

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF CLE ELUM
SHORELINE MASTER PROGRAM**

SMP Submittal accepted December 29, 2015, Resolution No. 2015-004
Prepared by Zach Meyer on June 7, 2016

Brief Description of Proposed Amendment:

The City of Cle Elum has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

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

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the City's existing SMP. This is the first SMP that is tailored to the City of Cle Elum and includes four environment designations; urban conservancy, shoreline residential, natural, and aquatic. The existing SMP was written for Kittitas County and was not tailored to the individual cities and towns and includes four environment designations: urban, rural, conservancy, and natural. The proposed SMP includes a shoreline use and modification table for ease of implementation and policies and regulations that are consistent with local, state, and federal regulations.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process that began in September 2011. The Cle Elum SMP update was part of a regional effort led by Kittitas County and included Ellensburg, Cle Elum, and South Cle Elum. The record shows that open houses were held in July 2012, November 2012, and January 2014 and a public community visioning workshop was held in September 2012. In addition, the County solicited feedback on SMP topics through a community visioning questionnaire; the County received 25 completed questionnaires. Additional target outreach was conducted by county staff by attending a regular meeting or meeting with individuals of the following groups: Central Washington Homebuilders Association, Kiwanis of Ellensburg and Cle Elum, the Kittitas Field and Stream Club, the Kittitas County Farm Bureau, and the Washington's Cattlemen's Association.

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

A Quorum of the Cle Elum Planning Commission conducted the duly noticed open record public hearings on October 24, 2014, April 21, 2015, and June 2, 2015 at the Cle Elum City Hall. A public hearing was held before the City Council on June 23, 2015. With passage of Resolution #2015-004, on June 23, 2015, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on December 29, 2015. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on January 19, 2016, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on January 27, 2016 and continued through February 29, 2016. Three comment letters were received on the proposed update within the thirty day comment period; one from the Yakama Nation, and one from the Washington State Department of Archaeology and Historic Preservation (DAHP) and one from Rodger Duquette, a member of the public. Ecology sent all written comments it received to the City on March 1, 2016. On April 7, 2016, the City submitted to Ecology its responses to issues raised during the state comment period.

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 City 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 City.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on May 29, 2014. Ecology did not comment on the DNS.

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

These supporting documents include:

- *Public participation plan, December 2011*
- *Shoreline inventory and characterization, May 2013*

- *Cumulative impacts analysis, January 2014*
- *No Net Loss Report, July 2014, and*
- *Restoration plan. April 2014*

Summary of Issues Raised During The Public Review Process:

Three comment letters were received during Ecology’s public comment period; one from the Confederated Tribes and Bands of the Yakama Nation, one from the Washington State Department of Archaeology and Historic Preservation (DAHP) and one from a private individual. The Yakama Nation letter focused on archaeological and cultural resources, the validity of the scientific information used in developing the SMP, and shoreline/critical area buffers. The comment from DAHP also raised concerns about archaeological and cultural resources being adequately protected with the SMP. The comment letter received from a private party expressed concern over public access, referencing an area that is outside of the City of Cle Elum’s jurisdiction.

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

Ecology’s required changes include updates to the wetland rating system per Ecology’s most recent guidance and wetland rating system which became effective on January 1, 2015, Ecology publication #14-06-030. In addition, there was a correction to the wetland buffer widths consistent with guidance from Ecology publication #05-06-008. Other required changes are to finish an incomplete sentence.

Ecology’s recommended changes included edits to help tailor the proposed SMP specifically to the City of Cle Elum and eliminate unnecessary and/or inconsistent language that was left over from the County SMP. Recommended changes also include editorial changes to clarify statements and citations and eliminate repetitive statements.

CONCLUSIONS OF LAW

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

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

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

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

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

Ecology concludes that the City'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 City 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 City'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 City. 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 City 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.