## Attachment D: Public Comment Summary: Town of South Cle Elum Locally Adopted SMP

**Ecology Public Comment Period, December 29 – February 2, 2015**

*Prepared by Angela San Filippo, WA Dept. of Ecology, February 5, 2015
Local Government Response and Rationale, Prepared by Town of South Cle Elum, March 24, 2015*

<table>
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<th>Comment Number</th>
<th>Comment Topic and Section Number (Citation)</th>
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<td>1</td>
<td>SEPA process and determination</td>
<td>Confederated Tribes and Bands of the Yakama Nation</td>
<td>The Yakama Nation did not receive correspondence or notification of public process from the Town of South Cle Elum prior to August 12, 2014 when the Yakama Nation submitted State Environmental Policy Act comments concerning the proposed SMP. Yakama Nation states that it is unknown what the final SEPA determination was, how the comments were received, or any other opportunities for public hearings or comment.</td>
<td>The SEPA DNS, issued July 3, 2014, was mailed to the Yakama Nation.¹ The Yakama Nation provided comments on July 14, 2014. The Planning Commission staff report acknowledged receipt and review of the DNS comments. The comment letters did not provide any new environmental information that demonstrated any significant adverse environmental impacts. As such, the Town retained the DNS. Notice of the Planning Commission public hearing was mailed to the Yakama Nation² and the Planning Commission staff report and other information for the hearing was available to the Yakama Nation. See attached Marvin &amp; Nelson August 2014 email exchange with link to available documents.</td>
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| 2              | Section 4.1 Archaeological and historical resources | Confederated Tribes and Bands of the Yakama Nation | Reference to a January 31, 2013 Yakama Nation comment letter with suggestions that were rejected. The suggestions included the following:  
- A field investigation for all ground disturbing activities  
- A data sharing agreement with the Washington | The Town reviewed and considered these comments, together with comments dated August 12, 2014 at the Planning Commission hearing. See Attachment 2 to staff report ³ Some revisions were made in response to the comments. The Town understands that the |

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¹ See attached affidavit of mailing supplement to Project Record Index No. 58.
² Project Record Index No. 61.
³ Project Record Index No. 62.
| Section | Archaeological and historical resources | Department of Archaeology and Historic Preservation  
• A requirement that any proposal with a known archaeological site be investigated by a professional archaeologist  
• Archaeological surveys for any proposal with a high risk or very high risk for archaeological resources based on the DAHP predictive model | County made additional revisions to these provisions during deliberation for adoption of the County SMP. The Town proposes to work with Ecology during their review process to incorporate appropriate responsive revisions in the applicable portion of the September Town SMP, where the December County SMP has different provisions. |

| 3 | Section 4.1  
Confederated Tribes and Bands of the Yakama Nation | The vast majority of cultural and archaeological resources in Kittitas County are not documented. The SMA requires use of all data; DAHP predictive model should be used to screen all projects in the Town of South Cle Elum.  
The SMP will rely on project notification to the Yakama Nation and DAHP, however the vast majority of all development within SMA jurisdiction falls under one of 16 exemptions found in Section 6.3 of the SMP and there are no notification provisions for exemptions.  
Failure to incorporate and utilize DAHP data and models is inconsistent with RCW 90.58.020 and RCW 90.58.100(1). In addition, the passage of House Bill 2724 eliminates any previous consternation of liability and public disclosure of cultural resources data. | See comment above. The Town understands that the County SMP includes revisions based on WAC 173-26-221(1)(c) which states that “A local government may reference historic inventories or regulations.” The Town proposes to work with Ecology during their review process to incorporate these revisions and revisions to clarify that permits issued in areas documented to contain archaeological resources require site inspection in coordination with affected tribes.  
Local governments have the authority to establish dimensional thresholds. The SMP clearly states under what conditions a minor buffer reduction could be obtained without a variance. Any greater reduction would require a variance. A buffer reduction would only be allowed under limited circumstances, and mitigation would be required. It is the applicant’s responsibility to demonstrate that the reduction would not result in a net loss of riparian habitat functions and values. In addition, the Town understands that the County SMP includes some clarification revisions for buffer averaging and buffer reduction. |

| 4 | Sections 4.2.G.8, 4.2.J.8, 5.20.B.4, 5.20.B.7, 5.20.B.12 - Administrative reduction provisions  
SMA and its guidelines clearly state that development or use proposals that do not conform to the specific bulk, dimensional or performance standards of the SMP can only be approved through a variance. |
| 5 | Buffers – General comments | Confederated Tribes and Bands of the Yakama Nation | Town proposes to work with Ecology during their review process to incorporate these revisions and revisions to clarify that permits issued in areas documented to contain archaeological resources require site inspection in coordination with affected tribes.

