ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR THE PROPOSED COMPREHENSIVE UPDATE TO THE CLARK COUNTY
SHORELINE MASTER PROGRAM

SMP Submittal accepted March 1, 2012, Ordinance No. 2011-11-14
Prepared by Kim Van Zwalenburg on June 7, 2012

Brief Description of Proposed Amendment: Clark County (County) has submitted a comprehensive update to their Shoreline Master Program (SMP) for review and approval by the Department of Ecology (Ecology). This submittal is required to comply with the Shoreline Management Act (SMA) and the SMP Guidelines requirements (RCW 90.58 and WAC 173-26 (Part III) respectively). The updated master program contains locally tailored shoreline management policies, regulations, shoreline designation maps, and administrative provisions. Critical area provisions are adopted by reference in the SMP in Chapter 5. Additional reports and supporting information and analyses are included in the submittal and noted below.

FINDINGS OF FACT

Need for amendment: The proposed amendment would replace the County’s existing SMP in its entirety. The amendment is needed to comply with the statutory deadline for a comprehensive update of the County’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 (State master program approval/amendment procedures and master program guidelines) and WAC 173-27 (Shoreline management permit and enforcement procedures). The County’s SMP was originally approved by Ecology in 1974 with one minor amendment in 1992.

Section 1.3 of the submitted SMP describes the purpose of the Program:

1. To guide the future development of shorelines in the County in a positive, effective, and equitable manner consistent with the Act;

2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the County’s shorelines; and

3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the ... policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state....

Because surface waters flow irrespective of political boundaries, this SMP update was accomplished through a coordinated planning effort by all the Clark County jurisdictions (Clark County Coalition). Among the goals identified and agreed to by Coalition members were to:

- develop consistent goals and policies and shoreline designations for shared shoreline resources
- allow the cities to pre-plan for their Urban Growth Areas (UGA)
- use a regional approach to public participation, the Inventory and Characterization and the identification of restoration opportunities
Ecology finds that the County has documented the need to amend and update its shoreline master program.

Documentation of current conditions: Seven cities (Battle Ground, Camas, La Center, Ridgefield, Vancouver, Washougal and Yacolt) and Clark County collaborated as a group (Clark County Coalition) in obtaining grant funding and developing shared documents including a comprehensive Clark County Shoreline Inventory & Characterization. The information was organized around the two major watersheds: WRIA 27 Lewis River and WRIA 28 Salmon Creek. This is presented in two volumes, with Volume 1 addressing the county as a whole and Volume 2 containing chapters focused on the urban areas.

Clark County’s SMP (CCSMP) will regulate activities along approximately 283 miles of shoreline (214 stream miles and 70 lake miles) within unincorporated Clark County and 42 miles within urban growth areas (20 stream miles and 23 lake miles). County-wide there are 60 waterbodies identified as shorelines of the state including 42 rivers and streams and 18 lakes (one lake is located entirely within Camas city limits) encompassing 370 miles of shoreline. Seven of these waterbodies are designated as Shorelines of Statewide Significance.

Upper watersheds in the county are primarily forest resource lands with residential and agricultural uses dominating the mid-portions of the watershed. Areas of increasing urban development are centered on the cities of Battle Ground, La Center and Ridgefield. Dense urban development is concentrated largely in the lower watersheds particularly along the Columbia River including Washougal, Camas and Vancouver.

The Inventory & Characterization report describes current ecological conditions of the shorelines within unincorporated Clark County and documents that critical aquifer recharge areas are widespread in both watersheds and stream flows have been impacted by groundwater withdrawals, particularly in the western portion of WRIA 28. Water quality is generally fair to good in WRIA 27 and generally poor to good in the more urbanized western portion of WRIA 28 (stormwater from urbanized lands is a significant contributor). Floodplains have been disconnected by levees and wetland areas have been impacted countywide by fills. These impacts are particularly evident along the Columbia River and Salmon, Morgan, Lacamas and Fifth Plain Creeks.

Other key impairments include the loss of riparian vegetation due to resource-based, residential and urban land uses, significant dam facilities on the Lewis and Columbia Rivers and numerous listings of fish stocks/species as threatened and/or endangered. Extensive areas of the lower Columbia River have been modified including major transportation facilities, channel deepening and routine dredging, hardened banks and port and industrial development. There are also extensive lands protected in the Ridgefield and Steigerwald Lake National Wildlife Refuges and the Shillapoo Wildlife Recreation Area.

