

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

SMP Submittal accepted March 9, 2017, Resolution No. 16-175
Prepared by Sarah Cassal and Kim Van Zwalenburg on April 5, 2018

Brief Description of Proposed Amendment: Cowlitz County (County) has submitted a comprehensive update to their Shoreline Master Program (SMP) to for review and approval by the Department of Ecology (Ecology). The updated master program contains locally tailored shoreline management policies, regulations, environment designation maps, 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.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory requirement for a comprehensive update of the County's SMP pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The update also ensures the SMP is consistent with land use management policies provided by the County's Comprehensive Plan and environmental protections provided by the County's Critical Areas Code. The comprehensive amendment is also needed to address land use changes that have occurred along the County's shorelines over the past 39 years.

The County currently manages shorelines under an SMP originally adopted and approved by Ecology in 1978. Two minor amendments were adopted over the years but the County's SMP has never been comprehensively revised. The record submitted by the County to Ecology as part of the SMP update, including Resolution No. 16-175, reports, analyses and local approval materials, provides information supporting the need for the proposed amendment.

SMP provisions to be changed by the amendment as proposed: The proposed updated SMP is intended to entirely replace the county's original SMP which dates back to 1978 and was last amended in 1982. The current SMP is a regional document, adopted by the county and all the cities, and has never been comprehensively updated.

The comprehensively updated SMP is intended to entirely replace the County's existing SMP and will only apply in the unincorporated areas. The SMP will regulate approximately 697 miles of lake and river shorelines. These include the Columbia, Lewis and Kalama, Cowlitz and Chehalis rivers, Mill, Abernathy and Germany creeks and Merwin, Yale and Silver lakes, among others.

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

Shoreline jurisdiction: The current SMP applies across the entire floodplain, with a few exceptions. The new SMP uses the minimum jurisdiction allowed by statute. Based on updated streamflow data

¹ Chapter 19.15 of the Cowlitz County Code, Cowlitz County Critical Areas Protection Ordinance.

form the U.S. Geological Survey study² and updated methodologies for assessing lake size, the SMP includes numerous new streams and lakes now recognized as shorelines of the state and within shoreline jurisdiction. The existing rules named seven lakes³ while the updated SMP will include eight, adding Castle and Coldwater lakes and removing Lake Sacajawea which is located in the City of Longview. Merwin, Yale and Silver lakes are Shorelines of Statewide Significance (SSWS). Additionally, the number of streams and rivers has increased from 60⁴ to 85, with most of the added waterbodies located in the upper watersheds in state and national forest lands. SSWS include the Columbia, Cowlitz and Lewis rivers and segments of the Kalama and Toutle rivers.

Shoreline Environment Designations: The current SMP has four shoreline environment designations: Natural, Conservancy, Rural and Urban. The updated SMP has seven designations: Aquatic, Natural, Rural Conservancy, Urban Conservancy, Recreation, Residential and High Intensity, with nearly 91.5% of the County's shorelines designated Rural Conservancy.

General provisions: The updated SMP includes new provisions addressing archaeological, historic and cultural resources, vegetation conservation, protection of critical areas 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-dependent and associated water-related uses, followed by water-related and water-enjoyment uses. Policies also support avoidance and minimization of adverse impacts and the need to mitigate for remaining impacts in order to ensure no net loss of shoreline ecological functions.

Development Standards: The existing SMP establishes few explicit standards for development setbacks, ranging from 10' for residential development to 100' for commercial development and feedlots. Many uses or modifications have no setback standards. The updated SMP establishes Riparian Habitat Areas (buffers) ranging from 50' in the Residential designation to 150' in the Urban Conservancy, Rural Conservancy and Natural designations. A 10' building setback from the edge of the buffer is also established.

Amendment History, Local Review Process: The record shows the proposed SMP update originated from a local planning process that began on January 1, 2012. The County formed the Cowlitz County Shoreline Master Program Partnership (Partnership) with the cities of Castle Rock, Kalama, Kelso, and Woodland⁵. The Partnership worked together under a joint grant agreement⁶, collaborating on public outreach and involvement along with the work necessary to develop supporting technical documents and early draft SMPs.

As part of the County's Public Participation Plan, the Partnership formed a technical advisory committee (TAC) whose responsibility was to provide scientific and technical information to inform key issues related to natural resources management for Cowlitz County shorelines. The TAC was comprised of members from state and local agencies and ports, along with representatives of tribal,

² 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.

