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

SMP Changes, accepted as passed, in Resolution 12-1039
Prepared by Sara Hunt on January 8, 2013

Brief Description of Proposed Amendment

Spokane County has submitted to Ecology a comprehensive update to their Shoreline Master Program (SMP). On September 21, 2012, Department of Ecology Director Ted Sturdevant sent a conditional approval letter to the Spokane County Board of County Commissioners Chairman Todd Mielke. On December 11, 2012, the Spokane County Board of County Commissioners took final action to update the Spokane County Shoreline Master Program, adopting all of Ecology’s required changes with proposed alternative language to some of the required changes. The proposed alternative language is included in Attachment B1 (Addendum). Ecology has reviewed these alternatives and finds them consistent with Shoreline Management Act policy, the State SMP guidelines and with the purpose and intent of Ecology’s September 21, 2012 conditions of SMP approval.

FINDINGS OF FACT

On December 11, 2012, the Spokane County Board of County Commissioners took final action to update the Spokane County Shoreline Master Program, adopting all the required changes as attached to the September 21, 2012 letter of conditional approval from Ecology with minor alternative language to some of the required changes. The alternative language adopted by the Board of County Commissioners consist of 27 text revisions, were made in consultation with Ecology and County staff, and are necessary to comply with RCW 90.58 and the SMP Guidelines in WAC 173-26. Ecology and County staff worked collaboratively to develop the alternative language by consensus and provided the alternative language to the Board of County Commissioners to consider in their deliberations. The alternative language was incorporated into the Board of County Commissioners adopted Shoreline Master Program in Resolution #12-1039.

• #1 and #2 – Section 5.2.6 Protecting Channel Migration Zones. Additional language is proposed in SMP Section 5.2.6.2 to ensure that public safety concerns are considered in the design and construction of public utilities and structures. Additional language is proposed to Section 5.2.6.6 to clarify that emergency actions are exempt from obtaining a substantial development permit, but the emergency action must be review by a licensed geologist or professional engineer and that appropriate permits must be obtained after-the-fact.

• #3 and #4 – Section 5.2.7 Channel Modifications. The proposed alternative language will allow protection and maintenance of existing public roads and trails which are located within channel migration zones.
• #5 – Section 5.3.1.3 Agriculture. A minor edit is made to correct the reference to Table B, which addresses buffers.

• #6– Section 5.3.9.1.a Utilities. Alternative language is proposed to this section to allow for limited circumstances where it is not technically feasible to locate stormwater facilities outside of the designated buffer.

• #7 – Section 5.3.9.1.b-l and 2.a-c Utilities. Alternative language was proposed for this section to clarify intent of the language and to provide consistent use of the terms pipelines, cables, and transmission lines. 1.c and h clarify that it may be necessary and to allow for removal of vegetation during construction, such as burying a pipeline. The intent of this policy is to avoid permanent clear cut corridors through the shoreline. 1.e. and 2.b.and c. simply clarify and provide specificity to the use of the term “pipelines”, and to ensure that water utility pipelines are allowed as intended. 1.k. clarifies the policy applies to buried utility pipelines or cables (such as water, electrical, or communication). 2.a. clarifies that utility pipelines which cross streams may be constructed below the streambed.

• #8 – Section 5.3.12.1.i Roads, Railroads and Bridges. Section 5.3.12.1.i is amended to ensure consistency with Section 5.3.15. which provides for fill where necessary for public projects, such as repair and maintenance of existing roads and trails.

• #9 – Section 5.3.13 Archeological Areas and Historic Sites. A new Section 5.3.13.1.a is added to comply with the requirements of WAC 173-26-221(1)(c)(ii) which requires a site inspection or evaluation by a professional archaeologist in coordination with affected Indian Tribes before construction may begin where permits are issued in areas documented to contain archaeological resources.

• #10 – Section 5.3.14 Recreation. Section 5.3.14.e is added to be consistent with paragraph 2.3 for Natural Environments. This section clarifies where trails may be permitted within the buffer in All Environments.

• #11 – Section 5.3.14 Recreation. Section 5.3.14.2.e is added to ensure consistency with Section 5.2.5.5 and for ease of implementation. This section clarifies where trails may be permitted within the buffer in the Natural Environment.

• #12 and #13 – Section 5.3.15 Fill. Alternative language is proposed to Sections 5.3.15.1.a, 1.f, 2.a., 3.a, and 3.a.ii to allow for circumstances where some fill might be necessary for public projects, such as repair and maintenance of existing roads and trails.

• #14 – Section 5.3.16 Dredging. Alternative language is proposed to this section to clarify the intent of allowed dredging for public purposes, and to be consistent with the changes in Section 5.3.15 Fill.

• #15 – TABLE 5A. Use and Development Matrix. This table is corrected to correspond with the intent of Section 5.3.9.2.a Utilities.

• #16 – TABLE 5A. Use and Development Matrix. The table is amended to be consistent with the language revisions under Section 5.3.15 Fill (see numbers 12 and 13 above).
• #17 - **TABLE 5B. Buffer, Bulk, and Dimensional Matrix.** This minor edit is proposed to correct an error in the Table to be consistent with Table 5A regarding Primary Parking in the Urban Conservancy and Shoreline Residential Environments.

