including minor edits, the reorganization of a few sections and other largely non-substantive revisions that would help improve the clarity of the document and future implementation of the SMP. These are set forth in Attachment C.

¹⁰ Table A-2 indicates there are 28 unnamed lakes. Further review by county staff determined there were only 24.

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the county's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480, and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020. Ecology concludes that the proposed SMP, subject to required changes, meets the intent of the provision for no net loss of shoreline ecological functions provided in WAC 173-26-201(2)(c).

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

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that that the proposed SMP meets the intent of the provision for providing a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

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

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

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

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

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

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

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

Ecology concludes that the county has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within

shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the county’s critical areas ordinance(s). In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted by the county. The county may choose to adopt the recommended changes in Attachment C. Pursuant to RCW 90.58.090(2)(e), the county must notify Ecology of the approval or denial of the recommended changes. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology’s final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the county may choose to submit an alternative to all or part of the changes required or recommended by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology’s original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.