TESTIMONY AND WRITTEN PUBLIC COMMENTS:
SHORELINE MASTER PROGRAM UPDATE
COMMENTS/TESTIMONY RECEIVED FEBRUARY 4 – APRIL 4, 2016

Name	***Organization***	***Method***
Andrews, Scott	Swinomish Indian Tribal Community	Letter (4/1/16)
Attemann, Rein		Email (4/1/16)
Bright, Kevin	American Gold Seafoods	Email (4/4/16)
Brown, Michael	GIPAC	Testimony
Bueing, Wally & Betty		Email (3/14/16)
Bynum, Ellen	FOSC	Testimony + letters (3/15 & 4/4/16)
Chriest, Jackie		Testimony
Christensen, Dave		Testimony
Clark, Dennis		Testimony
Clark, Don	Skagit River Resort	Letter (2/24/16)
Clark, Edith		Email (4/3/16)
Claus, De Anna		Testimony
Colamatteo, Donna		Email (4/3/16)
Cole, Wendy	WDFW	Email (4/4/16)
Colton, Tim		Email (3/12/16)
Davis, Jan		Testimony + letter (4/4/16)
Dewey, Bill	Taylor Shellfish Farm	Testimony + email (4/4/16)
Dibble, Robb		Email (3/16/16)
Ehlers, Carol		Testimony + map (3/15/16) + letter (4/4/16)
Eustis, Jeffrey	Lake Cavanaugh Improvement Association	Testimony + emails (3/15 & 4/4/16)
Flores, Hugo	DNR	Email (4/4/16)
Fox, Nancy	GIPAC	Testimony + letter (3/15/16)
Fritzen, Bob	DOE	Email (4/4/16)
Geivett, Gwen		Email (3/12/16)
Geivett, Joe		Testimony + emails (3/16 & 3/22/16)
Good, Randy		Testimony
Good, Randy & Aileen		Letter (3/15/16)
Hagland, Gary		Testimony + email (4/4/16)
Hamburg, Daryl	Dike District 17	Email (3/24/16)
Hamburg, Daryl	Dike Districts 1, 3, & 17; Dike & Drainage District 22	Email (4/4/16)
Havens, Dyvon Marie		Email (4/4/16)
Hyatt, Tim	Skagit River System Cooperative	Letter (4/4/16)
Katte, Dennis		Email (3/15/16)
LaSorella, Brenda		Testimony + email (3/13/16)
LaSorella, Jeff		Testimony + email (3/16/16)
Lipscomb, Brian		Testimony + email (4/4/16)
McCullough, Bob		Email (3/16/16)
Mitchell, Roger		Email (4/4/16)
Morris, Boshie		Email (4/1/16)
Munsey, Connie		Testimony

TESTIMONY AND WRITTEN PUBLIC COMMENTS:
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Palmer, Joan		Email (3/11/16)
Pederson, Roger		Email (3/31/16)
Pellett, Howard & Carol		Email (4/2/16)
Perry, Irene & Manns, Timothy	Skagit Audubon Society	Email (4/4/16)
Pugerude, Dan	Lake Cavanaugh Improvement Association	Email (3/15/16)
Robison, Renee		Email (3/21/16)
Rooks, Hal	GIPAC	Testimony + letter (3/15/16)
Rose, John & Patty	GIPAC	Email (3/15/16)
Rose, Valerie		Email (4/4/16)
Scott, Lori		Email (4/4/16)
Stauffer, Ed		Testimony + email (4/4/16)
Stein, Jonathan		Email (4/2/16)
Theodoratus, George		Letters (4/4/16)
Trohimovich, Tim	Futurewise	Emails (3/14 & 3/15/16)
Wagner, Rich		Testimony + email (3/13/16)
Wold, Kurt		Email (3/14/16)

The following partial comment was received after the written public comment period was closed. It was meant to be included as page 5 of the comment letter received on April 4, 2016.

Name	***Organization***	***Method***
Bynum, Ellen	FOSC	Letter (4/4/16)

SWINOMISH INDIAN TRIBAL COMMUNITY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
11430 Moorage Way • La Conner, WA 98257
Phone 360-466-7280 • Fax 360-466-1615

March/ 29 / 16

Comments on the Skagit County Shoreline Master Program Update

Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Re: Comments on the Draft Skagit County Shoreline Management Plan Update

These comments from the Swinomish Department of Environmental Protection will focus on two specific areas as related to the draft SMP update:

1) Sea Level Rise - A critical component for future shorelines, was not mentioned or addressed, and

2) The SMP as applied to fee simple owners on the Swinomish Reservation.

While the Tribe's interests include a number of additional topics related to this Plan, many of those are addressed in more detail in comments by Tim Hyatt of the Skagit River Systems Cooperative, a consortium representing the Swinomish and the Sauk-Suiattle Tribes.

Sea Level Rise

The Skagit County Shoreline Management Plan, to have any relevance for the future, must address Sea Level Rise (SLR) associated with global climate change. The science on SLR is clear and undeniable. While there are still legitimate differences over the rate of SLR and projected levels within given periods of time, there is no legitimate fact-based arguments that it is not occurring. Governments, including Skagit County, can no longer afford to ignore this looming problem which cuts across many aspects of shoreline management and will eventually be the driving issue within this field. The impacts of sea level rise are already beginning to be felt in the County. The March 2016 windstorm impacted many properties along the shoreline, flooding homes, destroying bulkheads, banks and access stairs. Such damage and greater will become more frequent as sea levels rise. The longer governments, including Skagit County, take to begin to address this issue through adaptation approaches, the harder and more expensive responses will have to be.

While not yet a required element per se in SMP updates, Washington Department of Ecology has produced an appendix to the SMP guidelines to assist local jurisdictions with incorporation of sea level rise into Plans as well as a guidance document by WDOE on Climate Change Adaptation planning which includes a chapter on SMP updates.

Cumulative Impacts

Ignoring Sea Level Rise will lead to net loss in ecological function of shorelines. Even if there were no additional development or armoring of shorelines, which seems unlikely given the exemptions in place, existing armoring will increasingly squeeze out functioning shorelines between rising tides and walls of rock and concrete. The cumulative impacts report that supports this plan ignores this point. The report, by the Watershed Company, concludes that there will be no net loss from existing and future development allowed under this plan. While that in it's self is questionable, the outcome is a net zero loss for the factors they considered. Since SLR was not considered, and will result in significant additional loss of function from currently existing armoring that was not accounted for in the report, the report is therefore inaccurate and insufficient as it greatly underestimates the impacts of "on-going degradation from existing development."

Flood Hazard

Coastal flood hazard was not adequately addressed in the Plan. Flood hazard will increase from coastal flooding of low-lying areas during high tides and wind driven storm surges as happened recently in some areas within the County. These incidents will become more frequent with sea level rise and some areas with homes today are at risk for frequent to permanent inundation in the foreseeable future. While federal rules have not required flood insurance for coastal flooding in the past, that appears to be changing. There are now published FEMA flood maps indicating areas of County marine shorelines at risk. Generally, they are quite similar, at least for areas on the Swinomish Reservation, to such risk areas identified in the Tribe's Climate Change Adaptation Technical Report and Action Plan (2009 and 2010 respectively).

Latest Best Available Science

There is a massive amount of the "latest best available science" on sea level rise, globally, at the state level from the University of Washington Climate Impacts group and state agencies and locally with reports from the Swinomish Tribe and computer models by US Geological Service, none of which appears to have been considered in developing the Plan. Given this oversight, or purposeful exclusion, the legal requirement of utilizing the latest best available science in developing the SMP was not met.

The following recommendations are based on DOE guidelines for inclusion of Sea Level Rise in SMP updates and on the Swinomish Climate Change Action Plan of 2010.

Sea Level Rise Policy

A policy section dealing with sea level rise and its impacts on shoreline resources and values should be added in the Shoreline Management Element of the Comprehensive Plan. The section should address the issues and future impacts of a rising sea level on Skagit County shorelines and low-lying upland resources. To the extent policy statements are included in the SMP update itself, a provision on Sea Level Rise should also be included.

The very first, and necessary, step is acknowledgement of this serious issue and the fact that it will greatly impact the resources and lives of Skagit County. Sea level rise is happening. The question is how to plan for and respond to it in a way that helps to maintain existing shoreline values and functions. To do nothing will lead loss of critical shoreline resources. As the sea rises against existing bulkheads, hardened shorelines and marine dikes, tidelands, estuarine wetlands, beaches and other shoreline habitats and values will be squeezed out. Decisions made now about where to harden the shoreline or where to build new homes and infrastructure are already narrowing the alternatives for the future. Simply relying on shoreline owners to stick a finger in the metaphorical dike and hope it holds back the rising tide, will only make it more difficult and more expensive to deal with later.

Shoreline Jurisdiction

As sea level rises, so will the Ordinary High Water Mark and the line 200 ft landward from OHW that marks the shoreline zone jurisdiction. This will also mean a shift in the boundary of the aquatic designation lands. These facts should be addressed in the Jurisdiction sections of both the Comprehensive Plan and SMP regulations. It is important to be aware that lands and activities now just outside SMP jurisdiction or the Aquatic designation will be within those designations as the boundary moves.

In addition, as Mean High Water rises, land ownership may also shift. Tideland ownership below MHW is typically the State with management by DNR. Around the Swinomish Reservation those tidelands are in Tribal ownership. Where tideland ownership is different than the adjacent upland owner, the tideland owner will gain land with Sea Level Rise (SLR) and eventually own the land under existing shoreline protection structures. Policies should be established regarding when and where such then "trespassing" structures should be removed to allow the landward migration of the shoreline. Where MHW reaches existing structures on the Swinomish Reservation, the Tribe has the right, pursuant to the process set out in out Tidelands Ordinance (STC Tittle 23, Chapter 1), to remove such trespassing structures or require leases for them to remain.

Shoreline Inventory, Characterization and Analysis

Sea level rise must be included in the inventory, characterization and analysis of shoreline resources for the SMP update. Shorelines reaches that are especially

vulnerable to SLR should be identified, as should shorelines with critical resources where allowing landward migration of the shore would be most beneficial and feasible. Identify areas at risk for inundation by the rising sea and those at increased risk from extreme tides and storm surges. These "Sea Level Rise Risk Zones", as they are characterized in the Tribe's Climate Adaptation reports, can then be analyzed for additional protection or regulation. Some areas with existing infrastructure or numerous homes may be considered for protection in place, others may be more appropriate for planned retreat over time.

Areas with critical shoreline values and functions should be allowed to migrate landward with SLR or those resources will be lost as lands inundated by the sea meet hardened structures such as bulkheads. These areas should be identified as priority areas for shoreline migration. Feeder bluffs and other key sources of sediment input should also be identified for protection of the vital function as it becomes even more critical to provide such inputs for the accretion of beaches and wetlands at a faster rate than the sea is rising.

Suggested language in a few specific code sections might include:

14.26.470 Residential

4(b) – Residential development must be located and designed to avoid the need for flood hazard reduction measures including shoreline stabilization, within the expected lifetime of the structure, taking into account sea level rise.

Add a new Section:

New Structures within the Sea Level Rise Risk Zone shall be designed to withstand storm surge and to minimize the blocking of landward migration of the shoreline within the expected lifetime of the structure.

14.26.480 Shoreline Stabilization Structures

Under existing regulation, the exception allowing new structural shoreline stabilization when a structure is in danger from shoreline erosion dooms most of the shorelines with existing structures to armoring and loss of shoreline functions. This exception needs to be re-visited for a future with rising seas.

Such language might include:

In determining "no net loss" from shoreline stabilization structures, future conditions including Sea Level Rise must be considered.

14.26.540 Geohazard Areas.

Marine Bluffs – in establishing sufficient setbacks from the top of marine bluffs, geotechnical analysis shall take into account the effects of sea level rise on erosion rates to identify safe setbacks.

In summary, the SMP update failed to include one of the most critical factors in planning for shoreline management in the coming years – Sea Level Rise. Both policy sections and shoreline codes should address Sea Level Rise.

Application of the SMP on the Swinomish Reservation

Generally the County and the Tribe have worked quite well together on issues of land-use, zoning and shoreline regulation on non-Indian owned fee lands within the Swinomish Reservation. As a recap of the jurisdictional situation:

- The Tribe claims regulatory jurisdiction over the entire Reservation.
- The County claims regulatory jurisdiction over non-Indian owned fee-simple lands on the Reservation.
- The Tribe and the County have a Memorandum of Understanding (MOU) that allows such owners to go to either jurisdiction as lead for "land-use" decisions and permits.
- This system has worked very well and has been a model for similar agreements on other Reservations scattered across the nation.

For the most part this SMP seems to allow for this practical and amicable working approach. The County has conformed zoning and shoreline classes with those of the Tribe for the most part. The differences identified are relatively few, such as at least one area on the Reservation shoreline designated "Natural" under the Tribe's Shorelines and Sensitive Areas ordinance and "Rural Conservancy" under the County codes. We believe that this continued cooperative approach to land-use, zoning and shoreline regulation is the best alternative for both jurisdictions.

