ATTACHMENT A
FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE OF THE KING COUNTY SHORELINE MASTER PROGRAM

SMP Submitted October 14, 2011, and Complete on December 19, 2011,
Ordinance Number 16985
Prepared by David Radabaugh on July 19, 2012

Brief Description of Proposed Amendments:

King County is proposing a comprehensive update to their Shoreline Master Program (SMP). The County has requested that the Department of Ecology approve the following:

- Shoreline Policies,
- Shoreline Regulations (including incorporated ordinances),
- Shoreline Restoration Plan,
- Environment Designation Maps, and
- Administrative Procedures.

The updated SMP Goals and Policies will reside as a chapter in the King County Comprehensive Plan. The updated regulations will reside as a chapter in the King County Code, with many provisions of the King County Critical Areas Ordinance incorporated by reference.

FINDINGS OF FACT

Need for Amendment: The proposed amendments are needed to comply with the statutory deadline for comprehensive update of the local Shoreline Master Program pursuant to RCW 90.58.080.

Amendment History, Review Process: The record indicates the proposed SMP amendments originated from a local planning process that began in 2005. The County started its shoreline planning process in 2005 with a grant from the Department of Ecology (Grant No. G0600095). King County developed technical documents including a shoreline characterization, environment designations and cumulative impacts assessment.

The King County Council Planning and Environment Committee considered the SMP from March 9, 2009 to July 27, 2010. The full King County Council considered the SMP from September 20, 2010 to November 30, 2010. The King County Executive signed County Council approved SMP on November 30, 2010.

Public Process

King County conducted a number of open houses in 2007 and 2008.
• King County held four open houses regarding the SMP at various locations around the County (Carnation, Maple Valley, Enumclaw, and Vashon Island) from February 5, 2007 to February 17, 2007.

• King County held three open houses regarding the SMP at various locations around the County (Carnation, Vashon Island, and Auburn) from June 5, 2007 to June 7, 2007.

• King County held five open houses regarding the SMP at various locations around the County (Redmond, Snoqualmie, Vashon Island, Kent, and Seattle) from October 6, 2007 to October 18, 2007.

• King County held two open houses regarding the SMP at various locations around the County (Carnation and Covington) on October 16, 2008 and October 23, 2008.

Early in the SMP process, King County engaged in outreach to Indian tribes throughout the Puget Sound region.

The King County Council held public hearings for the SMP on June 29, 2010 and September 20, 2010.

During the development of the SMP, the County received comments from property owners and their representatives, environmental organizations, government agencies, tribes, and various individuals.


King County issued a Determination of Nonsignificance for the SMP on August 26, 2010. With passage of Ordinance 16985, on November 30, 2010, the County authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on October 14, 2011, 2010. The submittal was found incomplete on December 1, 2011. Submittal of additional information was made on December 19, 2011. The SMP submittal was verified as complete on January 12, 2012. The state comment period began on February 14, 2012 and continued through March 16, 2012. Notice of the public comment period was provided in the February 13, 2012 edition/s of the Seattle Times, the County official newspaper of record. Notices were mailed to interested parties on February 9, 2012. Seven individuals or organizations submitted comments on the proposed amendments. Ecology sent all oral and written comments that it received to the County on March 22, 2012. On July 13, 2012, the County submitted to Ecology its responses to issues raised during the state comment period. Ecology’s own responses to
issues raised during the comment period are available as part of the SMP amendment process record.

**Consistency with Chapter 90.58 RCW:** The proposed amendments have 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 County has also provided evidence (see above) of its compliance with SMA procedural requirements for amending an SMP contained in RCW 90.58.090.

**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 -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the County.

Ecology reviewed SMP Inventory and Characterization Report, the Restoration Plan, and Cumulative Impacts Analysis for consistency with the Guidelines. Ecology reviewed the SMP goals, policies, regulations, environment designations, maps, administrative provisions, definitions, and legal provisions for consistency with the Guidelines.

The Inventory and Characterization Report, the Best Available Science Analysis, and shoreline regulations and adopted sections of the Critical Areas Ordinance provide a foundation for the environment and buffer system contained in the SMP. The SMP contains provisions for shoreline environments, archaeological and historic resources, critical areas, flood hazard reduction, public access, shoreline vegetation conservation, shoreline stabilization, piers and docks, fill, and dredging. Shoreline habitat and natural systems enhancement is addressed through the restoration plan, and buffer requirements.