Other important resources along Clark County’s shorelines include existing and proposed public access sites and historic and cultural resources. The County is rich in Native American archaeological resources especially along the Columbia River and within the historic floodplain. In addition, there are significant historical sites connected to Hudson’s Bay Company and the Lewis and Clark Expedition.

Ecology finds that the June 2010 Clark County Shoreline Inventory & Characterization, Volumes 1 and 2 adequately inventory and analyze the current conditions of the shorelines located in the County.
These documents synthesize existing information and were used to inform the master program update as well as provide a basis for future protection and restoration opportunities in the County’s shoreline jurisdiction. The reports appear to be consistent with the Shoreline Guideline requirements in WAC 173-26-201(3)(c) and (d).

**Shoreline Use Analysis:** As part of the Coalition’s development of the Shoreline Inventory and Characterization Report (ESA Adolfson, 2010), data was collected to address the SMP Guideline requirements¹ to project shoreline development trends and identify potential use conflicts to ensure preference is given to uses that are unique to or dependent upon a shoreline location. The County-wide analysis is contained in Volume 1, Chapter 4.

A separate report: “Assessment of Water-dependent Commercial, Industrial, and Recreational Uses for Clark County Coalition SMP Update” (BST Associates, May 2010) was also developed (Appendix D to Volume 1 of the Inventory & Characterization (ESA, June 2010). This report primarily focused on the Columbia River (which is where the majority of these uses are located) and inventoried existing commercial, industrial and recreational water-dependent uses. Estimates were made of the amount of utilized, vacant and under-utilized waterfront land and BST Associates provided a demand estimate which forecasts future demand for cargo terminals, water-dependent industry and boating access (e.g. marina moorage and boat ramps).

Regionally (including Portland and other lower Columbia ports) marine terminal facilities appear adequate to meet demand over the next 20 years in all cargo areas except autos. There does appear to be a significant need for additional marina space but it was not possible, due to lack of data, to determine the need for boat ramps and transient moorage space. Potential use conflicts are also identified in the report.

Ecology finds that the County has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201(3)(d)(ii) and WAC 173-26-201(2)(d).

**SMP provisions to be changed by the amendment as proposed:** This comprehensive SMP update is intended to entirely replace the County’s existing SMP and will regulate approximately 230 linear miles of streams and 90 miles of lake shorelines along 59 water bodies including approximately 70 miles of shorelines identified as shorelines of statewide significance.

**Shoreline Jurisdiction:** The County proposes to apply the maximum extent of SMA authorized shoreline jurisdiction to river systems in the County: the maximum of the shorelands within 200’ of the Ordinary High Water Mark or the floodway, or the full extent of the 100-year floodplain. The County is opting not to include additional land necessary for buffers for critical areas.

The definition currently used in the SMP is incomplete as it fails to include the language regarding the floodway.

Ecology finds that the SMP does not include the language defining jurisdiction as including floodways and contiguous floodplain areas 200 feet landward of the floodway.

---

¹ WAC 173-26-201 (3) (d) (ii) and WAC 173-26-201 (2) (d)
Ecology also finds that the SMP failed to specifically list the shoreline lakes and rivers that will be regulated by the updated SMP. Per WAC 173-20-044 and WAC 173-18-044, “each local government master program shall include a list...constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030(2)(d). When such master program is approved by the department...the list within the master program shall be the official list for that jurisdiction and shall supercede” the lists in WACs 173-18 and 20.

However, if the County adopts the required changes set forth in Attachment B regarding the floodway and the list of shoreline waterbodies, Ecology finds that the County has appropriately defined shoreline jurisdictional limits consistent with the Act.

Shorelines of Statewide Significance (SSWS): RCW 90.58.020 specifically calls out SSWS for special consideration declaring the “the interest of all of the people shall be paramount in the management” of these shorelines. Approximately 66 miles of county shorelines are shorelines of statewide significance including the Columbia and Lewis Rivers, portions of the East Fork Lewis and Washougal Rivers, and Merwin, Yale and Vancouver lakes.

The Shoreline Guidelines in WAC 173-26-251 requires that local master programs recognize the specific use preferences identified in the statute and provide for “optimum implementation” of the statutory policy. This is done by providing SMP provisions that implement: (a) statewide interest, (b) preserve resources for future generations and (c) give preference to uses identified in RCW 90.58.020.

