ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF NORTH BEND
SHORELINE MASTER PROGRAM

SMP Submittal accepted March 28, 2012, Resolution No.1578
Prepared by David Pater on July 13, 2012

Brief Description of Proposed Amendment:

The City of North Bend 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. This update replaces the City’s 1990 shoreline master program currently in effect. The updated SMP will guide construction and development along eight miles of shorelines within the city’s jurisdiction on the South and Middle Forks of the Snoqualmie River. It contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as critical areas regulation directly incorporated 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 original City SMP was approved by Ecology in 1974 and was updated (pre-2004 SMP guidelines) in 1990. The SMP was last amended in 1997. This SMP update is also needed to address land use changes that have occurred along North Bend’s shorelines over the past 20 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City December 6, 2011 Critical Areas Ordinance, Comprehensive Plan and Flood Management Plan.

This comprehensive SMP update is intended to entirely replace the City’s existing SMP. This updated SMP increases, by over 33%, the linear extent of shorelines covered and regulated by the City, as it includes new shoreline area annexed along the Middle Fork Snoqualmie River. As a result, this SMP will now regulate approximately eight miles of river shorelines.

Current SMP vs. Comprehensive Update

North Bend’s last SMP update was in 1990. At that time North Bend had no comprehensive plan and critical areas regulations; since GMA had just gone into effect that year. The 1990 SMP is 38 pages, contains key policy, regulations and administrative provisions.

Overall the newly updated SMP is a significant upgrade from the current 1990 SMP. The Shoreline inventory and characterization information has been effectively integrated into the SMP regulations and shoreline environment designations. Shoreline buffers and setbacks reflect existing land use conditions and ecological functions. Shoreline Environments including allowed and prohibited uses focus on protecting existing ecological functions on more intact shorelines, while allowing the continuation of established uses. Public Access standards recognize the many existing shoreline access trails while providing direction on future expansion of the shoreline trails network. The numerous
wetlands within shoreline jurisdiction are well protected within the incorporated critical areas regulations consistent with Ecology wetland buffer guidance. Incorporation of critical areas regulations including floodplain management standards as SMP code means, for the first time all the applicable standards are housed in one document which will make implementation more effective.

The 2004 State SMP guidelines are significantly more protective of ecological functions and shoreline preferred uses, than the policies and standards contained in 1990 SMP. The SMP is consistent with applicable aspects of the guidelines. Overall it provides excellent protection for existing ecological functions and restricts key uses and modifications. Established uses such as recreational, residential and commercial are permitted outright within the appropriate shoreline environments. Commercial uses are broken down into a number of subcategories for further shoreline management distinction. Boating facilities are restricted to non-motorized boat launches, piers and docks are prohibited on the rivers. Flood hazard reduction standards are comprehensive and City Floodplain Management code is directly incorporated into the SMP. The shoreline stabilization section is particularly well done and establishes standards for permitted shoreline modification appropriately. A CUP is required for all hard stabilization projects and more flexibility given to soft shore stabilization projects.

Below is a comparison of key SMP elements between the draft 2012 SMP and the current 1990 version.

**Shoreline Environments:**

1990: Shoreline environments are limited to three (conservancy, rural and urban environment) with most of the regulations focusing on allowed/prohibited activities within each shoreline environment.

2012: Five shoreline environments including natural, urban conservancy, commercial conservancy, shoreline residential and aquatic. The City also pre-designated shoreline environments within the UGA consistent with the 2004 guidelines environment designation criteria and updated SMP. The City UGA area includes the River Bend residential area on the South Fork Snoqualmie River. The pre-designated shoreline environments is mainly residential with a section of natural environment adjacent to an oxbow lake.

**Shoreline Uses and Modification Matrix:**

1990: none. Uses and modifications are defined within the narrative regulations.

2012: Table 14.20.270 provides detail use and modifications allowances and prohibitions that are consistent with applicable SMP regulations. In many cases activities are further broken down by type (Ex. stabilization: hard, soft, new, replacement)

**Development Standards Matrix:**

1990: None. Uniform 50 foot setbacks for shoreline environments defined in regulations

2012: Table 14.20.280 provides detailed and unique shoreline environment buffers/setbacks connected with applicable incorporated CAO standards. Also impervious surface limits, lot widths and referenced density standards. Buffers and setbacks also thoughtfully integrate levees and floodways where appropriate within 14.20.550.C. Shoreline buffers range from 150 feet in the natural environment to 55 feet in the residential environment on the South Fork Snoqualmie River.
Shoreline Uses and Modifications

1990: Policies for major uses and modifications: Regulations limited to shoreline environment specific regulations with limited regulations for specific uses and modifications. No general policies and regulations or nonconforming use standards.