• #18– **Section 6.4.2. Uses and Developments Exempt from the Requirement for a Substantial Development Permit.** The language from RCW 90.58.030(3)(e) is added to this section for ease of implementation and to ensure that the exemption for developments under the dollar threshold set by Office of Financial Management are provided for in the Shoreline Master Program.

• #19– **Section 8.4.A Application of the Critical Area Ordinance (CAO) and Flood Damage Protection Ordinance Regulations within the Shorelines of the State.** This change is made to the last sentence to ensure the most recent version of the CAO (March 22, 2011) is adopted by reference into the Spokane County SMP.

• #20– **Section 8.4.A Application of the Critical Area Ordinance (CAO) and Flood Damage Protection Ordinance Regulations within the Shorelines of the State.** The Board of County Commissioners did not accept this change proposed by staff because the language is redundant to the provisions of the CAO and would add confusion to the SMP.

• #21– **Section 8.4.4 Application of the Critical Area Ordinance and Flood Damage Protection Ordinance Regulations within the Shorelines of the State.** The alternative language will now ensure the SMP incorporates the public trails provision of the Critical Area Ordinance because the most recent CAO language adopted by Spokane County is now consistent with the revised language in the SMP under Sections 5.2.5.h, i, and j.

• #22– **Section 10.2 Shorelines of Statewide Significance.** A minor edit is made to correct the spelling of the word “dam”.

• #23-26 **Section 11 Definitions.** The alternative language proposed will complete the definition of the term “passive recreation”, which was left dangling by mistake; and will include new definitions for the terms “stormwater facilities”, “substantial development”, and “utilities”.

• #27 **Appendix I Critical Area Ordinances.** A correction is made here to reference the March 22, 2011 revised Critical Area Ordinance, consistent with the changes made to Section 8 of the SMP.

• #28 **Section 11 Definitions.** Alternative language is added to the definition of “Native plant community” to allow flexibility in the selection of plants approved for restoration or mitigation. The term “Native” does allow for plants that naturally occur in Spokane County.

Consistent with RCW 90.58.090(2)(e)(ii), Spokane County’s proposed alternative language provided in Attachment B1 (Addendum) is consistent with the Shoreline Management Act and the Guidelines and the purpose and intent of Ecology’s original changes identified within Ecology’s September 21, 2012 conditional approval. Therefore, Ecology accepts the county’s alternatives.
CONCLUSIONS OF LAW

Protecting Channel Migration Zones: The alternative language remains consistent with WAC 173-26-201(3), WAC 173-26-221, WAC 173-26-231, WAC 173-26-241(3)(k), (l) and the Shoreline Management Act.


Agriculture: The alternative language remains consistent with WAC 173-26-241(3)(a) and the Shoreline Management Act.

Utilities: The alternative language remains consistent with WAC 173-26-201(3), WAC 173-26-231(3)(c) and (f) and the Shoreline Management Act.

Roads, Railroads and Bridges: The alternative language remains consistent with WAC 173-26-241(3), WAC 173-26-231(3)(c) and (f) and the Shoreline Management Act.

Archeological Areas and Historic Sites: The alternative language remains consistent with WAC 173-26-221 (1)(c)(ii) and the Shoreline Management Act.

Recreation: The alternative language remains consistent with WAC 173-26-201(3), WAC 173-26-221(4) and (5), WAC 173-26-241(1), (2),(3) (i-j), and the Shoreline Management Act.

Fill: The alternative language remains consistent with WAC 173-26-201(3), WAC 173-26-231, WAC 173-26-241(3) and the Shoreline Management Act.

Dredging: The alternative language remains consistent with WAC 173-26-201(3), WAC 173-26-231, WAC 173-241(3) and the Shoreline Management Act.

TABLE 5A. Use and Development Matrix: This change ensures consistency between the use regulations and Table 5A. The alternative language remains consistent with WAC 173-26 and the Shoreline Management Act and ensures that clear, consistent policies are provided.

TABLE 5B. Buffer, Bulk, and Dimensional Matrix: This change ensures consistency between the use regulations and Table 5B. The alternative language remains consistent with WAC 173-26 and the Shoreline Management Act and ensures that clear, consistent policies are provided.

Uses and Developments Exempt from the Requirement for a Substantial Development Permit: The alternative language remains consistent with WAC 173-26 and the Shoreline Management Act and ensures that clear, consistent policies are provided.

Application of the Critical Area Ordinance (CAO) and Flood Damage Protection Ordinance Regulations within the Shorelines of the State: This change remains consistent with WAC 173-26-201(3), WAC 173-26-221(2) and the Shoreline Management Act and ensures that the most current version of the Critical Area Ordinance and Flood Damage Protection Ordinance are incorporated into the SMP.
**Shorelines of Statewide Significance**: This change corrects a spelling error and remains consistent with WAC 173-26 and the Shoreline Management Act.

**Definitions**: The alternative language remains consistent with WAC 173-26 and the Shoreline Management Act and ensures that clear, consistent policies are provided.

**Appendix I Critical Area Ordinances**: This change remains consistent with WAC 173-26-201(3), WAC 173-26-221(2) and the Shoreline Management Act and ensures that the most current version of the Critical Area Ordinance and Flood Damage Protection Ordinance are incorporated into the SMP.

**DECISION AND EFFECTIVE DATE**

Ecology approval of the County’s proposed comprehensive SMP amendment is effective 14 days from the date of the Ecology Director’s letter accepting the County’s alternative changes.