Ecology finds that the SMP has adequately identified shorelines of statewide significance, includes policies for management of these shorelines in CCSMP Section 3.2 consistent with RCW 90.58.020, and includes provisions in the regulations aimed at implementing these policies. Consistent with WAC 173-26-251, the Coalition Inventory & Characterization (ESA, June 2010) identified high quality ecological resources including wetlands and anadromous fish runs, and other resources of statewide interest such as archaeological and cultural resources, existing and potential public access, and the presence of and future need for international shipping facilities. The Restoration Plan (ESA, June 2011) identifies both programmatic and site-specific restoration opportunities.

Shoreline Master Program Goals and Policies: The goals and policies contained in Chapter 3 of this SMP are consistent with all the Coalition SMPs and address the elements outlined in RCW 90.58.100 General policy goals of the act and WAC 173-26-176 Guidelines for shorelines of the state.

Ecology finds that the County has addressed the requirement to include various elements in the SMP and to establish policies per RCW 90.58.100(2) and WAC 173-26-201(2)(e).

Shoreline Designations: Assignment of shoreline environment designations is a fundamental aspect of the SMP update. Shoreline designations (the Coalition-preferred term in place of shoreline environment designations) were developed and analyzed county-wide. Designations were assigned based on ecological functions, existing and planned development patterns and on the community’s vision for the future. The process the Coalition went through is documented in the Clark County Coalition Shoreline Designation Rationale (ESA, June 2011). The following excerpt provides a brief description comparing the existing and proposed designations:

“Proposed shoreline designations developed by the Clark County Coalition are aggregated and shown in Table 1 below. Most shorelines in Clark County are proposed to be designated...
Rural Conservancy – Resource Land, followed by Rural Conservancy – Residential, and Urban Conservancy.

Table 1. Proposed Shoreline Designations

<table>
<thead>
<tr>
<th>Proposed Shoreline Designations</th>
<th>Percent (%) of County Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural</td>
<td>9</td>
</tr>
<tr>
<td>Rural Conservancy-Residential</td>
<td>18</td>
</tr>
<tr>
<td>Rural Conservancy-Resource Land</td>
<td>47</td>
</tr>
<tr>
<td>Urban Conservancy</td>
<td>16</td>
</tr>
<tr>
<td>Medium Intensity</td>
<td>2</td>
</tr>
<tr>
<td>High Intensity</td>
<td>8</td>
</tr>
</tbody>
</table>

Existing shoreline designations for Clark County, including all incorporated cities, are summarized as shown in Table 2 below. Currently, the majority of the shorelines (80 percent) of Clark County are designated as Conservancy or Rural Environments. Less than one percent of the shorelines are designated as Natural.

Table 2. Existing Shoreline Designations

<table>
<thead>
<tr>
<th>Existing SED's</th>
<th>Percent (%) Of County Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural</td>
<td>0.4</td>
</tr>
<tr>
<td>Conservancy</td>
<td>40</td>
</tr>
<tr>
<td>Rural</td>
<td>39</td>
</tr>
<tr>
<td>Urban Natural</td>
<td>0.5</td>
</tr>
<tr>
<td>Urban Conservancy</td>
<td>10</td>
</tr>
<tr>
<td>Urban (including Urban High, Medium and Low Intensity)</td>
<td>11</td>
</tr>
</tbody>
</table>

The existing and proposed designations are similar in their classification criteria, management objectives, policies and regulations:

- The proposed Natural designation is similar to the existing Natural and Urban Natural designations.
- The proposed Rural Conservancy – Residential designation is similar to the existing Rural designation.
- Rural Conservancy – Resource Land designation is similar to the existing Conservancy designation.
- Urban Conservancy has not changed from existing to proposed.
- Medium Intensity and High Intensity proposed designations are similar to the existing Urban designation.”
Clark County currently uses four (4) designations in its SMP: Natural, Conservancy, Rural and Urban.

In the locally adopted SMP, there are seven (7) proposed designations: Natural, Rural Conservancy – Resource, Rural Conservancy – Residential, Urban Conservancy (within the UGAs), Medium Intensity, High Intensity (within UGAs) and Aquatic (CCSMP, Chapter 4). Medium Intensity, while similar to the Guidelines-recommended Shoreline Residential, is proposed for those areas that are primarily residential but may also allow other types of development consistent with the SMP. The Aquatic designation applies to those areas waterward of the Ordinary High Water Mark (OHWM).

As allowed by WAC 173-26-150, all the cities are pre-designating shorelines within their adopted UGAs. The County deferred to the cities for the designations in these areas, but will continue to regulate these areas under the CCSMP until annexation.