Yakama Nation questions the adequacy and scientific justification for significantly reducing riparian buffers and shoreline setbacks from existing standards. Justification memo was provided for the wetland buffers but no justification has been provided for the aquatic buffers and shoreline setbacks.

When establishing scientifically based criteria for determining buffer widths, the science notes that the following factors should be addressed:
- The existing or potential value of the resource to be protected
- The site, watershed, and buffer characteristics
- The intensity of the adjacent land use
- The specific water quality and/or habitat functions desired

The draft SMP fails to follow these principles. The proposed buffers are essentially a one-size-fits-all standard that run completely counter to the science. This buffer approach is inadequate to protect riparian functions across the wide variability of shoreline environments; therefore it is inadequate to meet policy of RCW 90.58.020 and the RCW 90.58.100 and is inconsistent with the SMA.

Based on a review of the applicable scientific and technical information, as well as Town zoning and land uses, the proposed buffer system protects critical area and shoreline functions. The proposed buffer requirements are clearer and more rigorous than the existing buffer requirements (as implemented) and will allow for more predictable, transparent and protective regulations compared to the current system. The Town also has only two upland SEDs: Urban Conservancy and Shoreline Residential, both of which have a 100’ shoreline buffer.

For a more detailed justification and analysis of buffers, see the *Rationale and Explanation for Proposed Wetland Buffers* memo from ESA (July 2014) and the *Rationale and Explanation for Proposed Shoreline and Aquatic Habitat Buffers* memo from ESA (September 2014).

| 6 | Buffers – Table 4.5-1 and Table 5.21 | Confederated Tribes and Bands of the Yakama Nation | The Town has two upland SEDs: Urban Conservancy and Shoreline Residential, both of which have a 100’ shoreline buffer (see Section 4.5 and Section 5.2.1 Table 5.21-1). The comment reference to other SEDs is likely in regard to the County SMP.

The science in the record for the Yakima River basin is clear; significant, adverse impacts to riparian areas throughout the basin have created significant water quality issues. The Upper Yakima River is on Ecology’s 303(d) list for water quality impairments caused by suspended sediment, temperature, toxics, and turbidity. The existing standards in

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4 Note that the September 2014 memorandum was prepared after the Town SMP was adopted (during the County SMP deliberations), but is a summary of the regional SMP update effort and the basis for the proposed buffers. This memorandum is attached to supplement the record.
the SMP and CAO have provided for net loss of ecologic and ecosystem wide functions and the proposed SMP is now reducing those already inadequate standards.

Proposed shoreline setbacks are a substantial decrease from the existing SMP standards. The existing SMP provides a 100-foot structural setback from OHWM for the Urban, Rural, and Conservancy Environments; and a 200-foot structural setback in the Natural Environment.

The proposed High Intensity buffer is reduced to 75 feet and the Natural is reduced to 150 feet. The proposed standards are the opposite of science; where higher intensity uses require larger or more intensely managed buffers to mitigate for impacts.

The buffer/setback reductions are inconsistent with RCW 90.58.020 and RCW 90.58.100(1) and are not scientifically substantiated.

The existing Kittitas County CAO protects Type 1 shoreline streams with a maximum 200-foot riparian buffer, Type 2 with 100-feet, Type 3 with 50-feet, Type 4 with 20-feet, and zero feet for Type 5. The proposed aquatic buffers in Table 4.2-3 have been reduced to Type F with 100-feet, Type Np with 50-feet, and Type Ns with 30-feet.

Type 2 and 3 are fish bearing and equivalent to Type F. The proposed buffers are half of the existing buffers. The existing Kittitas County CAO contains criteria to establish a range of buffers based on science; the proposed SMP has no scientific criteria to set buffer widths and relies on a reduced size one-size-fits-all buffer. This is inconsistent with RCW 90.58.020 and RCW 90.58.100(1).

The Cumulative Impacts Analysis, No Net Loss Report, nor the SEPA DNS acknowledge the scientific reduction of

Based on the SMP update supporting documents in the Town’s SMP adoption record,
| Analysis, No Net Loss Report, and SEPA DNS determination | Bands of the Yakama Nation | Protection standards in violation of RCW 90.58.020, RCW 90.58.100(1), WAC 173-26-201(2), RCW 43.21C, and WAC 197-11. | the Town of South Cle Elum SMP would, over time, achieve no net loss of Town shoreline ecological functions (WAC 173-26-186(8)) and protect existing ecological functions and ecosystem-wide processes (WAC 173-26-221(2)(b)(iv)). Also see ESA memorandums dated 11/6/12, 2/22/13, 7/22/14 and 9/2/14 which demonstrate that the shoreline and shoreline critical area regulations are based on the SMA guidelines. See comment response to Item 1 in regard to the Town’s SEPA determination. |