³ WAC 173-20-180 and WAC 73-20-190.

⁴ WAC 173-18-120.

⁵ The City of Longview comprehensively updated their SMP in a separate process.

⁶ Ecology SMA Grant Agreement No. G1200052.

environmental, industrial and recreational interests. The TAC's primary responsibility was to provide feedback on the background documents Inventory Characterization and Analysis Report as well as the Draft Shoreline Master Program. The Partnership also identified key stakeholders early in the process and individually interviewed these entities in August and September 2012.

The record shows six community visioning meetings were held November 2012 – January 2013 across the county. Public open houses were held the afternoon and evening of May 9, 2016. The Planning Commission held workshops on October 19 and November 9, 2016. On November 16, 2016, a third workshop and a public hearing were held by the Planning Commission at which time, the draft SMP was recommended for adoption to the Board of County Commissioners. An affidavit of the workshop and hearing was published in the Daily News on November 2, 2016.

The Board of Cowlitz County Commissioners held a public hearing December 20, 2016. The record shows notice of the hearing was published in the Daily News December 7, 2016. Adoption of Resolution #16-175 authorized staff to forward the proposed amendments to Ecology for approval.

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 Shoreline Analysis Report (2014) was developed on behalf of the Partnership.

Cowlitz County is located on the Columbia River south of Lewis County and north of Clark County. Portions of four major watersheds are within County boundaries: the Lewis, the Cowlitz, the Grays/Elochoman, and the Chehalis.⁷ The Analysis report information is organized around these watersheds which were further divided into assessment units and then into reaches to assess existing conditions. Six assessment units were used to characterize the shorelines in the unincorporated areas of the County: Columbia River; Lewis River; Kalama River; Cowlitz River; Mill, Abernathy, and Germany Creeks; South Fork Chehalis River.

Overall, the County has nearly 700 miles of streams, rivers and lake shorelines. Eight waterbodies are Shorelines of Statewide Significance: the Columbia, Cowlitz, Lewis and mainstem Toutle rivers, and the Kalama River downstream of the National Forest boundary; and Merwin Lake, Yale Reservoir and Silver Lake.

The County is predominantly rural with development concentrated around the five incorporated cities. Approximately 23% of the County's shorelines are within either state or federally owned lands. Major modifications include dams on the Lewis River and levee systems along portions of the lower Lewis River, armoring and levees along the lower Kalama River and the lower Cowlitz River, and numerous fills and actions in response to the debris flows resulting from the Mount St. Helens eruption that are still ongoing.

Finding: Ecology finds that the Shoreline Analysis Report adequately inventoried and analyzed the current conditions of the shorelines located in Cowlitz 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)).

⁷ Washington State identifies watersheds as Water Resource Inventory Areas (WRIAs).

Cumulative Impacts Analysis: The Cumulative Impacts Analysis (2016) and No Net Loss Report (2017) indicate the majority of vacant parcels are located within the Rural Conservancy SED. Potential development⁸ includes port activities, commercial/industrial, residential and utilities along with dredging, landfill, bridges and culverts. Most development has been occurring in the Columbia River assessment unit, followed by the assessment units along the Cowlitz, Lewis and Kalama rivers. The CIA concludes the SMP is expected to maintain existing shoreline functions while accommodating the reasonably foreseeable future shoreline development. Potential impacts on shoreline ecological functions will likely be limited by provisions in the SMP including the shoreline environment designations, requirements for mitigation sequencing, minimization of shoreline modifications and critical area protections.

***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 county-wide programmatic restoration opportunities along with potential and existing projects and actions by assessment unit including site specific restoration opportunities. Some of the watershed scale restoration priorities include: restoration of riparian areas, increased off-channel habitat, actions to correct water quality impairments including temperature, nutrient and sediment issues, and restoring floodplain connectivity. The SMP includes policies in Section 4.4 and regulations in Section 7.3.4 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 amending their SMP contained in RCW 90.58.090(1) and (2).

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

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on November 22, 2016. Notice of the SEPA determination was circulated for public comment in accordance with Cowlitz County Code, Chapter 19.11.090. Ecology did not comment on the DNS.

⁸ Development potential was informed by reviewing shoreline permit data from 2001 – 2011.