The SMP also addresses uses that could be relevant to the King County shoreline including aquaculture, boating facilities, commercial development, recreational development, residential development, transportation, and utilities. The SMP is also addresses shorelines of statewide significance.

**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 for the proposed SMP amendments on August 25, 2009. Ecology did not comment on the DNS.

**Other Studies or Analysis supporting the SMP update:** Ecology reviewed the following reports, studies, map portfolios and data prepared for the City/County in support of the SMP amendment:

- Draft King County Technical Appendix dated December 2006
- Draft King County Technical Appendix dated May 2007
- Shoreline Restoration Plan dated October 2007
- Shoreline Restoration Plan dated October 2008
- Shoreline Restoration Plan dated November 2010
Summary of Issues Raised During The Public Review Process: There was on-going public interest expressed during the County's SMP amendment drafting/public review process. Ecology conducted a formal public comment period during its review of the SMP. Issues raised during the Ecology comment period have been addressed in a responsiveness summary. Debate centered on the following topics:

Non-Water Dependent Uses

One comment is concerned that the SMP is too permissive with regard to non-water dependent uses. King County agreed to modify the language in the SMP.

High Intensity Aquaculture

One comment expressed concern that high intensity aquaculture could occur in the Maury Island Aquatic Reserve. King County contends that the SMP regulations are consistent with the Maury Island Aquatic Reserve Management Plan.

Ports

One comment expressed concern that ports were an unclassified use. King County contends that the individual commercial use is classified.

Sea Level Rise

The King County SMP does contain policy advice to consider sea level rise. However, the regulations do not contain specific standards for new development. Such standards are not required by the Guidelines.
Shoreline Designations

During the King county review process, numerous commenters advocated for designating a portion of Maury Island Natural. The area in question contains a significant reach with an ecologically intact shoreline. Construction for a permitted pier designed for off-loading gravel from a mining operation began during the SMP development process. The issue continued to be contentious until King County agreed to purchase the property.

Summary of Issues Identified by Ecology as Relevant To It’s Decision:

Identification of Shorelines of the State

The SMP needs to list all shorelines of the state within King County. This requirement shall be a required change.

Commercial Salmon Net Pens

The adopted SMP prohibits commercial salmon net pens. Commercial salmon net pens are a Water dependent use preferred by the Shoreline Management Act. Therefore, a change is being required to allow commercial salmon net pens as a conditional use. Additional approval criteria have been developed for this use.

Incorporation of Critical Area Ordinance Sections

The SMP incorporates the substantive standards of King County's existing Critical Areas Ordinance. This results in shoreline buffers of 165 feet in rural areas and 115 feet in Urban Growth Areas.

Residential Expansion in Buffers

King County proposes to allow up to a 1,000 square foot expansion of existing residence in shoreline buffers. While Ecology generally accepts the concept, concern remains that encroachments within 50 feet of the Ordinary High Water Mark may be detrimental to shoreline functions.

King County's Best Available Science Assessment of its Critical Areas Ordinance completed in 2004 noted at page 2-30 that "there is no specific BAS for allowed alteration, per se. However, many of the allowed alterations are ongoing or new incursions into buffers and aquatic areas. These incursions would tend to fragment habitats." The assessment also notes that an "expansion of an existing road or residential land use, the impact is limited by requirements that limit the
size of expansion and that require such expansions occur away from a critical area or its buffer."
While existing King County Code requires residential expansions in buffers to expand in the area with the least adverse impact on the critical area, it can allow for residential expansions to move closer to the critical area.

In order to limit the impacts residential additions, a required change will limit additional encroachments to no closer than 50 feet (35 feet in the case of a small addition to an existing single family residence) of the Ordinary High Water Mark unless a shoreline variance is approved. This will allow for County approval of many residential additions in a buffer but limit expansions near the shoreline itself.

**Channel Migration Zone Mapping**

King County has not completed mapping of all of its channel migration zones. A condition has been added to require mapping of channel migration zones that have not yet been mapped.

**Shoreline Environment Maps**

The electronic version of the shoreline environment maps is in need of clean-up. This clean-up will be a required change.

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County’s SMP proposal, 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 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 master program amendments (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.
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 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 SMP 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 WAC 173-26-120.

Ecology concludes that the County 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 all 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 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 (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 are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules. This comprehensive update of the King County SMP shall become effective 14 days from Ecology's final action approving the SMP.