ATTACHMENT A: FINDINGS AND CONCLUSIONS

THE TOWN OF CONCRETE’S COMPREHENSIVE SHORELINE MASTER PROGRAM UPDATE SUBMITTED TO THE DEPARTMENT OF ECOLOGY AS RESOLUTION NO. 2013-04

Brief Description of Proposed Amendments:

The Town of Concrete (Town) has submitted to the Department of Ecology (Department) a comprehensive update of its shoreline master program (SMP). The Town is adopting the Critical Areas Ordinance (CAO) as part of the SMP by direct reference. The CAO was originally adopted as Ordinance 631 in 2008 and utilized Best Available Science. In order to be consistent with Chapter 173-26 WAC - Part III Guidelines, (Guidelines) and the no net loss of ecological functions standard, some changes to the CAO were required as part of the Town’s submittal.

FINDINGS OF FACT

Need for Amendment: The Town currently uses an old version of Skagit County’s SMP hence a tailored set of policies and regulations are needed. The proposed update is required to bring the SMP into compliance with RCW 90.58.080 – Timetable for local governments to develop or amend master programs and the most recent standards for SMPs as set forth in the Guidelines.

Amendment History, Review Process: The Shoreline Inventory and Characterization report states that the Town’s shoreline jurisdiction consists of approximately 17.8 acres of Lake Shannon, roughly a mile of the Baker River and a half mile of the Skagit River.

The Town began its SMP update in late 2009 through a grant from the Department. The record states that the Town conducted extensive citizen outreach including mailings, an open house and regular postings on the Town’s official website.

The record shows that a SEPA Determination of Non-Significance was issued on March 21, 2013, and updated on April 19th in order to provide sufficient time for comments. The State of Washington Department of Commerce (Commerce) was given a 60-day notice of the Town’s intent to adopt on March 19, 2013.

The record states that the Town Planning Commission held numerous public study sessions to consider and craft appropriate provisions. The Concrete Planning Commission recommended approval of the SMP on March 5, 2013. The Concrete Town Council held a work session on March 25, 2013, and a Public Hearing on May 28, 2013. The Town Council adopted the SMP on June 10, 2013, through Resolution No. 2013-04. The Resolution states that the Shoreline Master Program update is formally adopted and includes a Shoreline Environment Designation Map, Critical Area Regulations and a Restoration Plan as attachments.

The complete, proposed SMP amendment was received by the Department for state review and approval on June 17, 2013. Along with interested parties identified by the Town, notice of the
state comment period was distributed to state task force members and other interested parties on July 3, 2013, in compliance with the requirements of WAC 173-26-120 – State process for approving/amending shoreline master programs. The state comment period began on July 15, 2013, and continued through August 16, 2013. The comment period was extended to August 30th due to a notice error. The Department did not hold a public hearing. No comments were received.

**Consistency with Chapter 90.58 RCW:** The proposed amendments have 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 Town has also provided evidence of its compliance with SMA procedural requirements for amending an SMP contained in RCW 90.58.090.

**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 -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the Town.

**Consistency with SEPA Requirements:** The Town issued a SEPA Determination of Non-Significance on March 21, 2013, and with an update on April 19th consistent with WAC 197-11-600.

**Summary of Issues Raised During The Public Review Process:**

There were no issues of any significance raised during the process.

**CONCLUSIONS OF LAW**

The Town of Concrete’s updated shoreline jurisdiction does not include expanded jurisdiction necessary for buffers of critical areas within shorelines of the state (RCW 90.58.030(2)(f)). Therefore, as required by RCW 36.70A.480(6), those critical areas and their buffers not within shoreline jurisdiction as defined by RCW 90.58.030(2.d. or 2.d.i.) shall be regulated by the Town’s Critical Areas Ordinance.

After review by the Department of the complete record submitted and all comments received, the Department concludes that the Town’s SMP proposal is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This includes a conclusion that the proposed SMP contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (WAC 173-26-201(2)(c).

The Department 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).
The Department concludes that the Town has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

The Department concludes that the Town has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents, including conducting public hearings, notice, consultation with parties of interest and solicitation of comments from tribes and government agencies.

The Department concludes that the Town has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act, as the Town submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance for the proposed SMP amendment.

The Department concludes that the Town’s June 17, 2013, SMP amendment submittal to the Department was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3) (a) through (h), including submittal of an SMP submittal checklist as required by WAC 173-26-201(3)(a) and (h).

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.

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

**DECISION AND EFFECTIVE DATE**

Based on the preceding records the Department has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules. The Department’s approval of the proposed amendment is effective 14 days after the Department’s final action approving the amendment. This will represent the Town’s and the Department’s final action regarding the SMP update.