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

SMP Submittal accepted August 6, 2013
City Resolution No. 13-03
Prepared by David Pater on December 23, 2013

Brief Description of Proposed Amendment:

The city of Gold Bar has submitted to Ecology for approval a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. This update replaces the City’s July 2001 shoreline master program currently in effect. This updated SMP will guide construction and development in the City’s 4.82 miles of May Creek and the Wallace and Skykomish River shorelines. The Skykomish River is a shoreline of statewide significance. The City’s shoreline is mainly residential with some natural areas and limited commercial high intensity shoreline along State Route 2. The updated SMP contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as incorporated critical areas regulations (Ordinance No. 593). Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City’s local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The current City SMP was approved by Ecology in 2001. This SMP update is also needed to address land use changes that have occurred along the Gold Bar’s shorelines over the past 12 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City’s 2005 Critical Areas Ordinance No. 593 and the City Comprehensive Plan.

Current SMP compared with Comprehensive Update

Gold Bar’s last comprehensive SMP update was in 2001. The current SMP is 111 pages and contains key policy, regulations and administrative provisions.

The updated SMP is a significant upgrade from the current 2001 SMP in two key areas. The shoreline inventory and characterization information has been effectively integrated into the SMP policies, regulations and shoreline environments, resulting in more effective management of shoreline uses and modifications. Many additional uses are included in the SMP update such as industry, boating facilities, and parking, which have specific policies and regulations that are lacking in the 2001 SMP.

General policies and regulations are similar but the update also includes detailed provisions for critical areas (wetlands) and restoration. The public access standards are more specific and extensive and include discussions on the Wallace and Skykomish Rivers and May Creek. Public access regulations also provide more direction on future public access (for example, trail standards). The vegetation conservation policies and regulations in the update have been significantly expanded and include more
specific regulations that focus on retaining existing vegetation, mitigation and restoration on City’s riverine shoreline. Critical areas regulations will be incorporated as an SMP appendix per required change number one. All the applicable standards are housed in one document which will make implementation more effective.

The State SMP Guidelines are more restrictive than the 2001 SMP. The SMP update is consistent with applicable aspects of the Guidelines. Overall, it provides excellent protection for existing ecological functions, and where appropriate restricts key uses and modifications.

Below is a comparison of key elements between the 2013 SMP update submittal and the existing 2001 SMP.

**Shoreline Environments:**

Existing 2001 SMP: Shoreline environments include Suburban, Conservancy, Rural and Natural. Chapter IV provides detailed designation criteria, management policies and environment specific regulations. No Aquatic environment is provided.

2013 SMP submittal: Five shoreline environments within City boundaries include Shoreline Residential, Urban Conservancy, Natural, High Intensity and Aquatic. Chapter 2 (Shoreline Environment Designation Provisions) is consistent with the shoreline environment map. Designation criteria and designation areas descriptions, and more detailed management policies are also included for shoreline environments. There are no environment specific regulations. The major mapping differences between 2001 and the new SMP designations are the new Aquatic environment and the High Intensity designation along State Route 2. Mapping also reflects the incorporation of key findings of the shoreline characterization, which is particularly reflected by Shoreline Residential and Urban Conservancy along opposite sides of May Creek.

**Shoreline Uses and Modification Matrix:**

Existing 2001 SMP: Table D (Shoreline Master Program Allowed Use Activities) combined shoreline uses and modifications in the matrix.

2013 SMP submittal: Table 4 (Permitted Conditional and Prohibited Uses) and Table 6 (Table of Shoreline Modifications) provide detailed use and modifications allowances and prohibitions and conditional uses that are consistent with applicable SMP regulations. Key additional uses and modifications (boating facilities forest practices, in-stream structures) are also included. The more protective shoreline environments have more use restrictions and conditional use requirements than other shoreline environments compared with the 2001 SMP. Some uses and modifications such as stabilization and transportation are broken down by sub categories, which should help with implementation.

**Development Standards Matrix:**

Existing 2001 SMP: No development standards matrix is provided. Cross referencing to older CAO is relied on solely for defining setbacks and buffers within the residential regulations. No impervious surface limits or lot widths are included.
2013 SMP submittal: Table 5 (Basic Development Standards) provides setbacks for all upland shoreline environments. Also, Table 5 outlines maximum impervious surface and minimum lot widths.