Where the Tribe has concerns regarding regulations under the SMP update, for those most part those concerns are the same regardless of where they are applied, on or off Reservation. There are provisions where the Tribe would like to see more protective regulation for shorelines than are being proposed. Most of those concerns are being addressed in the comments letter of Tim Hyatt, SRSC.

We do, however wish to make a couple of points specific to the Reservation. One is that since all the tidelands, lands below MHW, around the Reservation are owned by the Tribe, all shorelines, regardless of upland ownership, are at least in part – Tribal Shorelines. We feel for this reason that Shoreline regulation under the Tribe's regulation should have primacy on the Reservation. We will of course continue to cooperate through the MOU on these issues as well. In particular, when County

regulations under the SMP and on non-Indian fee lands are more protective than Tribal code under SSA (and there are instances where this is so) we will apply the County's rules. Feel free to have County Planning staff remind us of this point should it be overlooked in a particular case.

The other major point is regarding the Cumulative Impacts Analysis Report upon which the SMP is, in part, justified. This report has glaring errors and is inadequate. Above the critical omission of sea level rise was noted and its effect on the under estimation of impacts to shoreline resources from existing structures that fails to show that the plan may lead to net loss of such resources. Beyond that, likely purposeful, omission, the Watershed Company CI report fails to accurately portray reality in its analysis. This is certainly true when it comes to the shorelines of the Swinomish Reservation where the Tribe has detailed information that was ignored. To our knowledge no one in Tribal staff, in Departments of Planning, Environmental Protection or Lands Management were ever contacted by the Watershed Consults to obtain accurate information regarding the Swinomish Reservation shorelines, regulations, zoning, management or anything else.

A couple of points should suffice to show the resulting inaccuracies of the report. The CI report starts with an assumption that the 29 miles of shoreline on the Reservation are armored on about 7.9% of those miles. The accurate figure is 27%, primarily along section of shoreline with non-Indian fee simple upland owners on residential lots. Are there figures that far off for other sections of the County shorelines?

Even more disturbing is the bizarre figures given for potential future residential development. Their report allocates 1,483 new residential units in the shoreline zone on the Reservation. According to the Tribe's Director of Planning a far more accurate figure would be less than 14 (one four.) Allocation of 80% of all new residential shoreline zone development within urban / UGA for the entire County to one area and never checking with the government which primarily regulates that area (under an agreement with the County – not just our own rules) seems cavalier at the least. That the report's figures are off by two orders of magnitude (100 times) from any likely scenario shows how poorly this report was researched and supported. In fact we have discussed the potential that on the Reservation there will be fewer homes in the existing shoreline zone than currently. This is because as sea levels rise, homes will be destroyed and there will likely be areas where they will not be allowed to be re-built.

The Cumulative Impacts Analysis Report, and therefore the associated "no net loss" determination, by the Watershed Company is obviously grossly inaccurate and should be rejected as a basis of support for the SMP update.

Sincerely

Scott Andrews, Environmental Compliance Manager
Swinomish Tribe

From: Rein Attemann
To: PDS comments
Subject: I support the draft SMP
Date: Friday, April 01, 2016 12:24:53 PM

Dear Skagit County Planning Commission

With hundreds of miles of shoreline, this is our opportunity to help protect and restore the health of Puget Sound. Skagit County is instep and consistent with other Puget Sound communities and jurisdictions who have updated their Shoreline Master Program (SMP) with strong environmental safeguards for their shorelines. I like to express my support for the SMP update that incorporates strong safeguards for our vital shoreline and is based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property.

Thank you for your good work on this important issue.

Rein Attemann
316 NW 86th st
Seattle, WA 98117

From:	Kevin Bright
To:	PDS comments
Cc:	Betsy D. Stevenson
Subject:	American Gold Seafoods Comments on Skagit County SMP Update April 4, 2016
Date:	Monday, April 04, 2016 4:19:36 PM

Betsy-
Please find attached comments on draft SMP.

Thank you.
Kevin Bright

Kevin Bright, Permit Coordinator
American Gold Seafoods
Cell: (360) 391-2409

PO Box 669 Anacortes, WA 98221 Phone: (360) 293-9448 Fax: (360) 293-0558

April 4, 2016

Comments on the Skagit County Shoreline Master Program Update
Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Re: Public Comment on Skagit County Shoreline Master Program Update

My name is Kevin Bright and I work with American Gold Seafoods as their aquaculture operations Environmental Permit Coordinator. I live and work in Skagit County and have been employed in marine aquaculture operations in Skagit County for the past 26 years. Our company operates finfish aquaculture operations in Skagit, Clallam, Kitsap and Thurston Counties. We have over 85 direct employees and approximately 250 indirect employees that are involved with our operations. Raising and harvesting over 15 million pounds of salmon each year, our farms have sustainably operated in Washington's waters for over 30 years now. These farms create full-time living wage jobs in small rural and coastal communities. Our company's economic activities in these coastal communities support a multitude of other small water dependent jobs and businesses. As a marine biologist, a father of two children and a person who both works and plays in our public shore-lands, I am proud to be part of this water dependent business producing locally grown seafood for the U.S. market.

I would like to commend the hard work carried out by the Skagit County Planning and Development Services employees and senior staff who have taken on the monumental task of updating the Skagit Shoreline Master Program (SMP). I believe the County has come up with a very well written, thoughtful and workable document that meets the necessary requirements of regulating our shorelines in a fair and reasonable manner. I encourage the County to maintain the current language with regard to Aquaculture in the Draft Skagit SMP that ensures our shorelines will remain both productive and beautiful for future generations. As the Environmental Permit Coordinator for a company involved in marine aquaculture, I am extremely familiar with local SMP's and how these regulations intersect with our business. Over the years, I have reviewed numerous other county draft SMP's in the process of understanding proposed new conditions and how they would apply to on-going, as well as any potential future developments in this industry. In my opinion, the Skagit County Draft SMP should serve as the Model Local SMP and should be used as an example for other local governments to use as they attempt updating their local SMP's. The Skagit County SMP has appropriately taken the broad view and intention of the State Shoreline Management Act (SMA) and correctly applied it to their locally written SMP.

The State of Washington recognizes the importance of producing a balanced approach toward managing the shoreline environment in the SMA General Policy Goals for the Shorelines of the State WAC 173-26-179:

> *The unbridled use of shorelines ultimately could destroy their utility and values.*

Equally, the SMA goes on to state:

> *The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the Act relate both to the utilization and protection of the extremely valuable and vulnerable shoreline resources of the state.*

The Shoreline Management Act requires locally approved SMP's to be based on a balanced approach of protecting the shoreline environment and encouraging the use of these shoreline resources. Not an easy task, but the SMA was carefully written to ensure a valuable public resource is available for the benefit of every citizen in the state. Shorelines of statewide significance are public lands that are owned by all of the citizens of Washington State. Fair and reasonable consideration of current and more importantly, the future uses of this public resource are to be provided for in locally adopted SMP's.

Aquaculture, the cultivation of aquatic plants or animals, is a naturally water dependent use and can be regulated and managed in an ecologically sustainable manner. Aquaculture operations bring positive economic benefits to local communities and to the general public as a domestic seafood source and the SMA acknowledges the potential benefits of aquaculture in WAC 173-26-241-(3) (b)

> *Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.*

Local SMP's are meant to be the guidelines that weigh a proposed use activity on its merits, both economic and environmental. They are the road map for the creation and planning of conditions that promote the long-term socio-economic viability and sustainability of a community. They are to be designed to regulate the use and development activities in order to minimize, and mitigate impacts. They require strong enough language to safeguard the environment, but doing so in a manner which also allows for the controlled beneficial uses of the shoreline environment. I believe the current Skagit County Draft SMP has found that balance and I encourage you to maintain the current language as written.

Sincerely,

Kevin Bright, Environmental Permit Coordinator
American Gold Seafoods

From: betty bueing
To: PDS comments
Subject: Skagit County Planning Commission hearing Tuesday night
Date: Monday, March 14, 2016 1:55:50 PM

We are presently out of state, so unable to attend the meeting .
Our property at Lake Cavanaugh is located at 33081 So. Shore Drive
We have owned there for over 30 years.
We *do* have several concerns being addressed.
At some point our small cabin will need to be replaced & if the setback is changed it would be very difficult to build.
There is a ditch adjacent to our property which we have given Skagit County easement to maintain.
At this time time soil erosion is taking place but we hope that problem will soon be taken care of as promised by the County.

Any further restrictions would certainly *de*value the property.

Wally & Betty Bueing

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Preserving Skagit County's rural character by protecting the environment, supporting sustainable, resource based economies and promoting livable urban communities..

March 15, 2016

RECEIVED
MAR 15 2016
SKAGIT COUNTY
PDS

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

Dear Planning Commissioners:

Thank you for the opportunity to comment on the update to the Skagit County Shoreline Management Plan. Because the plan has not been significantly updated since its adoption in 1976, the accurancy of the changes is critical to the effectiveness of the update. We applaude the good efforts of Skagit County Planning and Development Services Staff, led by Betsy Stevenson, in trying to re-organize the Shoreline Management Plan to address the requirements requested by the WA State Department of Ecology.

The suggested template from DOE assumes a one size fits all approach for all counties. Skagit, as a rural county, has its own ecological parameters which cannot and should not be overlooked or valued inappropriately. For example, DOE assumes, without asking for an inventory, that there is not enough public access to shorelines and suggested language be included in the update to require increase public access. DOE then proposes language which may not necessary to provide public access in Skagit County due to the County's historic designation, zoning and maintaining public access.

The public notice of February 4 and 5 did not include all publications and maps that the Planning Commission is being asked to consider. Primary among these is The Watershed Company report and maps. We request a re-notification of the public with a complete listing of all of the documents which are being considered as a part of and as background to the SMP update.

The ability of Skagit County and the Department of Ecology to enforce the SMP update depends upon the accuracy of and inclusion of information, including the maps provided. In checking the maps that are Figures in the Watershed Company document, we found numerous errors in idenfication of land ownership and boundaries. One example is the misidentification of Goat and Ika Islands as being part of the Swinomish Reservation. Goat is owned by the WA State Parks and Recreation and Ika is privately owned and managed for timber. Kiket and Skagit Island are also identified as being part of the Swinomish Reservation which is footnoted as being from the Treaty of 1855. Skagit Island is owned by WA State Parks and Recreation and WSPR co-owns and manages Kiket with the Swinomish Tribe. The designations of land ownership and boundaries of authority must be accurate to be enforced.

The size of the files in the report as well as those provided by PD&S prevents the average citizen from having access to this information. We downloaded a dozen files in about an hour with a reasonably fast DSL connection. Many citizens in Skagit County do not have access to internet service and would have no way to review this information.

We will provide specific comments regarding other concerns that we have about the document before the written deadline. To provide a beginning list of items which are of concern we submit the following items, in no particular order.

OMISSIONS & ERRORS (partial list) -
The Coastal Zone Atlas; 1995 Samish Watershed Plan; Lake Management Districts; San Juan Preservation Trust properties; Scenic rivers designations; Skagit County zoning; 2000 and/or 2010 census data; roads with shoreline viewpoints; LAMIRDS; rural villages; notice that cities have their own plans and links to those plans; Town of Edison not in historic list; Curtis Wharf mistakenly listed as removed rather than restored; lakes and trails; LaConner waterfront; geological hazardous areas only marked on one map, etc.

Due to the amount of information that requires review, we ask that the Planning Commission continue this hearing and conduct a public workshop and review on the maps, The Watershed Company reports and any other items that have been noted as missing from the public notice. The hearing could then be continued with the additional information included for public comments.

Further, we ask the Planning Commission to recommend to the Board of County Commissioners that all property owners within and adjacent to the Shoreline designation be mailed a postcard giving details of all documents included in the Shorelines Management Plan update and make the maps available in paper at the County Administration building so that people with vested interest in the changes to the SMP have adequate notice and time to comment. We realize this is an additional cost of money and staff time to do this mailed notification, but we cannot see how adequate notice is achieved in any other fashion.

We understand PD&S did send around 20,000 postcards to residents of Skagit County in the beginning of the SMP update process. If that number represents even half of the eligible households, how did PD&S plan to provide notice and opportunity for comment for the remaining citizens? We understand that public notice in the Skagit Valley Herald and/or other county publications may fulfill the legal requirements for notice, but we lament the lack of concern for the other half of the citizens, especially private property owners in the shorelines designated areas.

The ability of Skagit County and the DOE to enforce the Shoreline Management Act depends on the accuracy and legality of the Skagit County SMP. We request that the Planning Commission take additional time to create a legitimate document that has been reviewed and is understood by the public, rather than submitting a document with errors, misrepresentations and inaccuracies that hamper the use and enforcement of the Plan.