Ecology finds that the process of evaluation used to assign shoreline designations was appropriately conducted. Ecology also finds that each shoreline designation in the SMP has a clearly stated purpose, designation criteria and policies and is adequately mapped on the County’s Official Shoreline Designation Maps. The designations provide a suitable framework for implementing shoreline policies and regulatory measures specific to each designation. Designation-specific regulations (see Use Table 6-1 and Chapter 6) have been developed that account for different shoreline conditions and assure implementation of the purpose of each environment designation and other policy goals of the SMA, and ensure protection of existing shoreline ecological functions.

General Master Program Provisions: Chapter 5 of the SMP includes policies and regulations that address critical areas (discussed separately below), archaeological and historic resources, public access, vegetation conservation and water quality, storm water and nonpoint pollution. In addition, policies and regulations focused on restoration, site planning and development, and views and aesthetics are included.

Vegetation conservation provisions are implemented through explicit regulations (CCSMP 5.7) which define that area in which native vegetation is to be retained. For Type S waters (shoreline waterbodies) in rural areas it is that area within 150’ of the OHWM, and in urban growth areas it is that area within 115’ of the OHWM. These provisions are coupled with setback standards (Table 6-1) and buffer provisions of the County’s critical area ordinances. Mitigation sequencing is required for all development.

Ecology finds that the County has appropriately included all the required general provisions in Chapter 5 of the proposed SMP consistent with WAC 173-26-221.

Critical Area Provisions: The County has chosen to adopt their critical area regulations by reference (see Section 5.3.2 which lists specific dated ordinances). These ordinances address the following critical areas: critical aquifer recharge areas, flood hazard areas, geologic hazard areas, habitat conservation areas, and wetlands.

Those elements inconsistent with the SMA and WAC 173-26 Shoreline Guidelines do not apply (see CCSMP 5.3.1(4)). However, the CCSMP is not explicitly clear about which elements are inconsistent with the SMA and Shoreline Guidelines. Because adoption by reference brings the entire ordinance into the SMP there needs to be additional clarity about those sections which are in direct conflict with
the SMA and/or the Guidelines. Attachment B - Required Changes lists those sections (reasonable use provisions) of the critical area ordinances which cannot be incorporated into the SMP.

Flood Hazard Areas: The County has recently (March 5, 2012) received their final digital Flood Insurance Rate Maps (dFIRMs) from the Federal Emergency Management Agency (FEMA). In anticipation of this effort, the Coalition used the preliminary dFIRMs for planning purposes and the information is reflected in the maps developed in the Inventory and Characterization.

In addition to the updated maps, FEMA has directed the County to revise their Flood Hazard Ordinance in order to remain in good standing in the flood insurance program. Because of this requirement from FEMA, the County has requested that Ecology adopt the new dFIRMs, which define the extent of the 100-year floodplain, as well as specific changes to their Flood Hazard Ordinance. These requested changes are reflected in Attachment C – Recommended Changes.

The proposed changes are recommended changes because they are being made in response to FEMA requirements. However, by incorporating them now, the County will ensure consistent regulations across all flood hazard areas both inside and outside shoreline jurisdiction. In addition, the County will avoid the need for an immediate amendment to their SMP.

Ecology finds, assuming acceptance of the required changes in Attachment B, that the County has adequately defined and protected critical areas as required in WAC 173-26-221(2), that the level of protection is at least equal to that provided by the County’s critical area regulations (RCW 90.58.090(4)), and that no net loss of shoreline ecological functions should be assured (RCW 36.70A.480(4)).

Shoreline Modifications: WAC 173-26-231(1) distinguishes shoreline modifications from shoreline uses by describing them as those actions “undertaken in support of or in preparation for a shoreline use.” The Guidelines further describe them as follows: “Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal.” As a general principle, WAC 173-26-231(2)(b) states that Master Programs shall “Reduce the adverse effects of shoreline modifications, and, as much as possible, limit shoreline modifications in number and extent.” (WAC 173-26-231(2)(b)). This principle reinforces the mitigation sequence (WAC 173-26-201(2)(e)) and no net loss (WAC 173-26-186(8)) requirements of the SMP Guidelines.

The County’s Shoreline Inventory & Characterization Report, Volumes 1 and 2 (ESA, June 2010) documents modifications including levees, bridges, marinas, fill, routine dredging and significant port facilities along the Columbia River. Most of the other waterbodies show impacts from increasing residential and agricultural uses resulting in loss of riparian vegetation, channelization, disconnection of associated floodplains, fish passage barriers (often culverts), dredging and fill.

Clark County’s SMP limits modifications to those “where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or structure...” and only “when impacts are avoided, minimized, and mitigated to ensure no net loss” (see CCSMP 5.1 and 6.4).