**Shoreline Uses and Modifications**

Existing 2001 SMP: SMP includes detailed policies and regulation on key applicable uses and modifications. The SMP doesn’t address a number of uses and modifications such as forest practices, in-stream structures and parking. Residential section is not comprehensive, mainly focusing on location and design.

2013 SMP submittal: Contains detailed policies and regulations for all applicable uses in SMP Guidelines. Stabilization policies and regulations provide more direction and detail. Residential policies and regulations are comprehensive, and provide much direction and detail including key cross referencing to nonconforming uses and storm water regulations. This is key, given that residential use is the predominant shoreline use on Gold Bar’s shorelines. Utilities section is broken down into primary and accessory, providing clearer direction for future development. Update also includes integrated critical areas regulations, including new sections on restoration and critical areas (including extensive wetland standards).

**Amendment History, Review Process:** The City indicates the proposed SMP amendments originated from a local planning process that began in July 2009. The record shows that two workshops open to the public were held on October 26, 2011 and February 8, 2012. The Gold Bar Planning Commission held three public meetings to review and receive SMP comments on September 28, 2010, January 11, 2011 and November 8, 2011. The City Council held two meetings to review and receive SMP comments on May 21, 2013 and June 3, 2013. A City Council public hearing was held on June 18, 2013. At this meeting the City Council also adopted the SMP update by Resolution No. 13-03. Affidavit of publication provided by the City indicates notice of the hearing was published in the Everett Herald on June 3, 2013. All City Council and Planning Commission meeting notices were posted on the City website.

With passage of City Resolution No. 13-03 on June 18, 2013, the City Council authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on August 6, 2013. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on September 19, 2013, in compliance with the requirements of WAC 173-26-120. The state comment period began on September 24, 2013 and continued through October 24, 2013. No Ecology public hearing was held. Three citizens commented. No governmental agency comments were received by Ecology.

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline
Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on March 27, 2013. Notice of the SEPA determination was published in the Everett Herald on March 27, 2013 and April 3, 2013. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- a October 9, 2009 public participation plan
- a January 17, 2013 final shoreline inventory and characterization
- a June 25, 2013 final cumulative impacts analysis
- a June 25, 2013 final restoration plan
- a June 25, 2013 no net loss summary report

Summary of Issues Raised During The Public Review Process:

City of Gold Bar Public Review Process: Oral comments were received at the City’s public hearing. Two shoreline property owners commented at the public hearing. Topics included setbacks/buffers and shoreline stabilization. No written or email comments were received.

Department of Ecology Public Comment Period: Three citizens submitted fourteen SMP comments via email. Comments focused on shoreline recreation opportunities, solid waste dumping, implementation of local regulations, environmental outreach education, and coordination between Gold Bar and the Snohomish County Health District on on-site septic system issues.

Gold Bar Response: City would like to work with citizens on illegal dumping and shoreline recreation opportunities including future trails along the Wallace River. Gold Bar would benefit from an environmental outreach program and is willing to work with concerned citizens. City acknowledges that they need to work with the Snohomish County Health District to ensure existing septic systems are working properly.

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

City and Ecology regional staff resolved the majority of draft SMP comments. There are eight minor required changes (Attachment B). Changes focus on clarifying FEMA floodplain map references and terminology, CAO exceptions, building heights and setback issues. The required changes are part of Ecology’s conditional approval.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the city of Gold Bar’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 90.58.020 and RCW 90.58.090 and the applicable SMP Guidelines (WAC 173-26-171 through 251) and (WAC 173-26-020 definition). This includes a conclusion that the proposed SMP contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c).

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

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

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, providing notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

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

Ecology concludes that the City'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 City has chosen not to exercise its option pursuant to RCW 90.58.030(2) (f) (ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City’s critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.
DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with Shoreline Management Act policy, the applicable Guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendment is effective 14 days from Ecology’s final action approving the amendment.

As provided in RCW 90.58.090(2) (e) (ii), the City 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 is effective 14 days from Ecology’s final action approving the alternative.