Yours sincerely,

Ellen Bynum

Ms. Ellen Bynum
Executive Director

EB/

cc: FOSC Board of Directors; PD&S

Friends of Skagit County
PO Box 2632
Mount Vernon WA 98273-2632
• Common Good • Common Goals • Common Ground •

April 4, 2016

Betsy Stephenson
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273

RE: Comments on the Skagit County Shoreline Master Program update

Dear Betsy:

Thank you for the opportunity to provide additional comments on the Skagit County Shoreline Master Program (SMP) update. In addition to this letter we request that all of the transcripts from past Planning Commission meetings where shorelines or the SMP update was discussed be included as part of the record and considered in deliberations on the SMP update. Example:
http://www.skagitcounty.net/PlanningCommission/Documents/PCminutes/20140506.pdf

As we understand it, the SMP update was begun in 2011 as a process to revise and re-write the SMP and presumably the chapter of the Skagit County Comprehensive Plan (CP) on shorelines. We do not find the SMP listed as a proposed 2016 (or earlier) CP update proposal, even though insertion of the policies into the CP and revised codes into the SCCs is proposed. Shouldn't the SMP follow the same review, docketing, deliberations and adoption processes as any other CP amendment?

Because the SMP update has extended for five years, we are concerned that there has not been recent public notices directly to owners of shoreline properties. While the Department (PD&S) has held open houses, placed public notices in newspapers and on the County's website, it does not appear to us to adequately inform property owners of the proposed changes to the SMP. We are primarily concerned with any parcels where there have been changes in designation. We suggest the County prepare and publish a list of parcels where designation has been changed, so that owners can easily see the proposed changes and also read what these changes may mean for use of their properties in future.

The SMP and TWC reports are around 1,000 pages. Two of The Watershed Company reports were made available after the Public Notice for the SMP. We request that the County re-notice the draft SMP with all of the reports and links on the website, giving the full 60 days for public review of the all documents.

We request that the County put links on the website to historical documents that have been used in the development of the SMP such as the 2010 Skagit Watershed Council strategic plan and the Envision 2060 data sources and reports. We also request additional explanation as to how the choices to include this data were made. We are concerned that the County has unintentionally included inaccuracies, in both statements and data, that may affect the successful implementation of the SMP as well as affect the CP.

With 59.9% of Skagit County's land being untaxed, and much of this land in conservation, parks, natural areas or forests, the valuation of shoreline properties is critical to the property tax collected by Skagit

County. Fidalgo Island alone has an estimated 3,000 parcels in its shoreline area valued at $1,088,000,000 with a taxable value of $962,000,000 paying $9,600,000 in taxes. We did not find any discussion or analysis of how the changes to the SMP might or might not affect both property values and taxation in the SMP and supporting reports and staff memos. While this analysis may not be a requirement of the SMP update, any changes in the SMP that affect Skagit County's property tax revenue should be considered in any regulation changes.

in 1995 the Water and Shorelands Resources Program of the Department of Ecology published a twelve volume document entitled Coastal Erosion Management Studies by Douglas Canning and Hugh Shipman, funded by federal funds (NOAA, CZM). These studies are not listed in the SMP, the reports by The Watershed Company (TWC), Envision 2060, the Skagit Watershed Council documents (strategic plan, data, etc.) or any other referenced reports used to prepare the SMP. We ask that these studies be entered into the record.

The new shorelines designations have had no public hearing, except in the context of the Shoreline update. No public hearings have been held on the shorelines inventory.

The SMP draft does not discuss the relationship of the County SMP to cities/town SMPs. Planning decisions and activities upstream, in a city or town, may affect County shorelines so no net loss cannot be achieved. Upstream land use decisions and activities by Skagit County upstream may affect city/town shorelines.

There is little to no discussion about the requirements to change shorelines designations in future. Is this a local option or would this require changes to the RCWs and WACs? We mention this with reference to correcting parcel designation areas, but also with regard to re-drawing environmental designation areas should a catestrophic event such as flooding occur.

The economic and logistical effects of and the costs to delivery of public services like Emergency Management Services, Transportation, Utilities, etc. included in other sections of the CP is not addressed in the SMP.

SMP Comments

Please expand the anacronyms pages to include all used in the document. Example: SAR is cited, but no explanation as to what document this refers to. We appreciate the spelling out of terms.

We assume the information in the parentheses after some of the SMP items will be removed from the final when incorporated into the CP. Is this correct?

Page 16 – 6B-5. Rural Conservancy. Needs clarification. No reference to Title 86 - Flood Control Chapter 86.16 - Flood Control Zones by state; 86.16.080 Permit for improvement - how obtained - emergencies; 86.16.085 - Delegation of permit.

Page 17 – 6B-6. Shoreline Residential. Purpose. Remove "An additional purpose is to provide appropriate public access and recreational uses." Providing public access is voluntary and can happen in a number of shoreline designations. A better statement would be to add after "consistent with this SMP" – "with the option for providing appropriate public access and recreational users."

6B – 6.5. Remove. Under the CP, is it possible to site new commercial development in rural residential zones? Commercial development should happen inside UGAs and/or cities and towns.

6B-6.1 – To our knowledge LAMIRDs footprints cannot be expanded and in-fill capacity is limited due to septic capacities.

Page 18 - 6B-7.4 – Reword. As writing this implies that mitigating significant ecological impacts might require public access or public recreation.

6C-11.7 – Reword. This could be read that current residential developments are being asked to provide public access to public shorelines or water.

6C-12. Shoreline Stabilization. Consider adding language encouraging designs for stormwater disposal that promotes shoreline stabilization.

Page 36 - 37 – 6E – Public Access. Please add that prior to permitting, public access must be considered in its affect on the property values of new development, so that the property owner understands the economic effects of the addition of public access and the County knows how much tax revenue may be lost by chosing public access. Will the County be responsible for injury to the public using private land with easements providing public access?

Page 37 - 6D1.7 – Skagit County should strive to:
a. "Provide a network…" Please change the word "provide" to either "Recognize…" or "Plan to coordinate…". The UGA Open Space Concept Plan is not part of the CP. The County is not the only landowner to provide trails and should not take on the responsibility of "providing a network…".

Page 38 – 6D1.7 (i) "Ensure public access is usable…" implies that the County is responsible for accessiblity on lands where it holds a public access easement. Is this the case? Who pays for the initial cost of modifications and the ongoing expenses for accessibility in a shoreline residential development that has a public access easement? We are not opposing public access or the need for accessibility, but we do ask for more clear language as to who has authority and who is responsible. See also 6E 1.6.

6F 1.1 – Location and Access. a. Add the word "appropriate" after "within". Not all shoreline designations will or should have recreational activities.

Comments on No Net Loss Standard and Process
The changes proposed in the SMP address future actions and developments. To determine loss of shorelines ecological function, the baseline must be accurate enough to be able to measure significant changes to these functions in the future. We do not see a discussion or description of how landowners might verify the baseline of their properties for no net loss.

While "no net loss" is required of the County, the restoration program appears to be voluntary. Further, there is no discussion of enforcement with regard to "no net loss". How can the County be held accountable for individual landowner actions without any mechanism to enforce for a "no net loss" outcome?

Comments on the SMP Restoration Plan
The DOE Handbook and SCSMP update powerpoint shows voluntary restoration opportunities already planned in Skagit County. It is unclear whether these projects were considered in preparing the environmental designation map and in the calculation of the baseline cummulative effects.

Comments on the TWC Cumulative Impacts Analysis (CIA) Report
General Comments.
The CIA relies upon the Shorelines Analysis Report, TWC 2014, (SAR). Unless the 2014 report is the same as the 2011 report, that report is not available on the County website.

SMP, including assessing cummulative impacts, can only succeed if the baseline data and descriptions are accurate. We understand that errors may be corrected in the SMP updates and assume that that may include new data discovered, obtained or generated since the original data was developed.

The SMP, CIA and SAR have little to no information regarding geological effects on shorelines.

Page 3-4 – The land capacity analysis conducted as part of the Shoreline Analysis Report (TWC, 2014) uses some of the data from the Envision Skagit 2060 planning effort. Please provide what data was used and the rationale for this. We support the statement that the analysis "… is not an exact predictor… and does not predict a rate of development". We presume that as new development occurs the land capacity analysis will be verified and corrected, otherwise we see no on-the-ground confirmation of its accuracy.
This process is not addressed in the SMP.

Page 13 – 3.1 Marine Shorelines. Please definite "nearshore" or put in definitions. How "much" of the County's marine shorelines are armoured? What percentage? How many acres?

While there is great detail concerning processes that affect shorelines such as armouring and stormwater outfall, there is little to no discussion on tidegates and agricultural drainage. We presume this is because agriculture is not regulated under the SMP; however, the biological processes from shorelines adjacent to agriculture are part of the baseline assessment and cummulative effects analysis and should be considered in the SMP assessments of processes. There is little to no discussion of the diking and drainage districts responsibilities, authority, function and how actions interface with shorelines in all categories. We presume to use best available science means to include all scientific evidence and factors and data with regard to creating a model and/or analysis. For example, information concerning how tidegates affect shoreline processes is not in this report.

Page 14 – 3.2 Freshwater Shorelines – Overwater structures on river shorelines are typically limited to bridge crossings. What about cable crossings or water or natural gas, oil pipelines or power line crossing and intakes for public water systems?

Page 15 – 4 Future Development. 4.1 Residential Land Use Capacity.
Table 4-1. Estimated residential land capacity in Skagit County shoreline jurisdiction.
3. Swinomish Tribal Reservation. Rural Dwelling units are listed as 68. There are 305 platted lots in the west shore area of the reservation within 200 feet of the shoreline with around 120 completed homes. The land is leased, but the homes are owned by the lessees and are subject to Skagit County permitting and codes. Is all leased land excluded from SMP regulation even though for the duration of the lease the homeowners use and occupy the leased land?

Page 5 of this letter was received after the end of the comment period. See the end of this PDF.

Page 52 – Should the soft shoreline stabilization standards for rivers be for more than a two-year flood event given that rivers are often subject to annual flooding? We assume this means this stabilization can be replaced every time there is a two-year flood. Would the SMP standards for road maintenance apply to existing marine industrial roads?

Page 53 – "Transportation facilities (other than bikeways, trails and equestrian trails) are prohibited within shoreline jurisdiction…." This language implies that trails are permitted. Please clarify to reflect that transportation planning must be concurrent and the criteria necessary to allow trails.

Page 55 – Hydro-power is forbidden in Wild and Scenic Rivers as far as we know. Also, please add Deception Pass and Deception Pass State Park as an area not appropriate for tidal power locations. What is the definition of "natural landscape"? What is the provision for maintenance of outfalls and where are the standards for appropriate materials to receive discharge?

Page 57 - 58 – Suggest two lists, one list is shoreline bodies and one that are not.

Page 60 – 5.4.7 Geological Hazardous Areas. While the SMP applies to new development, there is no mention in this section about how to deal with existing homes, historically permitted under the now prohibited circumstances, when landslides, erosion or other hazards occurr. There is also no statement concerning re-building in these now prohibited areas and the consequences of doing so or the criteria that might allow re-building. There are numerous examples of historical buildings in shorelines that would not fit the proposed regulations.

Page 60-61 - 5.5 Shoreline Restoration Plan – See comments on TWC Draft Skagit County Restoration Plan 6-30-13 below. While the SMP states that the County must comply with "no net loss", the restoration plan is listed as being made up of "voluntary actions". There has been no county-wide visioning exercise for shorelines to date and the restoration plan is composed of "planned, site-specific restoration projects". We assume the word "planned" as used in the last sentence means a private or public/private partnership project, NOT a project that has been through a public planning process (other than permitting). While each of these project assures that its goal was to "restore ecological processes and eliminate barriers…", there has been no evaluation of the cummulative effects of these projects, nor have the projects been reviewed by an appointed, elected or volunteer citizen expert committee with regard to meeting "no net loss".

Page 64 – The agencies list is incomplete. For example, parks and recreation, agriculture, dike districts, drainage districts, public utilities, community water systems, and transportation agencies (local, state, federal) are not included. These agencies (and any others required to comply with the SMP) may not have direct regulatory authority over shorelines, but because they will have to comply with the SMP their policies and procedures on shorelines and critical areas should be included in the SMP. Agency policies and procedures should be coordinated and changed, if necessary, to achieve the goals of the SMP.

Page 65 – Another document with important information that should be included is the Fidalgo Stormwater Management Plan.

Page 66-67 – 6.3.1 Clean Water Act, Section 404 is concerned with ensuring water quality including measures to reduce water termperatures along streams. Riparian shading along creeks may impede stormwater and floodwater drainage. In evaluating projects, the County should weigh both costs and benefits for these projects and develop a ranking system that prioritizes the required outcomes. Otherwise the

Page 29 – 5.2.1 Mitigation Sequencing. Please add information as to how "on-site" and "off-site" mitigation (and other kinds of in-lieu fee programs, if permitted) fit into mitigation sequencing.

"In the interest of brevity, the basis for each relationship is not repeated in the tables below." We understand not wanting to lengthen this document; however, please include the Shoreline Analysis Report (TWC 2014) and the Final Best Available Science Report (TWC 2007) as part of this record.

Page 30 – 5.3.1 Agriculture. Instead of "many", please list either the percentage of shorelines and/or the acreage amount in agricultural uses. Please make the same substitute for 5.3.7 Forest Practices (page 41).

