

No. 14-0605B

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF APPROVING REVISIONS TO THE )  
SPOKANE COUNTY SHORELINE MASTER PROGRAM )  
REQUIRED IN A STIPULATED AGREEMENT IN GROWTH )  
MANAGEMENT HEARINGS BOARD CASE NO. 13-1-003C )  
PERTAINING TO ON-SITE SEWAGE DISPOSAL )

**FINDINGS OF FACT  
AND  
DECISION**

**WHEREAS**, pursuant to RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington ("Board") has the care of County property and management of County funds and business; and

**WHEREAS**, pursuant to the provisions of chapter 90.58 RCW (Shoreline Management Act of 1971) ("SMA"), the Washington State Department of Ecology ("DOE") adopted the Spokane County Shoreline Master Program on January 15, 1975; and

**WHEREAS**, pursuant to the provisions of the SMA and WAC Chapter 173-26, the Master Program Planning Guidelines, and Department of Ecology Grant Contract No. 0400147, the Board is responsible to revise and update the Spokane County Shoreline Master Program, hereinafter referred to as the "RSMP"; and

**WHEREAS**, the SMA, WAC Chapter 173-26 and chapter 36.70A RCW set forth goals, policies and procedures to guide the development and adoption of the RSMP and amendment of the Comprehensive Plan; and

**WHEREAS**, on January 8, 2013, DOE approved the Revised Shoreline Master Program for Spokane County with an effective date of January 22, 2013 ("Decision"); and

**WHEREAS**, the Decision by DOE was appealed to the Growth Management Hearings Board by Futurewise, The Lands Council, Spokane Riverkeeper, The Lands Council, and Trout Unlimited (jointly along with DOE and the County referred to as "Parties") under Case No. 13-1-0003c; and

**WHEREAS**, the Growth Management Hearings Board issued a Final Decision and Order in Case No. 13-1-0003c on December 13, 2013 wherein it determined in part:

- 1. *As to Legal Issue 4 relating to On-Site Sewage Systems, the Growth Management Hearings Board reverses the Department of Ecology's decision approving Spokane County's 2013 Shoreline Master Program Update and remands this matter to the Department Ecology and Spokane County for the purpose of complying with the Shoreline Management Act consistent with this Final Decision and Order and in accordance with the following schedule.*

; and

**WHEREAS**, the Parties executed a pleading entitled "Stipulation among the Parties" on January 17, 2014 in Case No. 13-1-0003c ("Stipulation") wherein they agreed:

- 2. *Spokane County and the Washington State Department of Ecology agree to address the issues raised in the decision pertaining to Issue 4, On-Site Sewage Systems, pp. 28-50, and the Order and compliance schedule, p 62 of that decision.*

; and

**WHEREAS**, in response to the Stipulation, Spokane County and the Department of Ecology, in consultation with the appellants and technical experts in hydrology developed proposed revisions to the Spokane County Shoreline Master Program pertaining to on-site sewage disposal systems utilizing best available science that significantly reduces phosphorous discharge from on-site sewage disposal systems to achieve no net loss of ecological function in shoreline jurisdictions; and

**WHEREAS**, on July 8, 2014, after providing public notice as set forth in Spokane County Resolution No. 14-0441, the Board held a public hearing to consider proposed revisions to the Spokane County Shoreline Master Program, as provided for in the Stipulation among the Parties; and

**WHEREAS**, on July 8, 2014 at the conclusion of their public hearing to consider proposed revisions to the Spokane County Shoreline Master Program as provided for in the Stipulation among the Parties, the Board closed the record on further oral and written testimony on the revision to the Spokane County Shoreline Master Program pertaining to on-site sewage disposal systems, left the record open to July 15, 2014 to consider comments on the Determination of Nonsignificance (DNS) issued for the non-project action and continued their decision on this matter to July 22, 2014 at 2:00 p.m.; and

**WHEREAS**, pursuant to the State Environmental Policy Act and Spokane Environmental Ordinance, a Determination of Nonsignificance (DNS) was issued on June 30, 2014 with regard to the proposed revisions to the Spokane County Shoreline Master Program as provided for in the Stipulation among the Parties. The public comment period with regard to the DNS expired on July 15, 2014. No further comments on the DNS were received. The DNS was not appealed.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Spokane County, Washington pursuant to the provisions of chapter 90.58 RCW, that the Board hereby adopts the RSMP as amended, which amendment consists of revisions pertaining only to on-site sewage disposal, a copy of which are set forth in Attachment A, attached hereto and incorporated herein by reference, as well as additional deletions consistent with Attachment A which are set forth in Attachment B, attached hereto and incorporated herein by reference.

