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

SMP Submittal accepted November 13, 2014, Resolution No.9/2/2014-01
Prepared by Angela San Filippo on April 23, 2015

Brief Description of Proposed Amendment:

The Town of South 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, administrative provisions as well as local flood ordinance #285 adopted by reference 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 Town’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 Town adopted and 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 updated. This SMP update is also needed to address land use changes that have occurred along the Town’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 Town’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 Town’s existing SMP. This is the first SMP that is tailored to the Town of South Cle Elum and includes three environment designations; shoreline residential, urban conservancy, 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 Town indicates the proposed SMP update originated from a multi-jurisdictional update process with Kittitas County serving as the project lead. The planning process began in September 2011. The record shows that open houses were held on July 18 and July 19, 2012 and January 29, 2014 and a public workshop was held on September 12, 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 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 assisted the County 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. A citizen advisory committee (CAC) was established to finalize recommendations on environment 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 were open to the public.

A public hearing before the Planning Commission was held on August 13, 2014. Affidavits of publication provided by the Town indicate notice of the hearing was published in the North Kittitas County Tribune on July 31 and August 7, 2014. With passage of Resolution #9/2/2014-01, on September 2, 2014, the Town 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 November 13, 2014. Notice of the state comment period was distributed to state task force members and interested parties identified by the Town on December 15, 2014, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on December 29, 2014 and continued through February 2, 2015. One organization submitted comments on the proposed update within the thirty day comment period. Ecology forwarded the written comments it received to the Town on February 6, 2015. On March 24, 2015 the Town submitted to Ecology its responses to issues raised during the state comment period, see Attachment D.

**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 Town 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, including proposed policies, regulations, and environment designations, 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 Town.

**Consistency with SEPA Requirements:** The Town 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 July 3, 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, July 2014;*
Summary of Issues Raised During The Public Review Process:

One comment was received from the Confederated Tribes and Bands of the Yakama Nation during Ecology’s public comment period. This comment letter focused mainly on archaeological and cultural resources and riparian buffers. The archaeological and cultural resource comments included recommendations regarding the use of Washington State Department of Archaeology and Historic Preservation’s (DAHP) predictive model, support for requiring field investigations for all ground disturbing activities, and concern that the proposed SMP will rely on project notification to DAHP and the Yakama Nation when the majority of development within shoreline jurisdiction falls under an exemption in Section 6.3 of the proposed SMP.

The comments relating to buffers primarily focused on concern over administrative reduction provisions, questions regarding the adequacy and scientific justification for reducing riparian buffers, and comparison of the existing Kittitas County CAO and SMP buffers to the proposed SMP critical area and shoreline buffers.

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

Ecology’s required changes include updates to the wetland rating system and Ecology’s most recent guidance and rating system which became effective in January 2015. Ecology updated all references and wetland ratings in the proposed SMP to be consistent with Ecology’s most current guidance, Ecology publication #14-06-030. In addition there was an outdated reference to Ecology wetland mitigation guidelines that was also updated.

Ecology’s recommended changes included edits to help tailor the proposed SMP specifically to the Town of South Cle Elum and eliminate unnecessary and/or inconsistent language that was left over from the County SMP. These included changes to Table 3.7-1; Shoreline use and modification table; Section 4.2, Wetland buffers for wetlands in shoreline jurisdiction; Section 4.4, Public Access; Section 5.5, Boating Facilities, marinas, piers, and docks; Section 5.12, Mining; and Section 5.15, Shoreline Stabilization. Recommended changes also include editorial changes to clarify statements and citations and eliminate repetitive statements.

Three recommended changes were incorporated into Ecology’s review from a DAHP comment letter received after the public comment period closed. These recommendations included changes to the Historical/cultural goals and objectives in Section 2.7 and Archaeological and historical resources policies in Section 4.1. There are also recommended changes that were incorporated from the County’s SMP that are based on public comments and deliberation by the County Board of County Commissioners that occurred after the Town of South Cle Elum locally adopted this proposed SMP. These recommendations included clarifications and specifications on data used for the classification of landslides.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the Town’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
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 Town, be included in Ecology’s approved SMP update.

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 Town has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology 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 update and amendment process.

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

Ecology concludes that the Town’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 Town 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 Town’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 Town. 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 Town 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.