Table 5-2. Summary of potential impacts from agriculture. This table lists the only negative impacts. Please add positive impacts that may come from agriculture land, for example, added flood capacity/control, positive additions to base flows when irrigation is NOT used, decreased erosion due to long stabilized soils and farmers' best practices, etc. We do not know locations of "Reduction in forest cover associated with conversion of lands to agricultural uses" in the shorelines. Please make the same additions to 5.3.7 Forest Practices, page 41.

Page 44 – 5.3.9 Mining. If the SCC was changed to prohibit mining in the 200 ft. of all shoreline zones, why is there discussion of a Shorelines Conditional Use Permit (SCUP) in this section? Lists of creeks may be incomplete.

Page 45 – Table 5-19 Operations. Where is "completion of mining activities" defined? What is the policy for intermitent extraction? Are there penalties associated with violations of time? Who enforces?

Page 47 – Under the Skagit Comprehensive Plan, multi-family development is not permitted on shorelines or outside of cities, towns or UGAs. SMP should be consistent with the CP. Does new over-water residences include new live-aboard boats?

Page 48 – What and where is the design standard for plats and subdivisions to ensure no net loss of ecological functions? Where are the development standards for the exception for infrastructure such as roads when there is no feasible alternative? Who decides what no feasible alternative is?
What is the relationship to flood protection?

Page 49 – If "all projects must protect the integrity of adjacent natural resources…" where is the assurance that adjacent agricultural lands can be used and drainage maintained? Under shoreline stabilization, is any new or replacement structure that does create net loss required to pay mitigation costs? What is the measure for this? Who will determine and how will the mitigation payment be used to actually "replace shoreline stabilization"?

Page 50 – Are the criteria for a conditional use permit for hard shoreline stabilization written yet?

Page 51 – Please clarify what is the meaning of "… the remaining portion must be placed landward of the existing OHWM, such that no net intrustion into the water body occurs, nor does net creation of upland occur…"? How does grandfathering in replacement hard structural shoreline stabilization measures that encroach wateward of the OHWM at primary residences constructed prior to 1992 support no net loss? We understand these residences would reduce the baseline ecological function and this exemption would not allow any future contribution to that function.

reviewed by the Planning Commission and the BOCC on a regular basis. The activites proposed for tracking may or may not be the data needed to ensure the success of no net loss. Until a validated, ground-truthed database is completed that genuinely represents the baseline state of shorelines, the monitoring and adaptive management cannot be developed. The activities to be tracked from the County's permit system represent only a few data that may be needed. We note that there is no measure of land valuation, changes in land uses, catestrophic events such as flooding, impacts on assessed valuation to name a few other measures which may be needed to accurately assess restoration progress.

If the County bears ultimate responsibility for the "no net loss" standard, it should not expect proponents of projects to be the monitors of their own mitigation success.

It is unclear what kind of "corrective actions" would be needed, who would pay for these, who would implement and how these would be reported, initially and between review cycles for the SMP. If compliance with the SMP is a requirement for permitting, there should be no "non fully mitigated" impacts. It is unclear how and who would do the enforcement for these impacts.

Under 6. it states: "Evaluation of shoreline conditions…should occur at varying levels of detail consistent with the Comprehensive Plan update cycle…" and "… A complete reassessment of conditions, policies and regulations should be considered every eight years…". The language here is not mandatory, yet if the standard of no net loss of shorelines ecological functions is not met at the time of review, the County **will** be required to take corrective action. **(emphasis added).** It appears the County must conduct an accurate, timely and cost effective evaluation of shoreline conditions in order to "prove" no net loss and avoid corrective action. Shouldn't the evaluation be mandatory if this is the case?

Under 7. it states: "County planning staff is encouraged to track all land use and development activity, including exemptions, within shoreline jursidiction and may incorporate actions and programs of the other departments or restoration partners as well." Is this a full time position? How will it be funded? What is the long term plan for integrating this task into other PD&S functions? Again, if the County is responsible for the "no net loss" standard, shouldn't these activities be compulsory and the programs of other departments (county, state, federal) or restoration partners should be included. Otherwise, how would the County be able to evaluate the cummulative effects of not only the County efforts, but also the other agencies/partners?

After reviewing the more than 1,000 pages in the SMP update and TWC reports alone, we may have other comments to submit. We hope the SMP update will be re-noticed for at least 30 days to take into account the reports that did not receive full review time.

Should you have questions, please do not hesitate to contact us.

Yours sincerely,

Ms. Ellen Bynum
Executive Director

cc: FOSC Board; Skagit County Planning Commission; Board of County Commissioners.

County's restoration program will be supporting projects that are at odds with one another and the goal of "no net loss" cannot succeed. The same potential conflict exists with proposed projects under 6.3.2 Rivers and Harbors Act, Section 10.

Page 70 – Rural conservancy overlay is used in some places where zoning is Ag-NRL, for example, much of the Samish watershed. Please ensure the designation of farmland will not prevent farming on those parcels.

Page 76 – References do not include reports and documents that were the basis for the studies, reports and documents listed here. Please add information concerning these documents. Example: Envision 2060 land capacity analysis or Skagit Watershed Council strategic planning document 2010.

Comments on TWC Skagit County Draft Restoration Plan 6-30-13 and update drafts

Page 63 – Proposed implementation Targest and Monitoring Methods proposes an evaluation of projects to see where the project ranks along side other projects with the goal of "…to achieve maximum value from restoration efforts and investments…". The criteria to be used for ranking are guided by the Skagit Watershed Council's 2010 Strategic Approach and propose a list of criteria, presumably listed in rank order.

The first concern is that even if all of the proposed criteria is what is needed to evaluate proposed projects, the fact that the criteria has come from a single organization looks like the County is allowing one group (even though it is made up on respresentatives of many different groups) to direct County policy. Skagit Watershed Council is a private non-profit organization with a mission of restoration of habitat for purposes of salmon habitat. The SMP goes to great lengths to recognize many different uses and users of shorelines, including those focused on habitat and restoration. Using a single, mission driven organization's criteria, seems inappropriate (possibly a conflict of interest if the group receives County funds for work performed) and does not seem to allow for public input from and on behalf of the many other users of shorelines. It may be that after review of the criteria, the public (all other users of shorelines) would concur that these are indeed what is needed and the order is appropriate; however, that review has not happened.

With a large number of acres in resource lands that are major drivers of the local economy, the absence of any economic measures in the criteria, save having a "…high benefit to cost ratio…", does not consider the possible negative impacts of restoration, current or in the future. Impacts to adjacent properties, whether intended or not, have already happened at a number of shoreline restoration sites.

Using the criteria of having a proposed restoration project "…supported by and onsistent with other restoration plans…." only encourages projects that are like other projects, some of which have failed. An independent set of criteria, reviewed by the public and the Skagit County Planning Commission with technical advice from a variety of shoreline users and restoration specialists, would give a more realistic process for selection of restoration projects.

Part of the challenge for the County is whether there can be any guidance given to private groups who are conducting restoration projects that are determined by the opportunity to purchase the land. To our knowledge there has been no publically reviewed visioning and planning effort, nor any completed plan that foscuses only on shorelines restoration. Nor has the County appointed a shoreline advisory committee, although the parties to various appeals have served as such de facto.

Page 64 – Monitoring and Adaptive management should be determined by best available science needed to achieve goals set and approved by a public process, an ongoing technical and citizen advisory committee,

Betsy Stevenson, Project Manager
S C P & D S
360-416-1323

February 22, 2016

Public Comments – Skagit County Shoreline Master Program

Comments of Don Clark, Skagit River Resort

It is terribly difficult to comment on a document that is so terribly difficult to truly understand.

For example, I am interested in the rules and regulations that this document will impose upon an existing, designated, zoned Master Planned Resort. Existing facilities have "special needs" that usually are not required of new facilities, thus they were recognized as such in W.S. Code.

Resorts, by definition, are required to be in a setting of "significant natural amenities." This usually involves access to, and allowable uses of, water. Some would say this is a "water-dependent, mixed use" commercial need, which is apparently not allowed under this program's Shoreline Residential designation on Page 83. Water-dependent – WAC 173-26-020 is a use that cannot exist in a location that is not adjacent to the water. RCW 360 requires a resort to be in a place of significant natural amenities, and WAC 173 recognizes this requirement and supports resort facilities locations as including "water dependent uses."

Under 6B.6 Shoreline Residential, only RCW 36.70A.360 is mentioned, not the RCW for Existing Master Planned Resorts – RCW 36.70A.362. Why not? That reference is more accurate.

Washington State has adopted a "one-size-fits-all" to river and stream shoreline buffers. This is contrary to other buffers which recognize the needs and values of differing locations, such as the marine and lake shoreline standard which attempts to reflect these differing needs and values. Buffers on rivers and stream shorelines are excessive at 200 ft., and should be reduced to not greater than 100 ft. A 200 ft. buffer at a M.P.R. is unreasonably **destructive to the needs of that facility** and to water-related and water-enjoyment commercial uses. MPR's have mixed-use needs and MPR's are commercially, not residentially, zoned.
P. 108 14.26.430, (2) (i) (ii), (b) (iii) (A) (B), (4) (b) and (c) Eating and drinking facilities and lodging facilities must be oriented to provide user views to the waterfront. That is contrary to a 200ft. Setback.

P.130 14.26.470 Residential Development. 2 (b) Multi-family housing is prohibited, unless served by public sewers..." Why not served by Large Scale Septic systems? Why pubic, not private? Large-scale private septic systems are **just a effective** as "public sewers."

P.157 14.26.660 Other Pre-Existing Uses. There exist other pre-existing, previously approved permits, (such as Conditional Use Permits and Shoreline Permits), which must be recognized as being valid, effective, in force, and **not subject to the more stringent provisions of this revised Shorelines code**.

P.163 14.26.735 Shoreline Variance. (3) (b) For phased developments, the view analysis must be prepared in the first phase and **include all** proposed buildings (open-ended comment)...**add**..."on that parcel of property."

Please consider the above comments in revisions to the Skagit County Shoreline Master Program.

Don Clark
58468 Clark Cabin Road Rockport, WA 98283

From: Edie Clark
To: PDS comments
Subject: Skagit County Shoreline Master Program Update
Date: Sunday, April 03, 2016 11:52:17 PM

As a resident of Guemes Island, I am well aware of the fragile shoreline environment unique to small Guemes Island. Changes in climate as well as an increase in the island's population and construction projects on the island have guided the Guemes Island Planning Advisory Committee in writing their recommended additions and changes to the Skagit County Shoreline Master Program. Please adopt these recommendations and changes in their entirety.

Thank you.

Edith G. Clark
5651 Section Avenue
Anacortes, WA 98221

From: Donna Colamatteo
To: PDS comments
Subject: I support the draft SMP
Date: Sunday, April 03, 2016 10:07:33 AM

Dear Skagit County Planning Commission

With hundreds of miles of shoreline, this is our opportunity to help protect and restore the health of Puget Sound. Skagit County is instep and consistent with other Puget Sound communities and jurisdictions who have updated their Shoreline Master Program (SMP) with strong environmental safeguards for their shorelines. I like to express my support for the SMP update that incorporates strong safeguards for our vital shoreline and is based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property.

Thank you for your good work on this important issue.

Donna Colamatteo
1906 Britt Rd
Mount Vernon, WA 98273

From: Cole, Wendy D (DFW)
To: PDS comments
Subject: Skagit County Shoreline Master Program Update
Date: Monday, April 04, 2016 4:31:21 PM

Please see attached.

Wendy Cole
Washington Department of Fish and Wildlife
Area Habitat Biologist
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Betsy Stevenson, Senior Planner
Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

April 4, 2016

Dear Ms. Stevenson,

Thank you for the opportunity to comment on the Skagit County Shoreline Master Program Update. I want to be clear that my comments in this letter are not resulting from a comprehensive analysis of the SMP update goals, objectives, policies, and development regulations. Most of the document draft is very strong and consistent with the management goals of WDFW, which include incurring no loss of habitat, and avoiding negative impacts to habitat as much as possible. My time-constrained review of the document revealed several items of the document that I believe can be strengthened or improved, however.

Docks

1) Page 97, #4a)ix), and p. 100: The standard that calls for "a floating structure's landward edge must be at least 7 feet above the lake bottom when measured at ordinary low water" in lakes with anadromous fish is very good, but it conflicts with another standard that calls for the maximum length of an individual dock to be no more than 50 feet from OHWM; often, that length will result in the terminal float being in very shallow water, where boats will often ground out, which disturbs the lakebed and can interfere with fish migration, and can cause decreased productivity for aquatic plants which provide habitat for fish. For a more protective standard for juvenile salmonids, the dock should be allowed to extend as far waterward as it takes to get the float's landward edge at 7 feet above the lake bottom, when measured at ordinary low water. This is because juvenile salmonids utilize the nearshore habitat in lakes, and shading from structures can cause them to move out into deeper water where they can become more vulnerable to predation, and also will allow predatory fish cover from which they can more easily prey on juveniles.
2) Page 100: Piers, ramps, and floats should be required to have grating independent of their size. It is especially important to have the more landward structures grated as much as possible. In general, WDFW requires functional grating to have at least 60% open space, and for at least 50% of structures to be grated; if all the decking is grated, then the grating can be 43% (WAC 220-660-140). The idea is to get more light transmission through the structure onto the lake, to provide a more natural environment for juvenile fish; the light/dark shading contrast can interfere with migration behavior and can negatively affect the growth of beneficial aquatic plants.