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Spokane County, Washington, that Department of Building and Planning shall forward the RSMP as amended to the Department of Ecology for its consideration pursuant to chapter 90.58 RCW, together with all appropriate supporting documentation.

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Spokane County, Washington that in adopting the RSMP as amended the Board does hereby adopt each and every recital set forth above as a finding in support thereof as well as the following additional

#### **FINDINGS OF FACT**

##### **I.**

The following public notices were given to offer the public participation opportunities consistent with the adopted Spokane County Public Participation Guidelines:

- a. Notice of the July 8, 2014 Board of County Commissioners public hearing published in the Spokesman Review 15 days prior to the public hearing.
- b. The draft RSMP was available on the Spokane County Department of Building and Planning website prior to the public hearing on July 8, 2014.

**II.**

Pursuant to State Environmental Policy Act and Spokane County Environmental Ordinance, a Determination of Nonsignificance (DNS) was issued on June 30, 2014 following conclusion of the public comment period on July 15, 2014 wherein it was determined that the adoption of the RSMP was a non-project action that did not have a probable significant adverse impact on the environment. The DNS was not appealed.

**III.**

The adoption of the RSMP will further the public health, safety and general welfare.

**IV.**

The RSMP as amended and the adoption process provided the citizens of Spokane County the opportunity to be involved in a planning process that is predictable and specific to the community.

**V.**

The process employed by Spokane County in preparing and reviewing the draft RSMP is in compliance with Chapter 90.58 RCW, WAC Chapter 173-26, the adopted Spokane County Public Participation Guidelines, and DOE SMP Grant 0400147.

**VI.**

The above recitals are adopted as Findings of Fact herein to the extent that they contain facts related to the adoption of this updated Shoreline Master Program.

**VII.**

The Board of County Commissioners incorporates all its deliberations minutes to further support and show their work in conjunction with this decision.

**PASSED AND ADOPTED** this 22nd day of July, 2014.



BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

*Al French*  
AL FRENCH, Chair

*Todd Mielke*  
TODD MIELKE, Vice-Chair

*Shelly O'Quinn*  
SHELLY O'QUINN, Commissioner

ATTEST:

*Daniela Erickson*  
Daniela Erickson, Clerk of the Board

# ATTACHMENT A

## NEW LANGUAGE

### SHORELINE MASTER PROGRAM

#### SECTION \_\_\_\_\_

#### SHORELINE ONSITE WASTEWATER TREATMENT SYSTEMS

##### x.1 Operative Standards

The development standard for all development within the shoreline is no net loss of shoreline ecological functions.

##### x.2 Location Standards

1. As required under WAC 246-272A-0025 and subject to the applicable concurrency requirements of Title 13 of the Spokane County Code, where the property to be developed is within the UGA and within 200 feet of a public sewer system, the property shall connect to public sewer and septic drainfields are prohibited.
2. Where new residential lots are created that include property within the shoreline jurisdiction of this Shoreline Master Program, such lots shall be configured so that all septic drainfields are located outside of shoreline jurisdiction except as provided for in Subsection (4) below.
3. Where new development is proposed on a lot of record within shoreline jurisdiction that includes property outside of the shoreline jurisdiction, the septic drainfield shall be located outside of the shoreline jurisdiction except as provided for in Subsection (4) below.
4. Where site, lot or other physical constraints combined with the requirements of sections (2) or (3) would prohibit all reasonable use of the property, a septic drainfield may be located within the shoreline jurisdiction, provided the following minimum standards shall be met:
  - a. The owner shall have a special report prepared by a licensed professional engineer that incorporates one or more of the tools from Table 5.3.8 (4) below, that are necessary and appropriate to demonstrate a minimum phosphorous effluent reduction or phosphorus discharge concentration limit of 1 mg/liter or less for the projected flow from the structure over the life of the system.
  - b. The report shall include the site development plan required under Section 4.1.3 and identify a combination of physical and locational constraints and the onsite wastewater treatment system operation, monitoring, performance, and maintenance program that is designed to achieve the phosphorus effluent discharge concentration limit of 1 mg/liter or less through the life of the system. The onsite wastewater treatment system