Fill waterward of the Ordinary High Water Mark is only allowed in limited instances by Conditional Use Permit (CCSMP 5.6.2(10)), new dredging is limited (CCSMP Table 6-1 and 6.4.2), and shoreline uses and developments must be located and designed to avoid the need for shoreline stabilization at the time of development and into the future (CCSMP 5.1(3)).
Shoreline stabilization for new residential development is prohibited, and for other types of development, it is limited unless need can be shown. The preference, when stabilization is shown to be needed is for softer techniques and minimizing the size and extent of new structures (CCSMP 3.9.2, 6.4.5, 6.4.7).

The SMP also proposes to limit new residential piers and docks to joint-use facilities unless no net loss can be shown, and establishes dimensional and/or performance standards that limit piers and docks to the minimum necessary. Covered moorage associated with residential development is prohibited. Commercial covered moorage is limited to areas where boat construction or repair work is the primary activity and overwater covered work areas are minimized (CCSMP 6.3.3.4(6) and (7)).

Ecology finds that the County has adequately considered and addressed shoreline modifications as required in the WAC 173-26-231. The SMP limits clearing, grading and fill to that necessary when in conjunction with an allowed use, requires that shoreline stabilization proposals show need and limits the amount of overwater coverage by restricting piers and docks and limiting covered moorage. Provisions in the SMP are crafted to reduce the adverse effects of shoreline modifications and as much as possible to limit the number and extent. Shoreline modification policies and standards are appropriate to the environment designation in which they are proposed, and preference is given to modifications that have a lesser impacts to ecological function.

Shoreline Uses: WAC 173-26-241 outlines specific common uses and types of development that can occur within shoreline jurisdiction. SMPs are to establish a system of use regulations and environment designation provisions that give preference to water-oriented uses or to uses that are consistent with the control of pollution and prevention of damage to the natural environment (WAC 173-26-201(2)(d) and 173-26-211). SMPs should also ensure provisions implement the policies of the SMA while protecting property rights, reduce use conflicts and assure no net loss of shoreline ecological functions.

The CCSMP addresses all the uses set forth in WAC 173-26. Table 6-1 identifies the allowed and conditional uses by shoreline designation and specifies setback and height standards where appropriate. Use-specific regulations are set forth in each section. In particular, the following are explicitly prohibited: speculative fill, parking as a primary use, and residential development waterward of the OHWM (see CCSMP Sections 2.3.4, 5.6.2, 6.3.9 and 6.3.11).

Ecology finds, that with required changes to include statutory definitions regarding agriculture (shown in Attachment B), the Clark County SMP adequately identifies uses common along the County’s shorelines, establishes a clear preference for water-oriented uses, accommodates water dependent uses, and clearly shows by shoreline designation, where certain uses are allowed, conditionally allowed and prohibited (see CCSMP Table 6-1).

Cumulative Impacts Analysis: Listed as a Governing Principle of the SMP Guidelines, WAC 173-26-186 (8)(d) states "Local master programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the Act." To ensure this, SMPs shall contain policies, programs and regulations that address adverse cumulative impacts, including those resulting from exempt development, and fairly allocate the burden of addressing cumulative impacts among development opportunities.
An initial Cumulative Impacts Analysis (CIA) report was developed to assess the March 2011 Coalition Draft SMP. This report took a county-wide look at possible cumulative impacts of “reasonably foreseeable future development” under the policies and regulations of the draft SMP by assessing existing conditions of Clark County shorelines, as documented in the Inventory & Characterization report as well as accounting for beneficial effects of other established regulatory programs. At the time, critical area provisions were not included in the Coalition draft SMP, and the report made clear that “a few issues must be addressed before finding that the Coalition Draft SMP will maintain existing shoreline functions: 1) the functional relationship between critical areas buffers and setbacks in shoreline jurisdiction; 2) consistency between proposed shoreline designations and the findings of the Inventory & Characterization Report in a few instances; and (3) refinement of shoreline use and modification standards in a few instances.”(ESA, May 2011)

In June 2011, a complete draft SMP was issued for Clark County. This was accompanied by a Coalition Draft CIA (ESA, June 2011) and a No Net Loss Summary memorandum (ESA, June 2011). These documents acknowledged revisions made in response to the earlier draft CIA. These revisions included designation changes that were more protective and structure setbacks adjustments, particularly in the Urban Conservancy designation. The County SMP also added clarifications and improvements in the vegetation conservation standards. The County-specific June 2011 reports found that cumulative adverse impacts from development under the proposed program were expected to be minimal. Additional recommendations were provided to assure no net loss could be maintained overtime:

- Ensuring shoreline exemptions meet the goals and standards of the Draft SMP including mitigating for impacts to shoreline functions.
- Strengthen priority and commitment to opportunities identified in the Coalition Restoration Plan, particularly focused on vegetation enhancement and restoration:
  - Revegetation of degraded riparian areas;
  - Enhancement of degraded wetlands; and
  - Preservation of associated wetlands through purchase of lands.