Dredging and Dredge Material Disposal

1) Page 111, #2c)v): Dredging would be allowed for this activity: "Restoration or enhancement of shoreline ecological functions and processes benefiting water quality or fish and wildlife habitat or both". Usually, dredging in this instance would benefit water quality or habitat only if it is a

situation in which there are problems causing the need to dredge. I recommend that the cause for the need to dredge be ameliorated prior to the permitting of dredging for these cases. This is because dredging can often be very harmful to both aquatic habitat and organisms, and can cause a maintenance dredging situation which can become perpetual.

General Provisions Applicable Waterward of the OHWM

1) On page 63, #8b: other methods are available, and depending on the situation, may be more effective in preventing siltation of adjacent waters. It may be best to either list various methods, or just mention that siltation of adjacent waters during project construction is prohibited, versus stating one method that may or may not be the most useful for a given situation.
2) Page 64, #13: in the event that fish are harmed or killed as a result of a project, the correct notification would be to call both: 1) the WDFW habitat biologist who has issued the Hydraulic Project Approval under which the project is covered, and 2) the Washington Military Department Emergency Management Division, at 1 (800) 258-5990.
3) Page 64, #14: the correct agency to notify of a water quality problem is the Washington Department of Ecology, and the phone number is 1-425-649-7000.
4) Page 64, #15: it would require a Hydraulic Project Approval (HPA) from WDFW, if a natural feature is being moved within waters of the state. However, there are many places within this document for which I would make this comment. Perhaps it would be best to insert something about the WA hydraulic code (WAC 220-660), and the requirement of an HPA when the bed or flow of waters of the state are being affected.
5) Page 65, #21: here is the link for the WDFW pamphlet permit regarding the removal or control of aquatic plants: http://wdfw.wa.gov/licensing/aquatic_plant_removal/
   It serves as the HPA for some types of aquatic weed or plant control and removal including physical and mechanical methods. It does not address using grass carp, herbicides, or water column dye.

Shoreline Habitat and Natural Systems Enhancement Projects

1) Page 131, #4b: While it is agreed that long term monitoring and maintenance is a beneficial aspect of any enhancement project, it is financially not always possible. Because it may discourage potential restorationists from implementing beneficial projects, I suggest that long term monitoring and maintenance be encouraged and not required for these types of projects.

Thanks again for the opportunity to comment. I look forward to continue working together to protect the valuable natural resources of Skagit County.

Sincerely,

Wendy Cole

Wendy Cole
Habitat Biologist

From: Timothy Colton
To: PDS comments
Subject: Shoreline Management Act Renewal
Date: Saturday, March 12, 2016 9:26:00 PM

Hello,

As documented in the staff report, the last 130 of diking, log removal, channelization and development have severely altered the hydrology of the Skagit watershed. I think we should take this opportunity to make steps to restore more natural hydrologic flows to the waters of this county.

I believe that the county should be actively working with landowners to remove and set back dikes and restore wetlands. This is probably the most important activity required for restoring salmon habitat and healthy rivers.

A system should be set in place that could purchase sections of private land that qualifies as nearshore and be converted to a more natural state.

The county should also prevent permanent development in floodplains and facilitate the movement of people currently living within the Skagit floodway.

Skagit County could be a shining example to the rest of the country about how a modern society can restore a watershed and continue to live with it. We have the wealth and the ability to change our land use habits to allow for more floodplains, wetlands, estuaries, side channels and sloughs.

Thank you
Tim Colton

Jan Davis
5544 Smith Road
Bow, Wa. 98232

Shoreline Master Program Update

Comments

Last spring, just prior to submitting a Jarpa to continue the maintenance of my privately owned dike, I was informed that in addition to the Jarpa I would need a brand new study in the form of a fish and wildlife site assessment. The study and the permit exemption fee came just shy of a quarter of my yearly dike maintenance budget of $4000. before a single rock was laid. Concerned that the updated SMP could add even more regulatory requirements and financial burdens I have tried to read it with a more practiced eye.

14.26.410 Agricultural Activities

I paraphrase: b(v) operation and maintenance of any system of dikes, and so on existing on September 8, 1975, which were created, developed or utilized primarily as part of an agricultural drainage or diking system is exempt from SMP. Looks good to me.

14.26.640 Pre Existing Structural Shoreline Stabilization

(3) Replacement. Any of the following constitutes a new structure.

(b) reconstruction of greater than 50 % or 50 feet of linear length, whichever is less, within three years. On a mile long dike 12 feet wide by 12 feet tall does this mean 51 feet of rock placed along the waterward edge (which I did last summer) or a 51 foot long slump that needs a truckload or 3 of dirt to even out; maybe a breach 6.5 feet high by 6.5 feet wide. There are many miles of dike in this county; what studies determined that 50 feet was the critical threshold?

(c) reconstruction of the footing or bottom course of rock.
In October,2004 a 10 foot wide by 5 foot tall chunk of the western point of the waterward dike toe failed. I replaced the bottom course of rock in that area. All of a sudden I am confused and dismayed. If there is language in this chapter saying that a pre-existing shoreline stabilization structure is not an agricultural dike I missed it. My concern is that 4 years hence when I need to obtain a new shoreline exemption that the county official scrutinizing my application is absolutely certain that mine is a 14.26.410 case and not a 14.26.640 case.

In addition to these comments I include my 2015 Jarpa and the fish and wildlife assessment. The documents, especially the assessment are fully furnished in the details describing the need and process of dike maintenance and are an example of the regulation already in place and working as intended.

Fish and Wildlife Site Assessment: Parcels 48497 & 48499

Prepared for:

Jan Davis
5544 Smith Road
Bow, WA 98232

Prepared by:

Graham-Bunting Associates
Environmental & Land Use Services
3643 Legg Road, Bow, WA 98232
Ph.360.766.4441 Fx. 360.766.4443

May 15, 2015

Table of Contents

Summary

Applicant/Owner:	Jan Davis 5544 Smith Road Bow, WA 98232
Site:	The subject property is an approximate 85-acre agricultural tract located along the eastern shoreline of Samish Bay and Edison Slough at 5544 Smith Road, Bow WA Section 32, Township 36 North, Range 3 East, W.M., Skagit County, WA.
Project:	The subject proposal includes two related components intended to repair and maintain the existing profile of the dike. All work will be accomplished from the top of dike above and landward of MHHT/OHWM. No expansion of the pre-existing prism is proposed. The two components are described below. 1. Maintain and repair the existing marine dike along approximately 741 linear feet of the Samish Bay dike with angular rock, quarry spalls, clean soil. 2. Repair a slump along approximately 87 linear feet of the landward top of the Edison Slough dike with clean, clay based soil to reestablish the pre-existing profile. Both areas will be reseeded with a pasture mix broadcasted by hand.
Areas Assessed:	Effects on threatened and endangered species listed under the Endangered Species Act (Chinook Salmon/Southern Resident Killer Whale)
Regulatory Guidance:	SCC 14.26 Shoreline Master Program SCC 14.24 Critical Area Ordinance. SCC 14.34 Flood Damage Prevention Ordinance
Critical Area Impacts:	May effect not likely to adversely effect Chinook Salmon/Southern Resident Killer Whale

Conservation Measures: The following conservation measures are recommended to be incorporated into project activities to minimize impacts to the aquatic habitat, riparian buffer zone and special flood hazard area.

1. A Hydraulic Project Approval (HPA) should be obtained from the WA Department of Fish and Wildlife. All conditions of approval should be adhered to.
2. Project activities should be restricted to the area above and landward of MHHT/OHWM and conducted as soon as practicable.
3. Areas disturbed during construction activities should be revegetated with self-sustaining ground cover upon completion of project activities.
4. The project site should be clearly identified on site and effort should be made to limit activity and minimize equipment use outside of the project site.
5. All equipment should be inspected on a regular basis for fuel, oil and hydraulic leaks. The contractor should have appropriate materials on site to be used in the event of a spill.

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May 15, 2015

Jan Davis
5544 Smith Road
Bow, WA 98232

Critical Area Site Assessment: Parcels 48497 & 48499

1. Introduction
At the request of Ms. Jan Davis, Graham-Bunting Associates (GBA) have conducted a site investigation and prepared the following report addressing fish and wildlife habitat conservation areas within and adjacent to the above referenced parcel. The report is prepared in conjunction with application for a shoreline exemption to conduct regularly scheduled maintenance and repair of the marine dike surrounding the perimeter of the parcels. The report includes a characterization of existing site conditions, a summary of existing resource data, impact assessment, regulatory analysis and mitigation recommendations consistent with the requirements of the Skagit County Critical Areas Ordinance (SCC 14.24). In addition the report also addresses requirements relating to the Endangered Species Act pursuant to the County Flood Damage Prevention Ordinance (SCC 14.34).

2. Existing Conditions
The subject property is located along the eastern shoreline of Samish Bay and Edison Slough at 5544 Smith Road, Bow, WA within Section 32, Township 36 North, Range 3 East, W.M., Skagit County WA.

USGS: Bow, WA (Revised 1994)


Skagit County GIS: i-Map (2013)

The subject property is an approximate 85 acre agricultural tract (Ag-NRL) consisting of parcels 48497 and 48499. The property is bordered by Samish Bay and Edison Slough to the north, South and West and Edison Slough and farmland to the east. The property is protected by a marine dike that prevents diurnal tidal inundation and enables ongoing agricultural activities to occur within

the interior of the site. The dike is fronted with rock rip rap to protect the face from erosion generated by wave action. Due to a relatively unobstructed westerly fetch, the dike is particularly vulnerable to westerly and northwesterly storm events. The interior of the site is within the 100-year floodplain (FIRM Community Panel 530151 0050 C, (1/3/85)) and is designated as an A-8 Zone with a base flood elevation of +8 feet MSL. Areas of salt marsh waterward of the dike along the northern and southern bay frontage are designated as V-4 Zones (areas of coastal flooding with wave velocity) with an elevation of +9 feet MSL. The subject property is not included in a public dike or drainage district. Maintenance and repair activities are conducted solely at the property owner's initiative.

Photo 1 – View north showing Samish Bay, marine dike and interior of site (Elev. +8' msl) utilized for ongoing agricultural purposes.

Photo 2 – View northwest showing pocket salt marsh (elev. +9' msl) waterward of dike located along northern border of site.

Vegetation along the dike consists primarily of mixed pasture grasses and dune grass *(Elymus mollis)*. Shrubs including elderberry *(Samubus reacemosa)*, tall Oregon grape *(Mahonia aquafollium)*, nootka rose *(Rosa nutkana)*, Pacific crab apple *(Malus fusca)*, black hawthorn *(Crataegus douglasii)* and Himalayan blackberry *(Rubus armeniacus)*. The interior of the site is hayed and planted with cereal grain for wintering waterfowl. Pocket salt marshes waterward of the dike exhibit typical salt marsh plant assemblage including fat hen *(Atriplex patula)*, salt grass *(Distichlis spicata)*, seaside arrowgrass *(Triglochin maritimum)* and pickleweed *(Salicornia virginica)*.

The ordinary high water mark (OHWM) was assessed in accordance with the definitional guidance provided in the Skagit County Shoreline Master Program and the Shoreline Management Act (RCW 90.58) and Washington State Department of Ecology guidance as follows:

> *"Ordinary high water mark (OHWM) on all lakes, streams, and tidal water is that mark that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971 or as it may naturally change thereafter: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water."*

The OHWM was identified by utilizing guidance provided by the WA Department of Ecology relative to high energy marine environments. GBA examined vegetation, barnacle and lichen communities along the rock face of the dike and found these indicators to be inconsistent and ultimately unreliable. We also considered the line of vegetation consisting of mixed pasture grasses located at the top of the rock face and determined the line of terrestrial vegetation to be landward of usual and long continued tidal inundation. Therefore we utilized the default option provided under WAC 173-22-030 (11) (a) (i):

> *"Where the ordinary high water mark cannot be found it is the elevation of mean higher high tide."*

The National Oceanic and Atmospheric Administration established MHHT for Samish Bay at + 8.4 feet above mean lower low water (MLLW = 0). MHHT was estimated at a point of regular inundation coexistent with a green algae line approximately 2.5 feet in elevation above the waterward toe of dike.

Photo 3 – View of rock face of dike showing detritus at toe, lichen and approximate 8.4' elevation of MHHT at dashed line.

Photo 4 – View southwest showing erosion occurring at top of dike approximately 2.5 feet landward of MHHT/OHWM.