Other 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 amendment:

- *March 2012 Cowlitz County Partnership Community Visioning Report;*
- *June 2012 Cowlitz County Public Involvement Plan;*
- *June 2012 Shoreline Jurisdiction Determination Letter;*
- *May 2014 Shoreline Analysis Report and Mapfolio;*
- *March 2015 Shoreline Environment Designation Justification;*
- *January 2016 Shoreline Restoration Plan for Cowlitz County and the Cities of Castle Rock, Kalama, Kelso, and Woodland;*
- *June 2016 Shoreline Environment Designation Justification memo;*
- *December 2016 Cumulative Impacts Analysis; and*
- *January 2017 No Net Loss Report.*

Ecology Review Process: The proposed SMP amendments were received by Ecology for state review and verified as complete on March 9, 2017. Notice of the state comment period was distributed to state task force members, the Yakama Nation, the Cowlitz Indian Tribe, and interested parties identified by the County, on March 23, 2017, in compliance with the requirements of WAC 173-26-120, and as follows:

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 provided on Ecology's website:

<https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Status-of-local-Shoreline-Master-Programs-SMP/Cowlitz-County>

The state comment period began on April 4 and continued through May 4, 2017. Ecology received comments from five individuals or organizations.

Summary of Issues Raised During the Public Review Process: Copies of all comments received, along with a comment summary, were sent to the County on May 11, 2017. The County provided responses to these comments on July 19, 2017. A revised document was received August 14, 2017. A general list of topics raised during the comment period include: concerns that SMP provisions will negatively interfere with the Flood Control District's job of protecting residents and property from flooding; potential impacts to state-owned aquatic lands; potential regulatory impacts/barriers on efforts to restore wetlands and enhance flood storage along the Cowlitz and Toutle river systems; the need to address the Ocean Resources Management Act and sea level rise; buffer widths; mining standards; and the High Intensity designation proposed along the Kalama River. The comment summary and the County's responses are set forth in Attachment D. Ecology's responses to issues raised during the comment period are available as part of the SMP amendment process record.

Summary of Issues Identified by Ecology as Relevant to its Decision: Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program

Guidelines.⁹

Based on review of the locally adopted SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, consideration of supporting materials in the record submitted by the County, and issues raised during Ecology’s public comment period (Attachment D), the following issues remain relevant to Ecology’s final decision on the comprehensive update to the Cowlitz County SMP. The specific changes and Ecology’s rationale are shown on Attachment B and briefly described below:

SED MAP CORRECTION: Ecology has determined revision to the Shoreline Environment Designation map (Tile 2) showing Silver Lake is necessary to more closely depict the extent of the Aquatic designation on Silver Lake. This should help avoid confusion in the future when implementing the SMP. (Attachment B, Line 1)

SMP DEFINITIONS: A number of definitions need revision for consistency with those in the statute and/or Ecology’s implementing rules. (Attachment B, Lines 2 – 6)

SHORELINE WATERBODIES: Ecology rules require SMPs to list all shoreline waterbodies.¹⁰ These lists in the SMP become the official lists, superseding those for Cowlitz County in WAC 173-18 Shoreline Management Act – Streams and Rivers and WAC 173-20 Shoreline Management Act – Lakes. Ecology’s changes identify waterbodies that need to be added to SMP Table 3-1. Waterbodies in Cowlitz County shoreline jurisdiction. (Attachment B, Line 7)

CONSISTENCY WITH SMP GUIDELINES: A number of revisions have been identified to ensure consistency with the SMP Guidelines and/or internal consistency within the SMP. (Attachment B, Lines 8 – 18)

Ecology coordinated with County staff while identifying these revisions. In addition, working with County staff, Ecology has also identified a number of recommended changes, including revisions to certain definitions, procedural corrections, revisions addressing recent statutory changes, and completing the labeling of all shoreline waterbodies on the SED maps. These and other minor edits and revisions would help improve the clarity of the document and future implementation of the SMP. Recommended changes are set forth in Attachment C.

CONCLUSIONS OF LAW

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

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the

⁹ RCW 90.58.050.

¹⁰ WAC 173-18-040, WAC 173-20-040 and 173-22-050.

guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the County, be included in Ecology's approved SMP 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 amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

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

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

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the County.

Attachment A – Findings and Conclusions
Cowlitz County SMP – Resolution No. 16-175

Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

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