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Table 5.3.8 (4) Options for new on-site wastewater treatment systems in shoreline areas and for systems subject to provisions of Location Standards (5)

- shall become part of the building/septic design and any shoreline permits required for the development of the site.
- c. The drainfield setback shall be landward of the residence and the farthest feasible distance from the shoreline but not less than 100 feet measured horizontally landward from the line of ordinary high water.
  - d. The report shall identify a monitoring program at a point that this compliance point is "immediately downstream of the engineered media discharge point and before the drain field consistent with the following requirements:
    - i. Monthly monitoring upon installation until the 1 mg/liter total phosphorus concentration threshold is met.
    - ii. Once tests show the system is working as planned, annual monitoring program to show the system is functioning and being properly maintained.
    - iii. In the event of an exceedance over the 1mg/liter phosphorus concentration in any report, another sample will be tested again within the next 30 days. If the second laboratory analysis detects a total phosphorus concentration greater than 1.0 mg/L, the homeowner shall present a plan to the Building and Planning Department within 30 days to correct the exceedance and upon approval shall implement the plan at the earliest opportunity (weather permitting), within one year after the date of the plan approval.
    - iv. Reports shall be maintained with the Building and Planning Department, which shall maintain a log of reports and shall monitor reports for both timely submission and compliance with the 1 mg/liter standard.
    - v. Water quality tests shall be conducted at an Ecology accredited laboratory, which will provide the reports to the County Building and Planning Department no less than 30 days from date of the laboratory analysis.
    - vi. The County Building and Planning Department shall notify both Ecology and any homeowner if a report is not timely filed or has any evidence that the system is not functioning as required, and shall have the authority to require additional water quality testing at the homeowner's expense if any report is more than 90 days late.

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Table 5.3.8 (4) Options for new on-site wastewater treatment systems in shoreline areas and for systems subject to provisions of Location Standards (5)

- vii. Failure to properly maintain an onsite wastewater treatment system in the shoreline area of Spokane County under the terms of this section shall be grounds for declaring the system a failed system under Section 8.2 of the master program with *authority to declare the system out of compliance with County requirements and take such steps to assure continued violations do not occur* .
5. Where an existing lot of record is developed with a septic drainfield system that does not meet the specifications of this section and new development or redevelopment (including remodels) with a cost or fair market value (whichever is more) of 50% of the assessed value of the improvements on the property or increases the number of bedrooms and/or bathrooms on the property, the requirements of section x.2.4.a-c shall be a condition of any permit issued for such work.
6. Onsite wastewater treatment systems serving allowed uses in conformance with the SCSMP must also be in compliance with regulations administered by the Spokane Regional Health District.
7. The County will revisit the effectiveness of Section XX Shoreline Onsite Wastewater Treatment Systems and the best available affordable technology for phosphate removal that meets the requirements of no net loss at its next SMP update.

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Table 5.3.8 (4) Options for new on-site wastewater treatment systems in shoreline areas and for systems subject to provisions of Location Standards (5)