3. Project Description

The subject proposal includes two related components intended to repair and maintain the existing profile of the dike. All work will be accomplished from the top of dike landward of MHHT/OHWM. No expansion of the pre-existing prism is proposed. The two components are described below under a. and b.:

a. Maintain and repair the existing marine dike along approximately 741 linear feet of the Samish Bay dike. Areas along the waterward top of the rock face have eroded as a result of wave action. Storm events generate wave action with velocities that occasionally overtop the dike resulting in erosion as the wave recedes drawing soil back to the bay. Voids are present at several areas along the rock face and are expected to increase if unchecked. The project will fill voids with clean angular rock topped with quarry spalls. Approximately 60 cubic yards of rock will be imported to the site by truck and placed individually with a thumbed excavator. Repaired areas will be topped with clean soil compacted with the bucket of the excavator to re-establish the pre-existing profile and reseeded with a pasture grass mix.

b. Repair a slump along approximately 87 linear feet of the landward top of the Edison Slough dike with clean clay based soil to reestablish the pre-existing profile. Seed will be imported to the

dike via pickup truck and broadcast with a hand spreader. (Attachment: Project Site Plan and Profiles)

Photo 3 – View north showing eroded area proposed for repair along waterward top of bay front dike.

Photo 4 – View northwest showing portion of slump area (along dotted line) of slough dike proposed for restoration.

4. Regulatory Analysis

Proposed maintenance and repair of the dike is addressed by the Skagit County Unified Development Code under the Shoreline Master Program, Critical Areas Ordinance and Flood Damage Prevention Ordinance.

4.1 SCC 14.26 Shoreline Master Program (SMP) – The SMP exempts specified types of development or activities from the Substantial Development Permit Requirements. Chapter 2 Applicability Section 2.5, a. and j. addresses the subject proposal:

> *"a. Normal maintenance and repair of existing structures or development, including damage by fire, accident, or the elements; Provided that the new development or structure is essentially the same as the original in location, size, function and use."*

Repair of the damaged dike will maintain the original location restore the original size and continue to provide flood protection consistent with the function of the original or pre-existing dike.

> *"j. Operation and maintenance of any system of dikes, ditches, drains or other facilities existing on the effective date of this 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage and diking system."*

The subject dike is a component of the lower Samish Basin Marine Dike system and has been in place since the late 19th century. Its historic and current use is a part of an agricultural diking system. The dike enables ongoing agricultural activities to continue on the interior of the subject parcels.

4.2 SCC 14.24 Critical Areas Ordinance (CAO) – Section 14.24.070 of the CAO provides for specified development and activities to occur without standard critical area review; provided they are consistent with the CAO and other Chapters of the Skagit County Code. Subsection 14.24.070 (7) provides the following exemption:

"(7) Provided that the requirements of SCC 14.24.120 (4) (d) are met for ongoing agriculture, the lawful operation and maintenance of public and private diking and drainage systems along the Skagit and Samish Rivers and Tidal Estuaries of Skagit County...."

The subject proposal is compliant with the provisions of SCC 14.24.120 and is located on the Samish River estuary. A Hydraulic Project Approval (HPA) will be obtained for maintenance and repair activities prior to initiating work on the project. An onsite pre-application meeting has been conducted with the area habitat Biologist for WDFW.

4.3 SCC 14.34 Flood Damage Prevention Ordinance (FDPO) – Although the project appears to be exempt from the shoreline substantial development permit requirement, and satisfies the criteria for activities allowed without standard review, the CAO also requires compliance with SCC Chapter 14.34 (Flood Damage Prevention Ordinance). Subsection 14.24.630 (3) requires consideration of the Endangered Species Act. The following analysis is not purported to be a biological evaluation (BE) pursuant to the ESA, but rather an abbreviated summary of effects on listed species as required under the FDPO:

"The applicant shall demonstrate that the development is not likely to adversely affect species protected under the Endangered Species Act, consistent with the provisions of Chapter 14.34 SCC and this chapter..."

The FDPO identifies the "Protected Review Area" as lands within the floodway, riparian habitat zone and the channel migration area. Although the project is not proposed for the floodway or channel migration area it is within the Riparian Habitat Zone which is defined as the area within 250 feet of all waters of the State (as defined under WAC 222-16-030) within the Special Flood Hazard Area. Proposed project activities will be located within the 250 foot Riparian Buffer Zone and the Special Flood Hazard Area which is identified as an A8 Zone on Community Panel Number 530151 0050 C of the Flood Insurance Rate Map (Effective January 3, 1985). The A8 zone is identified as:

"Areas of 100-year flood; base flood elevation and flood hazard factors determined."

The base flood elevation of the subject property is 8 feet. While proposed project activities are above the base flood elevation along the upper portion of the dike, activities will be located within the horizontal boundary of the special flood hazard area. Therefore, a habitat assessment is required to addresses potential affects to Chinook salmon and Southern Resident Killer Whale resulting from activities proposed within the Riparian Buffer Zone and Special Flood Hazard Area.

4.3.1 Action Area - The action area consists of an approximate 0.5-mile radius around the project site. Construction activities will include noise and vibration from heavy equipment (truck and excavator). Noise from construction activities will be temporary and will not likely be discernable from back ground noise levels emanating from adjacent sources within the action area including ongoing agricultural activities (on and offsite), County roadways, activities within the Rural Village of Edison and boat traffic.

4.3.2 Existing Environmental Conditions - The banks along the entire shoreline of Samish Bay adjacent to the project site are armored with rock rip rap and are generally absent of functional riparian vegetation. The existing small trees and shrubs are considered insufficient to provide a full range of marine riparian functions. Both public and private managers of the marine dike place

a premium on maintenance of clear surface and armored rock face. The dike protects the adjacent farmland which is utilized for ongoing agricultural production, waterfowl habitat and private (leased) hunting clubs. The bay front and adjacent agricultural land represents an important area within the Pacific Flyway for wintering and spring staging waterfowl. Some local waterfowl production also occurs in area.

All species of Pacific salmon, steelhead, bull trout and coastal cutthroat trout may utilize Samish Bay as out migrating juveniles and returning adults. Many other aquatic species also utilize the bay. The bay is an important commercial and recreational shellfish area and is the location of some of the largest intact eelgrass meadows in the Pacific Northwest. Fish and wildlife use of the bay is closely linked to the intertidal/subtidal eelgrass biota. Several forage fish species utilize the bay, two of which Pacific herring (*Clupeidae harengus pallasi*) and surf smelt (*Hypomesus pretiosus*) are found west of the project area along the shoreline of Samish Island. Dungeness crab (*Cancer magister*) utilize the eelgrass meadows, particularly during the reproductive phase of their life cycle. Because all project activities will be conducted above and landward of MHHT/OHWM, no permanent impact to the existing environmental condition is anticipated.

4.3.3 Species Information - The proposed project will occur along the top of bank approximately 2.5 feet above and landward of MHHT/OHWM. While a number of species could be affected by the proposal, the scope of this assessment is limited under the Skagit County Flood Damage Prevention Ordinance to the species summarized in the following table:

Table 1: Species Status Table

Species	ESA List Status	Agency of Jurisdiction
Puget Sound ESU* Chinook salmon	Threatened*	NMFS*
Southern Resident killer Whale DPS*	Threatened	NMFS

*ESU = Evolutionarily significant unit/*NMFS = National Marine Fisheries Service/*DPS = Distinct population segment/*Threatened = any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range

4.3.4 Puget Sound (ESU) Chinook salmon *(Oncorhynchus tshawytscha)* – Although the National Marine Fisheries Service has not addressed Samish River Chinook specifically, Puget Sound ESU Chinook have been listed as threatened under the Endangered Species Act. Chinook salmon were listed as threatened by NMFS (64FR 14308) on August 2, 1999. Adult and juvenile salmonids including Chinook migrate throughout the marine waters of North Puget Sound on a year round basis. Wild Puget Sound Chinook spawn in the maintstem of rivers at water depths of few inches to a depth of several feet in substrate ranging in size from small gravel to cobble. Fry emergence is dependent upon water temperature, but may begin as early as January. Ocean-type Chinook fry spawned in the mainstem of the Skagit River move downstream soon after hatching, although stream-type Chinook may spend up to a year in the river before out-migrating to Puget Sound during the winter and spring. Normally, Chinook fry seek pools and other low energy areas suitable for rearing as they move downstream. After a short period of acclimation to the marine environment, the juveniles begin to migrate throughout Puget Sound and finally to the open ocean. During this immature "blackmouth" phase Chinook salmon may residualize in Puget Sound and spend up to three years in the area. Rivers, large tributaries and marine waters, including Samish Bay, are considered Critical Habitat for Chinook salmon. While Chinook of hatchery origin are common in Samish Bay and offer a productive commercial and recreational fishery, there are unlikely to be significant numbers of wild chinook in the waters of Samish Bay.

4.3.5 Southern Resident Killer Whale DPS *(Orcinus orca)* – Southern resident killer whales were listed as threatened by NMFS (70FR 69903) on November 18, 2005. The DPS consists of three

(3) pods identified as the J, K and L pods. Southern Resident Killer Whales may occur anywhere within the inland waters of Puget Sound during the summer and early fall. Southern resident killer whales are a long-lived species with late onset of sexual maturity. Females produce relatively few surviving calves during their reproductive life span. The DPS is highly mobile and can travel up to 86 miles in a single day. The DPS is more common in coastal waters from late fall to spring. There is little information relating to the distribution of and habitat use of the Southern Residents along the outer coast but indications are that they travel little more than 50 km offshore. Research indicates that the DPS exhibits a distinct preference for Chinook salmon which may constitute up to 72% of their prey. The Southern Residents are linked with Chinook salmon and their critical habitat as predator/prey. Critical habitat for the Southern Residents includes approximately 2,560 square mile of inland waters including North Puget Sound.

4.3.6 Analysis of Effects – Because all project activities are associated with maintenance and repair of an existing dike and will occur landward and above MHHT/OHWM there are no anticipated significant adverse impacts to Samish Bay.

4.3.7 Direct Effects – Potential impacts to the riparian buffer zone and special flood hazard area resulting from maintenance and repair of the existing marine dike may include:

- Temporary impacts to the riparian buffer zone may occur due to equipment traffic on the top of dike which could disturb groundcover and expose surface soils to the forces of erosion. Unchecked it is possible that sediments could erode from the project site and enter Samish Bay resulting in increased turbidity. Construction phase impacts of this nature could occur, however they should be considered in the context of the existing baseline conditions. Under the existing condition of the dike, erosion occurs regularly during storm events and will be become more severe as larger areas along the top of dike are exposed to wave action. It should also be recognized that the shallow nature of the bay and unconsolidated substrate of the intertidal zone routinely results in elevated turbidity during storm events.
- Other temporary impacts to water quality due to construction activities such as fuel, oil or hydraulic fluid spills could occur during the construction phase. It is noteworthy that during our site investigation four (4) oil tankers were observed anchored near Point Williams approximately 3 miles to the west.

4.3.8 Indirect Effects - No functional riparian vegetation is proposed to be removed in association with project actions. No indirect effects have been identified.

4.3.9 Conservation Measures - The following conservation measures are recommended to be incorporated into project activities to minimize impacts to the aquatic habitat, riparian buffer zone and special flood hazard area.

1. A Hydraulic Project Approval (HPA) should be obtained from the WA Department of Fish and Wildlife. All conditions of approval should be adhered to.
2. Project activities should be restricted to the area above and landward of MHHT/OHWM and conducted as soon as practicable.
3. Areas disturbed during construction activities should be revegetated with self-sustaining ground cover upon completion of the project.
4. The project site should be clearly identified on site and effort should be made to limit construction activity to the project site.

5. All equipment should be inspected on a regular basis for fuel, oil and hydraulic leaks. The contractor should have appropriate materials on site to be used in the event of a petroleum product spill.

4.3.10 Determination of Effects - The following table summarizes the effects analysis for ESA listed species.

Table 4: Effects Determination Table

Species	Effect	Take*
Puget Sound ESU Chinook salmon	NLTAA*	None
Southern Resident killer Whale DPS	NLTAA	None

*NLTAA = Not Likely to Adversely Affect/*Take = To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to engage in any such conduct.

4.3.11 Puget Sound Chinook Salmon – The proposed project may affect but is not likely to adversely affect, Puget Sound Chinook salmon. Chinook migrate through the action area as outmigrating juveniles and returning adults, however the project will occur above and landward of mean higher high tide MHHT/OHWM and is not anticipated to impact aquatic resources on a permanent basis beyond the existing baseline. Existing baseline conditions reflect management of the riparian buffer zone for the primary purposes of shore protection, agricultural, residential and recreational use. Similarly the proposed project will not adversely modify critical habitat for Puget Sound Chinook salmon, in part, because the riparian buffer zone is currently modified for shore protection. In addition repair and maintenance of the dike is intended to arrest ongoing erosion at the site and prevent further impacts to the marine and upland environment.