The February 29, 2012 No Net Loss Summary (ESA) documents how the County responded to these recommendations as follows:

- Language was added to the SMP clarifying that exempt development requires review and mitigation measures may be required for these activities.
- The County stated they have been and remain committed to restoration actions on a countywide basis and will emphasize restoration actions in the shorelines.

Ecology finds that Clark County has evaluated the cumulative impacts of reasonably foreseeable future development over the next 20 years. To assure no net loss, the County adjusted the policies and regulations and designations of the SMP to address the potential for net loss of shoreline ecological functions as identified in the March and June drafts of the CIA. The locally adopted SMP appears to fairly allocate the burden of addressing cumulative impacts among development opportunities. Ecology finds that the County’s SMP and supporting Cumulative Impact Analysis are consistent with the SMP Guideline governing principle (WAC 173-26-186(8) as well as the legislative intent of the Shoreline Management Act under RCW 90.58.
Restoration Plan: Local SMPs are required to include goals, policies and actions for restoration of impaired shoreline ecological functions (WAC 173-26-201(2)(f); WAC 173-26-186(8)(c)). Over time, the goal is for these provisions, when implemented, is to improve the overall condition of habitat and resources within the shoreline area of each city and county (WAC 173-26-201(2)(c)).

The County’s SMP includes both policies in Chapter 3 and regulations in both Chapters 5 and 6 that permit and promote restoration efforts along all County shorelines and explicitly link restoration actions to the priorities and projects set in the Clark County Coalition Shoreline Restoration Plan (ESA, June 2011).

Clark County, in coordination with the other members of the Clark County Coalition, developed a restoration plan based on the information gathered in the Inventory and Characterization (ESA, 2010). The Final Shoreline Restoration Plan (ESA, June 2011) identifies specific and programmatic restoration opportunities and actions for each watershed and waterbody. Table 2-1 of the Plan identifies suggested restoration goals, objectives, actions and success measures and Chapter 4 focuses on restoration priorities and Chapter 5, along with Appendices C and D identify restoration actions. Existing programs, partners, general timelines and benchmarks and monitoring and adaptive management strategies are also discussed in the document.

Ecology finds that the Final Shoreline Restoration Plan is based on appropriate technical information available to the County during the SMP update. The Final Restoration Plan can serve as an effective tool for the County, non-profit organizations and the public to collectively improve shoreline conditions over time. Such restoration efforts are understood to help achieve the no-net-loss standard of the SMP Guidelines (WAC 173-26-186; WAC 173-26-201)).

Amendment History and Review Process:

Amendment History: Clark County initiated a comprehensive update to their SMP as part of a collective effort with the seven (7) municipalities (the cities of Battle Ground, Camas, La Center, Ridgefield, Vancouver, Washougal, and the Town of Yacolt). The eight jurisdictions (Coalition) began coordinating through an Interlocal Agreement signed in May 2009. The County and cities pooled their grant resources (approximately $1.17 million) and work began in September 2009 consistent with a scope of work described in SMA Grant No. G1000058. The grant was managed on behalf of the entire Coalition by the City of Vancouver.

As a group, the Coalition agreed to be as consistent as possible in goals and policies across all updated SMPs, formed a Project Management Team (PMT) to guide the process consisting of representatives of all the jurisdictions, and hired a single consultant (ESA, formerly ESA Adolfson). The Coalition worked closely through June 2011 developing documents and implementing a public outreach effort on a county-wide basis. Two committees were formed: a Shoreline Stakeholders Advisory Committee (SSAC) and a Technical Advisory Committee (TAC). In addition, an Independent Science Review Panel (ISRP) was used to review the application of scientific information throughout the process. A County-wide draft Shoreline Inventory and Characterization was issued in April 2010. Ecology provided written comments in a brief memo and via comment matrices in April and May 2010. A revised Shoreline Inventory and Characterization, Volumes 1 & 2 was issued June 2010.

