June 28, 2012

Ted Sturdevant, Director
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Snohomish County Final Action on Shoreline Management Program

Dear Mr. Sturdevant,

On June 6, 2012, Snohomish County Council took final action to update the Shoreline Management Program (SMP), adopting all of the required and recommended changes as attached to the February 28, 2012, letter of conditional approval from Ecology with some minor alternative language to a few of the required changes. In each case, Council’s alternative language maintained Ecology’s intent and merely made some adjustments for consistency with RCW language or for internal consistency between sections within the SMP to fully implement Ecology’s intent. County staff worked with Ecology staff to reach agreement on alternative language prior to transmitting the adopting ordinance to Council. Council adopted alternative language for the following required changes:

- **#4 – Boathouse Regulations.** The required change alters the construction standards for boathouses and changes the use restrictions in the Urban Conservancy and Resource environments in the use and modification matrix. Additional language is proposed in SMP section 30.67.515(2) to correspond to the required changes in the matrix to fully implement Ecology’s intent.

- **#5 – Agricultural exemption from shoreline substantial development permit requirement.** Ecology’s intent with this required change was to precisely reflect language from the SMA. Three key words were inadvertently omitted from Ecology’s required change. This omission incorrectly reverses the meaning of the code. The alternative proposal would re-insert the missing words, “other than that” between the words “filling” and “which” in subsection (ii) of Ecology’s required change.

- **#10 – Manure lagoon setback.** As written in Attachment B, Ecology’s required change would require that manure lagoons be setback 150 feet from any Shorelines of the State. “Shorelines of the State” is defined as the entirety of the lands, floodplains, wetlands and waters under jurisdiction of the SMA. However, Ecology’s intent was to increase the required setback to 150 feet from the water body, not from the entirety of the shoreline jurisdiction.
After discussion with Ecology it was determined that the following language accurately reflects their original intent:

“... the toe of the dike of a manure lagoon shall be set back from the water bodies used for recreation as much as possible, and at a minimum shall maintain a 150-foot setback from the OHWM of any river, stream, lake, marine waters or estuary regulated under the Shoreline Management Act.”

- **#13 – Aquaculture in critical saltwater habitats.** When reviewing the proposed alternative language for required changes #17 and 18, shellfish experts at Ecology suggested inserting the word, “in” into the provision in SCC 30.67.510(1)(a) to read, “New shellfish aquaculture activities shall not be located in nearshore critical saltwater habitats except for in existing commercial shellfish beds, ...”

- **#16 – Aquaculture in critical saltwater habitats.** When reviewing the proposed alternative language for required changes #17 and 18, shellfish experts at Ecology suggested inserting the word, “existing” into the footnote for the use and modification table in SMP section 30.67.440(4) to read, “Uses or modifications are not allowed in critical saltwater habitats other than existing commercial shellfish beds, ...”

- **#17 – Aquaculture provisions in shoreline use matrix.** Ecology’s required changes to the SMP use matrix do not match the language used in the required changes to the specific use regulations for aquaculture in required change #18. Alternative language avoids this internal inconsistency within the code by using the same terms in the matrix as used in required change #18. The alternative language also includes adjustment to the definition of aquaculture to differentiate between cultivation, commercial and non-commercial/recreational aquacultural activities consistent with the Ecology’s discussion of the rationale supporting the required change.

- **#18 – Aquaculture provisions in the specific use regulations.** Alternative language reflects the environment-specific use regulations as required by Ecology but uses the term “permitted” instead of the term “allowed” to maintain internal consistency with the use matrix. Because non-commercial/recreational aquaculture is specifically addressed in the required code changes, the alternative language also clarifies provisions for the recreational fishery on Spada Lake in the Municipal Watershed Utility environment. Recreational opportunities and access to the lake are required as part of the utility purveyor’s Federal Energy Regulatory Commission (FERC) license.

Council adopted all of Ecology’s recommended changes. Ecology did not include specific language for recommended change #1, instead providing direction for the county to draft a map disclaimer highlighting jurisdictional issues related to tidelands on the Tulalip Indian Reservation. To implement this recommendation, the county met with representative from the Tulalip Tribes and relied on language in the current Shoreline Management Master Program as a starting point to explain these jurisdictional issues. The new disclaimer language and an expanded discussion in the SMP (section 2.5, pg. 32-33) provides an acknowledgment of the issues but does not provide resolution of this jurisdictional dispute. In addition, maps 25, 26, 27, 37, and 38 have been revised to remove the Aquatic designation from Reservation tidelands adjacent to tribal lands. The Aquatic designation remains on Reservation tidelands adjacent to non-tribal lands. Because these changes
were not included in the ordinance that was transmitted to Council in April, 2012, these changes related to Reservation tidelands were adopted via two amendments proposed at the hearing.

At the hearing, Council also adopted two additional amendments both dealing with technical issues. The first amendment was to correct typographical errors in the ordinance and the second was to revise fees for formal exemption letters and for shoreline permit renewals or revisions.

The County is very pleased to have reached this final stage and is very appreciative of the time spent and cooperative, collaborative support from Ecology staff through this process. We trust that this final action by the County Council fulfills the requirements of the Shoreline Management Act and meets all of the conditions for final approval for our SMP as outlined in your letter of February 28, 2012.

Sincerely,

PETER B. CAMP
Executive Director

Aaron G. Reardon
Snohomish County Executive

cc: Snohomish County Council
    Brian Parry, Executive’s Office, Snohomish County
    Clay White, Planning and Development Services Director, Snohomish County
    Justin Kasting, Prosecuting Attorney, Snohomish County

Attachments: Ordinance No. 12-025 – Shoreline Regulations
              Exhibit A – Shoreline Management Program
              Exhibit B – Shoreline Maps (on CD)