| <b>Element</b>                             | <b>Description</b>   |
|--|--|
| <i>P Removal Technology specifications</i> | Requirements for Soil Absorption System ( SAS ) or Advanced Treatment System (ATS) which includes filtering with enhanced medium (e.g., Limestone, tire chips).  |
|  | Requirements for specific SAS design configurations (e.g., long/narrow trenches or shallow SAS designs).   |
| <i>Site conditions</i>                     | Groundwater/watershed boundary within the 200 foot buffer zone that prevents effluent within the buffer from reaching the nearby water body (immediately).   |
|  | Establish a minimum vertical separation distance (e.g., no less than 10 feet) to maximum site groundwater elevation to maximize phosphorus adsorption.   |
|  | Construct Onsite Wastewater Treatment System (OWTS) on the most topographically upgradient property boundary perpendicular to groundwater flow to allow for the maximum possible adsorption of phosphorus.         |
| <i>Operations and Maintenance</i>          | Requirements for periodic Septic Tank "pump-outs" to reduce the build-up of solid-phase phosphorus concentrations and subsequent aqueous phase effluent concentrations.  |
|  | Require regular (annual) OWTS inspections to ensure proper system operation.   |
|  | Requirements for the period replacement and off-site disposal of ATS media. Off-site disposal and off-site re-use areas for spent treatment media. (e.g., acid mine drainages, forestry applications horticulture) |
| <i>Monitoring</i>                          | Requirements for initial and ongoing testing of ATS systems (e.g., periodic total phosphorus and pH testing) to ensure performance requirements are being met.   |
|  | Requirements for the installation of groundwater piezometers to enable periodic testing of phosphorus concentrations in groundwater over the first ten years of operation.   |
| <i>Existing OWTS Systems</i>               | Requirements for monitoring of existing OWTS within the 200 foot shoreline buffer zone to determine total phosphorus discharge concentrations.   |

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### 5.3.8. Residential

#### 1. All Environments

- a. Overwater residences are prohibited in any form.
- b. Residences are permitted in the shorelines on lots or parcels created prior to the effective date of this SMP subject to location landward of buffers set forth in Table 5B of this Section.
- c. New single family residential development on lots whose dimensions do not allow a residence to be constructed outside the standard shoreline buffer may be allowed without a variance in accordance with the provisions in Section 6.5.13.
- d. All single family and multi-unit residential developments shall comply with the buffer, setback, bulk and dimensional standards set forth in Table 5B of this SMP, and shall be authorized only after approval of a site development plan, indicating the total disturbance footprint as required in Section 4 of this SMP.
- e. Impacts to shoreline ecological functions resulting from permitted development shall be mitigated as required in Section 4 of this SMP. The construction of homes shall require development of a mitigation plan as specified in Section 4 of this SMP.
- f. Residential density shall comply with Spokane Regional Health District wastewater treatment and water supply regulations, Spokane County Zoning Code and subdivision regulations, and shall be consistent with the Comprehensive Plan.
- g. ~~Individual or multi-family on-site wastewater treatment systems serving allowed uses in conformance with the SCSMP shall be subject to regulations administered by the Spokane Regional Health District. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within jurisdiction of the SCSMP.~~
- h. ~~Large On-site Sewage Systems (LOSS) shall be subject to regulations administered by the Washington State Departments of Ecology, or Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within jurisdiction of the SCSMP.~~
- i. ~~All individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drainfields or alternative systems approved and inspected by the Spokane Regional Health District, the Washington State Department of Ecology, or Department of Health, shall be located landward of designated riparian and shoreland buffers within jurisdiction of the SCSMP.~~
- j. ~~In instances where shoreline buffers designated in Table 5B of this SMP are adjusted through the provisions of Section 5.2.5 to measure less than 100 feet, all sewage system components shall be located a minimum of 100 feet from the ordinary high water mark. In limited instances when residential structures are permitted within 100 feet of the ordinary high water mark, tightlines from structures or septic tanks may be~~

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~~located within 100 feet from the ordinary high water mark.~~

- k. ~~Location of the landward boundary of shoreline buffers as specified in Table 5B shall be approved by Spokane County or Washington Department of Ecology staff, and marked with clearly visible means sufficient to prevent damage to any portion of the buffer and its topography, soils or vegetation.~~
- l. Prior to any clearing, construction or other activity within the approved disturbance footprint, the landward boundary of buffers specified in Table 5B shall be marked with permanent or temporary fencing approved by the Director, sufficient to prevent any incidental incursion into, or disturbance to the buffer, by equipment, vehicles, building materials or other means.
- m. ~~Whenever feasible, while meeting Spokane Regional Health District or Washington State Health Department standards, all components of on-site sewage treatment systems, including subsurface soil absorption systems, shall be located landward of the residential structures they serve.~~