ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENTS TO THE CITY OF PATEROS
SHORELINE MASTER PROGRAM

SMP Submittal June 12, 2012, Resolution No. RES 2012-07
Prepared by Clynda A. Case, on August 27, 2012

Brief Description of Proposed Amendments:

The City of Pateros is proposing a Comprehensive Update (amendment) to their Shoreline Master Program (SMP). This is the first amendment since their amendment. Pateros is located at the southwest corner of Okanogan County at the juncture of two rivers – the Columbia River and the Methow River. The City has included important critical areas standards, such as wetlands, geohazards and flood protection standards, directly into their SMP. These standards have been balanced with current development patterns and future projected uses of the shoreline as well as identification of shoreline restoration opportunities.

FINDINGS OF FACT

Need for Amendment: The proposed comprehensive update is needed to comply with the statutory deadline for a comprehensive update of the SMP. The proposed amendments will also remedy inconsistencies among the SMP, zoning ordinance and comprehensive plan. It has been 21 years since Pateros completed a thorough review and update of their shoreline protection measures. During that period, better scientific studies have been developed on the subjects of critical areas, wetland and riparian functions, nearshore processes, and landscape/ecosystem analyses. The county and city determined that better scientific information required a new inventory and analysis of its shoreline resources. This submittal reflects the result of completing the new comprehensive inventory and analysis.

SMP Provisions To Be Changed By The Amendment As Proposed: The submittal is a comprehensive SMP update designed to satisfy the SMP guidelines requirements (WAC 173-26) and replace the existing SMP in its entirety.

Amendment History, Review Process: The city indicates the proposed SMP update originated from a local planning process that began in June 2006. From 2006 through early 2010, the Pateros Planning Commission received periodic briefings on the regional SMP update process that was ongoing with city and county planning officials and a citizen’s advisory committee. The citizen’s advisory committee was a diverse group of people selected by a panel of elected officials representing the cities of Brewster, Okanogan, Omak, Oroville, Pateros, Tonasket, Twisp, Winthrop as well as rural Okanogan County. Other representatives were selected from the public to represent a wide variety of interest groups and users of the shorelines. In addition, the committee included representatives from various state agencies and public utility districts. Representatives from local Tribal Nations were also invited and did participate. Staff members from each of the participating jurisdictions are actively involved to provide staff recommendations and serve as resources for the committee.

The city council had opportunities to discuss the efforts at nearly every monthly meeting. In late spring 2010, the City council group began a chapter-by-chapter review, hosted two public
information sessions which resulted in modifications to the original draft presented to the public. The Pateros Planning Commission/Planning Council reviewed and discussed the updated SMP during regular monthly meetings. The City Council passed a resolution of intent (RES 2011-04) to adopt the document, contingent on required changes provided by Dept. of Ecology. SEPA notice was sent to agencies and Notice was given for the opportunity to comment in the Okanogan Valley Gazette Tribune with SEPA ending June 7, 2011. With passage of Resolution RES 2011-04 the City authorized staff to forward the proposed comprehensive update to Ecology for approval. With passage of Resolution RES 2012-07 to forward a revised SMP to Ecology for approval

The proposed SMP update was received by Ecology for state review and verified as complete on June 30, 2011. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on August 23, 2011 in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 25, 2011 and continued through September 23, 2011. No comments were received during the comment period. Based on Ecology review, Ecology provided the City a draft copy of necessary changes and recommended changes January 24, 2012. The City revised its SMP and submitted the revised SMP to Ecology June 12, 2012. Based on amendments to the SMP, yet lack of public comment, Ecology decided to hold a second shortened public comment period July 26 – August 10, 2012 2011 in compliance with the requirements of WAC 173-26-120.

**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 City 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 City.

**Consistency with SEPA Requirements:** The City submitted evidence of SEPA compliance in the form of a SEPA checklist. The notice of the SEPA determination was published in the Methow Valley News on Sept 22, 2010 and the city issued a Determination of Non-Significance for the proposed SMP amendments on April 1, 2011. Ecology did not comment on the DNS.

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

- a July 2007 public participation plan,
- a June 2008 shoreline inventory and characterization,
- a February 2010 cumulative impacts analysis,
- a June 2008 shoreline use analysis,
- a February 2010 restoration plan,
• a May 2010 Public Access Map,
• 2006 Methow River Channel Migration Zone Study

Summary of Issues Identified by Ecology as Relevant To Its Decision:
Legislative updates to RCW 90.58 effective July 22, 2011 made changes regarding residential as non-conforming uses become an option for the city as a recommended change.

Primarily, the revised SMP submitted to Ecology June 12, 2012 resulted in an SMP where the critical area protections were incorporated directly into the SMP and removing Appendix C – Critical Area Standards, making it a document easier to interpret for City and Ecology staff.

CONCLUSIONS OF LAW

After Ecology’s review of the complete record submitted, Ecology concludes that the City’s SMP proposal 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 and WAC 173-27, including definitions). This review includes the 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 master program amendments (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 that results in no net loss and at least equal to that provided by the City’s existing critical areas ordinance.

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 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, 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 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 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 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 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 are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules.

The effective date of the SMP shall be fourteen days from this written notice of final action to the local government stating the department has approved the City’s proposal.