Other documents produced as a Coalition include: Shoreline Management Strategy, Public Participation Plan, Clark County Shoreline Restoration Plan and a Shoreline Designation Rationale.
The Coalition also produced an early draft master program in March 2011 which received extensive public comment and review including comments from Ecology. Subsequent drafts for each jurisdiction were produced in June 2011 for individual local adoption processes.

**Public Participation:** The Public Participation Plan updated quarterly, documents all public participation efforts proposed and carried out. As a Coalition, the initial three phases of the update process included workshops for all elected officials and planning commissions. These workshops were held in October 2009, April-May 2010 and October-November 2010. The record indicates that in total, the Clark County Planning Commission participated in nine work sessions, including three joint work sessions with the Board of County Commissioners and one with the Vancouver Planning Commission. The Board held eight work sessions including three joint work sessions with the Planning Commission. Coalition open houses were held in October 2009, March 2011 and August 2011. Visioning meetings were held March 2010.

**Shoreline Stakeholders Advisory Committee:** This committee included representatives with interests in ports, commercial and industrial businesses, residential development, environmental issues and shoreline property owners. A representative of the Cowlitz Tribe was also named. The SSAC held 22 meetings from October 2009 to June 2011 and focused on reviewing goals, policies, and regulations and shoreline designation maps. They met jointly with the TAC on a number of occasions and were invited to review the technical documents.

**Technical Advisory Committee:** This committee included representatives from local, state and federal resource agencies and included citizens with expertise. A representative of the Cowlitz Tribe was named on the committee. The TAC met 12 times from October 2009 to June 2011 and was tasked with reviewing the technical documents including the inventory and characterization, the restoration plan and the cumulative impacts analysis and no net loss report.

All workshops, open houses and meetings of the advisory committees were open to the public and advertised in the local papers. Mailings to shoreline property owners (>5000) and interested parties were sent out during each of the five SMP update phases. Additional presentations were provided to interest groups and a Shorelines Forum was co-sponsored by the Building Industry Association of Clark County and the Clark County Association of Realtors.

**Independent Science Review Panel:** The ISRP consisted of five scientists with expertise in hydrology, hydrogeology, habitat, ecosystem function and stream ecology. This panel focused on reviewing the science used in the technical documents.

**Project Website:** A website hosted by the City of Vancouver was created that included the project schedule, draft documents and maps, meeting notices, contact information and an e-mail link to submit comments throughout the process.

**Local Review Process:** Beginning July 1, 2011 each Coalition jurisdiction began working independently on their local adoption process. The Project Management Team continued to meet on an as-needed basis but most jurisdictions focused on their own internal decision processes.

The County indicates the proposed comprehensive SMP amendment originated from a local planning process (as part of the Clark County Coalition) that began in July 2009. The record shows that the Clark County Planning Commission held a work session September 1, 2011, and a public hearing was
Clark County - Attachment A – Findings and Conclusions
June 7, 2012

held on September 15, 2011. The record indicates notice of this hearing was published August 31, 2011. The record also indicates the Board of County Commissioners held public hearings on November 1, 2011 and November 22, 2011. The affidavit of publication indicates notice of these hearings was published in *The Columbian* on October 17, 2011.

With passage of Ordinance # 2011-11-14, on November 22, 2011, the Board of County Commissioners authorized staff to forward the locally adopted SMP to Ecology for approval.

*Ecology finds the record submitted adequately documents compliance with WAC 173-26-100 and 110.*

**State Review Process:** The County first submitted the SMP on December 1, 2011. Ecology received the final documents required by WAC 173-26-110 on February 29, 2012 and verified the submittal as complete on March 1, 2012. Notice of the state comment period was distributed to state task force members, potentially interested tribes, and interested parties identified by the Coalition and the County on March 16, 2012 (US Mail) and March 20, 2012 (email), in compliance with the requirements of WAC 173-26-120. The state comment period began on March 23, 2012 and continued through April 23, 2012. Notice was posted on the Ecology website for shoreline master programs: [http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/clark.html](http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/clark.html) and on Ecology’s Public Involvement Calendar. A link to the Ecology website was also placed on the Coalition website. Ecology staff determined a state-sponsored public hearing was not necessary.

A total of six individuals and two state agencies submitted comments on the proposed amendments during the state comment period. Ecology sent all written comments it received to the County on April 27, 2012. On May 24, 2012 the County submitted its responses to issues raised during the state comment period to Ecology.

**Summary of Issues Raised during the Ecology Public Review Process:** Comments submitted generally focused on removing Mill Pond from shoreline jurisdiction, concerns about the reduction of setbacks, impacts to property values and property rights, and data and mapping errors.