4.3.12 Southern Resident Killer Whale - The proposed project may affect but is not likely to adversely affect, southern resident killer whale. Because the proposal is not likely to adversely affect Chinook salmon, there will be no corresponding affect on Southern Resident Killer Whales that prey upon Chinook salmon. Because the action area is located above and landward of MHHT/OHWM the project will not adversely modify critical habitat for southern resident killer whale.

5. Closure

While GBA utilized currently accepted methods and protocols for the identification of habitat conservation areas, and assessment of effects to ESA listed species, the findings and conclusions rendered in this report represent our professional opinion. Concurrence should be obtained from Skagit County Planning and Development Services prior to initiating construction activities.

Patricia Bunting, PWS

Oscar Graham, Shoreline Planner

5. References

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Personal Communications

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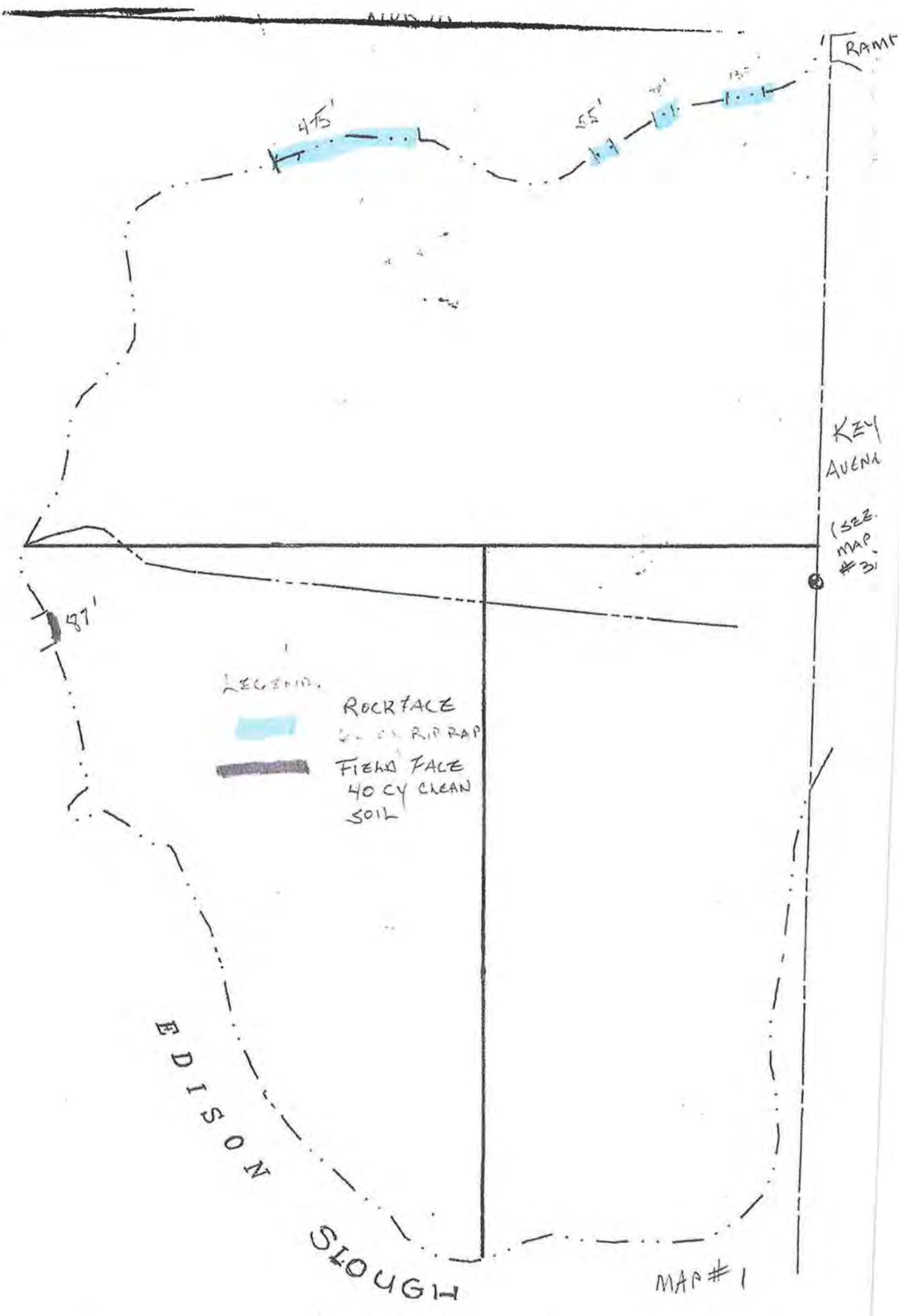
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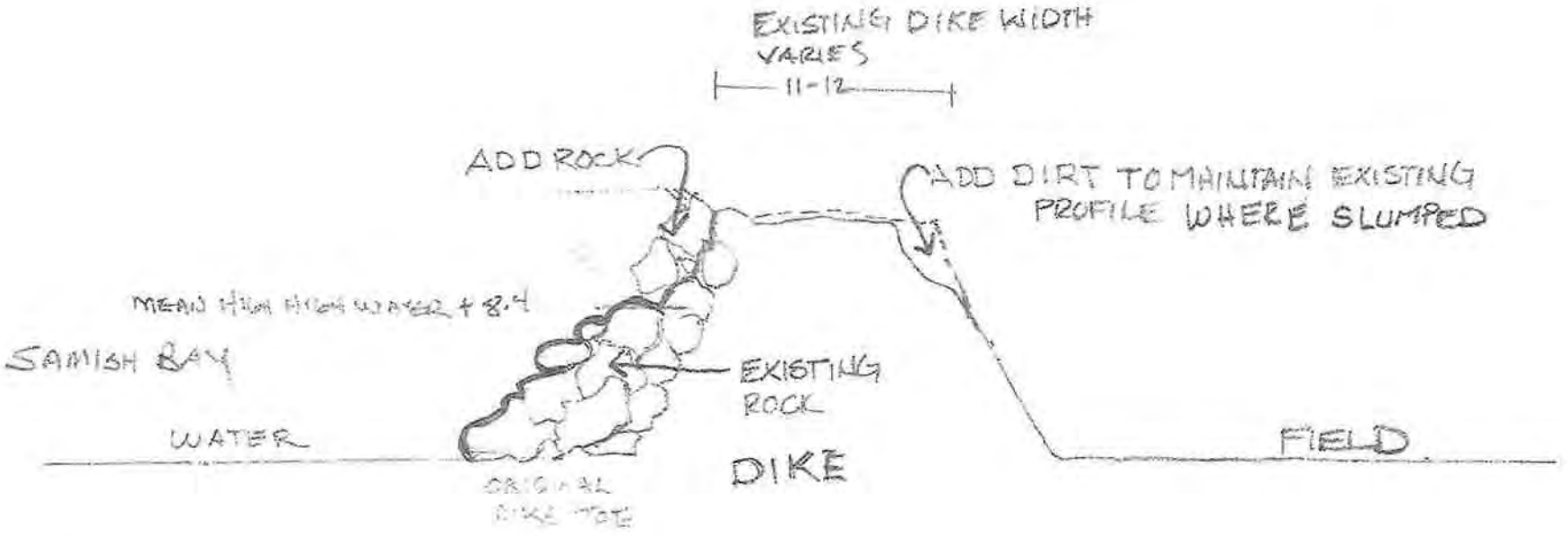

NOT TO SCALE

Planning & Development Services Fact Sheet
Community Development Division

PL____-____
Date Received

☑ Shoreline Exemption
☐ Other _____

Brief project description: MAINTENANCE OF EXISTING DIKE

Applicant Name: JAN DAVIS

Other Related Permits or Approvals: _____

Parcel ID#: 48497 Assessor Tax #: 360332 - 0 - 001 - 0006

Parcel ID#: 48499 Assessor Tax #: 360332 - 0 - 003 - 0004

Site Address: 5544 SMITH ROAD BOW, WA 98232

Section 32 Township 36N Range 3E Critical Area/Water within 200 feet: ☒Yes ☐No

Name of Associated Shoreline/Waterbody: SAMISH BAY

Shoreline Designation: RURAL

Lot of Record: ☒Yes ☐No Urban Growth Area: ☐Yes ☒No If yes, City: _____

Acreage / Lot Dimensions: N/A

Comp Plan/Zoning within 200 feet: AGRICULTURE

Flood Zone: YES FIRM Map Panel #: 53015L0501 5L0050C Map Date: 9/29/89

Road access: ☒Private ☐County - Permit #: _____ ☐State - Permit #: _____

Water Source: ☐ Drilled Well - Permit #: N/A ☐Community Well ☐Public ☐PUD #1 ☐Anacortes

Sewage Disposal: ☐Septic - Permit #: N/A ☐Public Sewer: _____

Pre-application meeting required: ☐Yes ☐No Meeting verification form enclosed: ☐Yes ☐No

Legal Description (48497) THE NORTH 1/2 ACRES OF GOVERNMENT LOTS 1, 2, 3 AND 10 (48499) THE WEST HALF OF GOVERNMENT LOTS 1, 2, 3 AND 10 EXCEPT THE NORTH 1/2 ACRES THEREOF

(Attach additional sheet if necessary.)

Planning & Development Services

Critical Areas Checklist

Pursuant to Skagit County 14.24.080

Section 32 Township 36N Range R3E Parcel Number: 4849799 Related Permits: _____

Site Address: SEE PROJECT LOCATION AND ATTACHED MAP

Proposed uses: MAINTENANCE OF EXISTING DIKE

PLEASE ANSWER THE FOLLOWING QUESTIONS CONCERNING CRITICAL AREA INDICATORS LOCATED ON OR WITHIN 200 FEET OF THE PROJECT AREA.

a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, *please attach a list of document titles).
___ Yes* X No ___ Unknown

b. Are there any surface waters (including year-round and seasonal streams, saltwater, lakes, ponds, bogs, fens, swamps, marshes)?
X Yes ___ No ___ Unknown SAMISH BAY

c. Is there vegetation that is associated with wetlands?
___ Yes X No ___ Unknown

d. Have any wetlands been identified?
___ Yes X No ___ Unknown

e. Are there areas where the ground is consistently inundated or saturated with water?
___ Yes X No ___ Unknown

f. Are there any State or Federally listed sensitive, endangered or threatened species and habitats?
X Yes ___ No ___ Unknown IN SAMISH BAY (SEE PAGE 12 OF 14)

g. Are there slopes of 15% or greater?
X Yes ___ No ___ Unknown FACE OF DIKE

h. Is the project located within a Flood Hazard Zone?
X Yes ___ No ___ Unknown

i. Do you know of any landslide hazard areas?
___ Yes X No ___ Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of SCC 14.24, the Skagit County Critical Areas Ordinance.

Ian Davis
Applicant's Signature

4/29/15
Date

WASHINGTON STATE
Joint Aquatic Resources Permit Application (JARPA) Form[1,2]

US Army Corps of Engineers • Seattle District

USE BLACK OR BLUE INK TO ENTER ANSWERS IN THE WHITE SPACES BELOW.

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

Part 1–Project Identification

1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help]
MAINTENANCE OF EXISTING DIKE

Part 2–Applicant

The person and/or organization responsible for the project. [help]

2a. Name (Last, First, Middle)			
DAVIS, JAN L			
2b. *Organization (If applicable)*			
2c. Mailing Address (Street or PO Box)			
5544 SMITH ROAD			
2d. City, State, Zip			
BOW, WA 98232			
2e. Phone (1)	**2f.** Phone (2)	**2g.** Fax	**2h.** E-mail
(360) 766-5233	( ) N/A	( ) N/A	N/A

[1]Additional forms may be required for the following permits:

- If your project may qualify for Department of the Army authorization through a Regional General Permit (RGP), contact the U.S. Army Corps of Engineers for application information (206) 764-3495.
- If your project might affect species listed under the Endangered Species Act, you will need to fill out a Specific Project Information Form (SPIF) or prepare a Biological Evaluation. Forms can be found at http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_ESA
- Not all cities and counties accept the JARPA for their local Shoreline permits. If you need a Shoreline permit, contact the appropriate city or county government to make sure they accept the JARPA.

[2]To access an online JARPA form with [help] screens, go to http://www.epermitting.wa.gov/site/alias__resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx.

For other help, contact the Governor's Office of Regulatory Assistance at 1-800-917-0043 or help@ora.wa.gov.

Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b of this application.) [help]

3a. Name (Last, First, Middle)			
N/A			
3b. Organization (If applicable)			
3c. Mailing Address (Street or PO Box)			
3d. City, State, Zip			
3e. Phone (1)	**3f.** Phone (2)	**3g.** Fax	**3h.** E-mail
( )	( )	( )	

Part 4–Property Owner(s)

Contact information for people or organizations owning the property(ies) where the project will occur. Consider both **upland and aquatic** ownership because the upland owners may not own the adjacent aquatic land. [help]

☐ Same as applicant. (Skip to Part 5.)

☐ Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)

☐ There are multiple upland property owners. Complete the section below and fill out JARPA Attachment A for each additional property owner.

☐ Your project is on Department of Natural Resources (DNR)-managed aquatic lands. If you don't know, contact the DNR at (360) 902-1100 to determine aquatic land ownership. If yes, complete JARPA Attachment E to apply for the Aquatic Use Authorization.