2012: Detailed policies and regulations for all applicable uses in State SMP guidelines. Includes general regulations for environmental protection, vegetation conservation, water quality and public access. Includes integrated critical areas regulations and nonconforming use standards.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process that began in July 2009. The record shows that workshops open to the public were held on November 19, 2009 & October 28, 2010, Five Planning Commission meetings from March 2011 to September 2011. Public Hearings before the Planning Commission were held on June 23, 2011 and City Council on March 6, 2012. Affidavits of publication provided by the City/County indicate notice of the hearing was published on June 8, 2011 and February 15, 2012

With passage of Resolution #1578, on March 6, 2012, the North Bend City Council 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 March 28, 2012. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on April 20, 2012 in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on April 25, 2012 and continued through May 25, 2012. No public hearing was conducted. A total of four comments were received by Ecology. North Bend submitted to Ecology its responses to issues raised during the state comment period on June 26, 2012. Ecology’s own responses to issues raised during the comment period are available as part of the SMP amendment process record.

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). Ecology specifically reviewed the proposed SMP policies, regulations and environment designations for compliance with guidelines requirements. This also 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 February 12, 2012. Notice of the SEPA determination was published in the Snoqualmie Valley Record on February 15, 2012. 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 comprehensive SMP amendment:

These supporting documents include:

- an October 2009 final public participation plan,
- a January 2012 final shoreline inventory and characterization,
- a February 2012 Final cumulative impacts analysis,
- a January 2011 final shoreline use analysis,
- a February 2012 Final no net loss report, and
- an October 2011 final restoration plan

Summary of Issues Raised During The Public Review Process:

Only two parties commented on the draft SMP within the Ecology 30 day comment period. A responsiveness summary was prepared by the City. Two of the more substantive comments are presented below:

Commenter: King County River and Floodplain Management, Water and Land Resource Division.

Comment: SMP has omitted mapping Silver Creek overflow channel areas between the Middle Fork and South Fork Snoqualmie Rivers. Inconsistent with WAC 173-26-201 (3) (c)(vii)

City Response: The City did an extensive amount of inventory for shoreline conditions. A memo from The Watershed Company on October 30, 2009 became the basis for our shoreline jurisdiction utilizing existing information. Ecology agreed with the City’s assessment that the flow paths in Silver Creek related to Snoqualmie River flood events occur with only low-frequency events (e.g., not with the 10-year or 20-year events) and therefore is outside of the range of “reasonable regularity” and not considered floodway for shoreline jurisdiction purposes. The City will continue to apply all appropriate elements of its critical areas regulations to the Silver Creek area.

Ecology Response: Ecology shoreline and floodplain staff worked closely with the City and their SMP consultant at the beginning of SMP development on the Silver Creek jurisdictional questions. A thorough analysis was provided to Ecology and is documented in appendix A (Assessment of Shoreline Jurisdiction) within the final Shoreline Analysis Report for the City of North Bend’s Shorelines: South Fork and Middle Fork Snoqualmie River.

Comment: Concerned that SMP implementation as proposed may have adverse impact on public safety, putting public & private infrastructure at risk.

City Response: The SMP addresses channel migration zones (CMZ) in three ways: 1) through the specific addition of channel migration zones as a geologically hazardous area (see 14.20.570.C.2.b.vi), 2) through regulations in the Flood Hazard Reduction section (see 14.20.330), and 3) through regulations sprinkled throughout many of the use and modification sections that limit/prohibit uses and modifications that would interfere with channel migration. If any of these regulations are inconsistent the most protective applies. Channel migration zones outside of SMP jurisdiction will be appropriately protected by provisions of the City’s critical areas regulations.
Ecology Response: Ecology concurs with this assessment. The applicable SMP standards are considered consistent with the State SMP guidelines. North Bend chose the minimum shoreline jurisdiction option (200 feet landward from the edge of the defined floodway and any associated wetlands). The City Floodplain Management code still applies within the CMZ located outside shoreline jurisdiction.

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

FEMA FIRM Map Referencing: Three of the four required changes focus on correct referencing of relevant FEMA FIRM maps and use of associated terminology. Like most King County floodplain jurisdictions; North Bend used the best available information to delineate shoreline jurisdiction. The draft FEMA FIRM maps from 2007-2010 more accurately depict floodplains and floodways than the official FIRM maps from 2001.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City of North Bend’s proposed comprehensive SMP update/amendment, 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).

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection at least equal to that provided by the City’s existing critical areas ordinance. (See SMP Sec. 14.20.150.D for specific language).

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 of North Bend 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 of North Bend’s comprehensive SMP update/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 City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(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) North Bend 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.