The complete record of the responsiveness summary, including Ecology’s responses to the issues raised during the comment period, are available as part of the SMP amendment process record in 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).

**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). This included review of the SMP Submittal Checklist, which was completed by the County and provided with the submittal of the locally adopted SMP.

**Consistency with SEPA Requirements:** The County 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 August 3, 2011. The record indicates notice of the SEPA determination was
published on August 3, 2011. Comments were accepted until August 17, 2011. 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 County and the Coalition in support of the SMP amendment:

These supporting documents include:

- Clark County Coalition Shoreline Management Strategy, June 2010
- Clark County Coalition Public Participation Plan, June 2011
- Clark County Shoreline Inventory and Characterization (draft) April 2010; June 2010
- Assessment of Water-dependent Commercial, Industrial, and Recreational Uses, May 2010
- Clark County Coalition Cumulative Impacts Analysis (draft) June 2011
- Clark County Cumulative Impacts Analysis (draft) June 2011
- Clark County No Net Loss Summary Memo, (draft) June 2011
- Clark County Cumulative Impacts Analysis, (Final) February 2012
- Clark County No Net Loss Summary Memo, (Final) February 2012
- Clark County Coalition Restoration Plan, (draft) October 2010, (Final) June 2011
- Clark County Coalition Shoreline Designation Rationale, June 2011

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

Defining shoreline jurisdiction: Shoreline jurisdiction and shorelands are defined in the statute. The locally adopted SMP summarized the definitions in a way that was not consistent with the Act. In addition, the Shoreline Hearings Board recently issued a decision (SHB 11-020) declaring Mill Pond in the City of Camas to be a separate and distinct waterbody that is not part of Round Lake. Mill Pond is also too small to be a shoreline of the state so the Shoreline Designation Map needs to be revised to remove Mill Pond.

*Attachment B specifies changes to Section 2.1 Applicability, the definitions for floodway and shorelands that are consistent with RCW 90.58, and the required map change.*

Listing SMA-regulated waterbodies: Shoreline jurisdictional waterbodies must be explicitly listed and mapped in the SMP (WAC 173-22-050). WAC 173-20-044 and WAC 173-18-044 require that “each local government master program shall include a list…constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030(2)(d). When the master program is approved by Ecology the list within the master program will be the official list for that jurisdiction and will supersede the lists in WACs 173-18 and 20. Waterbodies have been adequately mapped but a listing of the shoreline waterbodies was not included in the SMP through an oversight.

*Attachment B lists those waterbodies that must be explicitly identified in the SMP.*

Critical Areas: The SMP incorporated Critical Aquifer Recharge Areas by reference but had deleted the specific section. This has been reinserted. The County has also requested that we incorporate the
updated Flood Hazard Ordinance being adopted in response to new digital Flood Insurance Rate Maps recently issued by the Federal Emergency Management Agency. Finally, reasonable use provisions of the CAO’s do not apply.

Required changes addressing these issues are listed in Attachment B.

Agriculture: The statute is clear that SMP provisions regulating agriculture must be consistent with RCW 90.58.065. This includes incorporating specific definitions related to this activity.

As described in Attachment B (Required Changes), these definitions need to be added to the SMP.

Ecology finds that the proposed SMP as approved by Clark County under Ordinance No. 2011-11-14 is not consistent with the applicable SMP Guideline requirements, as specifically identified within Attachment B - Required Changes.

Ecology also finds that the proposed SMP update can be amended to ensure compliance with the SMP Guidelines through the County’s acceptance of the Required Changes listed in Attachment B.

Pursuant to WAC 173-26-120 Ecology has also identified Recommended Changes (see Attachment C) to the SMP for consideration by the County.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that Clark County’s proposed comprehensive amendment to its SMP, 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).

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 County, be included in Ecology’s approved SMP amendments.

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 County’s existing critical areas ordinance.

Consistent with RCW 36.70A.480(4), Ecology concludes that those SMP provisions relating to critical areas within Shoreline Management Act jurisdiction assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

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

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

Ecology concludes that the County'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 Clark County has chosen not to exercise its option pursuant to RCW 90.58.030 (2) (f) (ii) to increase shoreline jurisdiction to include land necessary for buffers for critical areas located 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 County’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 and their buffer areas (that don’t extend beyond SMA jurisdiction) 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 County. Ecology approval of the proposed amendments with required changes is effective fourteen (14) days from Ecology’s final action approving the amendment.

As provided in RCW 90.58.090(2)(c)(ii) the County 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 fourteen (14) days from Ecology’s final action approving the alternative/s.