4a. Name (Last, First, Middle)			
DAVIS, JAN C.			
4b. Organization (If applicable)			
N/A			
4c. Mailing Address (Street or PO Box)			
5514 SMITH ROAD			
4d. City, State, Zip			
BOW, WA 98232			
4e. Phone (1)	**4f.** Phone (2)	**4g.** Fax	**4h.** E-mail
(360) 766-5233	( ) N/A	( ) N/A	N/A

OWNERSHIP CERTIFICATION

I, JAN DAVIS, hereby certify that I am the major property owner or officer of the corporation owning property described in the attached application, and I have familiarized myself with the rules and regulations of Skagit County with respect to filing this application for a

SHORELINE EXEMPTION and that the statements, answers and information submitted present the argument on behalf of this application and are, in all respects, true and correct to the best of my knowledge and belief.

Street Address: 5544 SMITH ROAD

City, State, Zip: BOW, WA 98232

Phone: (360) 766-5233

Signature(s):

_____

_____

for: _____
(corporation or company name, if applicable)

ACKNOWLEDGMENT
STATE OF WASHINGTON

COUNTY OF SKAGIT

On this day personally appeared before me _____ to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 200_.

_____
Notary Public in and for the State of Washington
Residing at _____

My Commission Expires _____

Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [help]

☐ There are multiple project locations (e.g. linear projects). Complete the section below and use JARPA Attachment B for each additional project location.

5a. Indicate the type of ownership of the property. (Check all that apply.) [help]

☑ Private
☐ Federal
☐ Publicly owned (state, county, city, special districts like schools, ports, etc.)
☐ Tribal
☐ Department of Natural Resources (DNR) – managed aquatic lands (Complete JARPA Attachment E)

5b. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5p.) [help]

5544 SMITH ROAD

5c. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]

BOW, WA 98232

5d. County [help]

SKAGIT

5e. Provide the section, township, and range for the project location. [help]

¼ Section	Section	Township	Range
ALL	32	36N	R3E

5f. Provide the latitude and longitude of the project location. [help]

- Example: 47.03922 N lat. / -122.89142 W long. (Use decimal degrees - NAD 83)

N48.5664 W 122.4529

5g. List the tax parcel number(s) for the project location. [help]

- The local county assessor's office can provide this information.

P48497 AND P48499

5h. Contact information for all adjoining property owners. (If you need more space, use JARPA Attachment C.) [help]

Name	Mailing Address	Tax Parcel # (if known)
CHRISTY ERICKSON BERNARD ALONZO	5548 SMITH ROAD BOW, WA 98232	P48560
ROBERT + AMY DOWAN	5557 SMITH ROAD BOW, WA 98232	

5i. List all wetlands on or adjacent to the project location. [help]

5j. List all waterbodies (other than wetlands) on or adjacent to the project location. [help]

SAMISH BAY

5k. Is any part of the project area within a 100-year floodplain? [help]

☒ Yes ☐ No ☐ Don't know

5l. Briefly describe the vegetation and habitat conditions on the property. [help]

FARM PLANTED IN GRASS FOR HAY HARVEST
APPROXIMATELY 8 ACRES IN CORN
TREES AND BRUSH ALONG DIKE

5m. Describe how the property is currently used. [help]

FARMING HAY FOR HARVEST AND A SMALL
AMOUNT OF CORN FOR DUCKS.

5n. Describe how the adjacent properties are currently used. [help]

RESIDENTIAL AND FARMING

5o. Describe the structures (above and below ground) on the property, including their purpose(s) and current condition. [help]

EARTHEN DIKE WITH ROCK ARMOR ON WATERWARD
FACE, DRAINAGE DITCHES, ALL WORKING AS
INTENDED

5p. Provide driving directions from the closest highway to the project location, and attach a map. [help]

TRAVELING NORTH ON CHUCKANUT DRIVE (HWY 11) TURN LEFT
ONTO BOW HILL ROAD PROCEED APPROX 1 MILE. TURN RIGHT MAP #3
ONTO SMITH ROAD. TO END OF COUNTY ROAD SIGN WHERE
LOCKED GATE WILL BE VISIBLE TO NORTH. PARK, WALK AROUND
GATE AND PROCEED TO FIRST RAMP TO WEST ONTO TOP OF DIKE

Part 6–Project Description

6a. Briefly summarize the overall project. You can provide more detail in 6b. [help]

MAINTENANCE OF EXISTING DIKE

6b. Describe the purpose of the project and why you want or need to perform it. [help]

MAINTENANCE OF EXISTING DIKE AS PROTECTION FROM FLOODING

6c. Indicate the project category. (Check all that apply) [help]

☐ Commercial ☐ Residential ☐ Institutional ☐ Transportation ☐ Recreational
☒ Maintenance ☐ Environmental Enhancement

6d. Indicate the major elements of your project. (Check all that apply) [help]

☐ Aquaculture	☐ Culvert	☐ Float	☐ Retaining Wall (upland)
☐ Bank Stabilization	☐ Dam / Weir	☐ Floating Home	☐ Road
☐ Boat House	☒ Dike / Levee / Jetty	☐ Geotechnical Survey	☐ Scientific Measurement Device
☐ Boat Launch	☐ Ditch	☐ Land Clearing	☐ Stairs
☐ Boat Lift	☐ Dock / Pier	☐ Marina / Moorage	☐ Stormwater facility
☐ Bridge	☐ Dredging	☐ Mining	☐ Swimming Pool
☐ Bulkhead	☐ Fence	☐ Outfall Structure	☐ Utility Line
☐ Buoy	☐ Ferry Terminal	☐ Piling/Dolphin	
☐ Channel Modification	☐ Fishway	☐ Raft	

☐ Other:

6e. Describe how you plan to construct each project element checked in 6d. Include specific construction methods and equipment to be used. [help]

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year floodplain.

CLEAN ANGULAR ROCK WILL BE IMPORTED VIA TOP OF DIKE BY TRUCK, AN EXCAVATOR WILL PLACE EACH INDIVIDUAL ROCK ON WATERWARD FACE OF DIKE ABOVE MEAN HIGH HIGH WATER (+8.4 TIDAL ELEVATION) ONTO ERODED AREAS. CLEAN FILL WILL BE IMPORTED BY TRUCK VIA TOP OF DIKE. IT WILL BE DUMPED INTO DEPRESSIONS ON TOP AND FIELD SIDE OF DIKE WHERE SWAMPED. IT WILL BE SMOOTHED AND COMPACTED BY EXCAVATOR BUCKET. GRASS SEED WILL BE IMPORTED VIA TOP OF DIKE BY PICK-UP TRUCK THEN SPREAD BY HAND HELD GRASS SPREADER. ALL IS IN FLOODPLAIN) SEE MAP #2

6f. What are the anticipated start and end dates for project construction? (Month/Year) [help]

- If the project will be constructed in phases or stages, use JARPA Attachment D to list the start and end dates of each phase or stage.

Start date: JULY 2015 End date: SEPTEMBER 2020 ☐ See JARPA Attachment D

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [help]

$ 14,750

6h. Will any portion of the project receive federal funding? [help]

- **If yes**, list each agency providing funds.

☐ Yes ☒ No ☐ Don't know

Part 7–Wetlands: Impacts and Mitigation

☐ Check here if there are wetlands or wetland buffers on or adjacent to the project area. (If there are none, skip to Part 8.) [help]

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [help]

☒ Not applicable

7b. Will the project impact wetlands? [help]

☐ Yes ☒ No ☐ Don't know

7c. Will the project impact wetland buffers? [help]

☐ Yes ☒ No ☐ Don't know

7d. Has a wetland delineation report been prepared? [help]

- **If Yes**, submit the report, including data sheets, with the JARPA package.

☐ Yes ☒ No

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [help]

- **If Yes**, submit the wetland rating forms and figures with the JARPA package.

☐ Yes ☐ No ☐ Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [help]

- **If Yes**, submit the plan with the JARPA package and answer 7g.
- **If No, or Not applicable**, explain below why a mitigation plan should not be required.

☐ Yes ☐ No ☐ Not applicable

7g. Summarize what the mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [help]

7h. Use the table below to list the type and rating of each wetland impacted, the extent and duration of the impact, and the type and amount of mitigation proposed. Or if you are submitting a mitigation plan with a similar table, you can state (below) where we can find this information in the plan. [help]

Activity (fill, drain, excavate, flood, etc.)	Wetland Name[1]	Wetland type and rating category[2]	Impact area (sq. ft. or Acres)	Duration of impact[3]	Proposed mitigation type[4]	Wetland mitigation area (sq. ft. or acres)

[1] If no official name for the wetland exists, create a unique name (such as "Wetland 1"). The name should be consistent with other project documents, such as a wetland delineation report.
[2] Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.
[3] Indicate the days, months or years the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.
[4] Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: _____

7i. For all filling activities identified in 7h, describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [help]

7j. For all excavating activities identified in 7h, describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [help]

Part 8–Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, "waterbodies" refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [help]

☒ Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [help]

☐ Not applicable

ALL WORK CARRIED OUT IN MID TO LATE SUMMER. WORK ON WATERWARD FACE OF DIKE IS ABOUT MEAN HIGH HIGH WATER (+8.4') AND WITHIN ORIGINAL DIKE TOE. ROCK IMPORTED TO SITE IS CLEAN, ANGULAR AND OF SUFFICIENT SIZE AND DURABILITY TO PREVENT BEING BROKEN UP OR WASHED AWAY BY HIGH WATER OR WAVE ACTION. ROCK IS IMPORTED VIA TOP OF DIKE AS NEEDED AND IS NOT STOCKPILED. SOIL IMPORTED VIA TOP OF DIKE TO LEVEL SLUMPING IS 4' TO 11' FROM WATERWARD SIDE OF DIKE NO SOIL WILL ENTER WATER. SOIL WILL BE COMPACTED TO PREVENT WIND EROSION. REPLANTING GRASS WILL FURTHER PREVENT EROSION.

8b. Will your project impact a waterbody or the area around a waterbody? [help]

☒ Yes ☐ No SAMISH BAY

8c. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [help]

- **If Yes**, submit the plan with the JARPA package and answer 8d.
- **If No, or Not applicable,** explain below why a mitigation plan should not be required.

☐ Yes ☑ No ☐ Not applicable

8d. Summarize what the mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7g you do not need to restate your answer here. [help]

NONE NO SUSPECTED IMPACT

8e. Summarize impact(s) to each waterbody in the table below. [help]

Activity (clear, dredge, fill, pile drive, etc.)	Waterbody name[1]	Impact location[2]	Duration of impact[3]	Amount of material (cubic yards) to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected
ROCK PLACED ON	SAMISH	ROCK ON	3-4	60 CUBIC	741 LINEAR
WATERWARD TOE	BAY	WATERWARD	DAYS	YARDS	FEET
OF EXISTING DIKE		FACE 18" TO	DURING	OF RIP RAP	
		30" FROM	MAINTENANCE		
		HIGH, HIGH WATER ACTIVITY	EACH YEAR		

[1] If no official name for the waterbody exists, create a unique name (such as "Stream 1") The name should be consistent with other documents provided.
[2] Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.
[3] Indicate the days, months or years the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

8f. For all activities identified in 8e, describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [help]

60 CUBIC YARDS OF ROCK WILL BE IMPORTED FROM LAKESIDE INDUSTRIES IN ANACORTES, WA. EACH ROCK WILL BE PLACED INDIVIDUALLY BY EXCAVATOR 18" TO 30" ABOVE HIGH HIGH WATER DEPENDING ON DEPTH OF EROSION IN THE AREAS HIGHLIGHTED IN GREEN ON MAP #1 CLEAN FILL IS DITCH SPOILS FROM FIELD THAT HAS BEEN STOCKPILED FOR THIS PURPOSE ON EAST SIDE OF ACREAGE HIGHLIGHTED IN ORANGE SEE MAP #1

8g. For all excavating or dredging activities identified in 8e, describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [help]

Part 9–Additional Information

Any additional information you can provide helps the reviewer(s) understand your project. Complete as much of this section as you can. It is ok if you cannot answer a question.

9a. If you have already worked with any government agencies on this project, list them below. [help]

Agency Name	Contact Name	Phone	Most Recent Date of Contact
		( )	
		( )	
		( )	

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 of this JARPA on the Washington Department of Ecology's 303(d) List? [help]

- **If Yes,** list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: http://www.ecy.wa.gov/programs/wq/303d/.

☒ Yes ☐ No

SAMISH BAY - FECAL

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [help]

- Go to http://cfpub.epa.gov/surf/locate/index.cfm to help identify the HUC.

17110019

9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [help]

- Go to http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm to find the WRIA #.

WRIA #3 MARINE

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help]

- Go to http://www.ecy.wa.gov/programs/wq/swqs/criteria.html for the standards.

☐ Yes ☐ No ☒ Not applicable

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help]

- If you don't know, contact the local planning department.
- For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.

☒ Rural ☐ Urban ☐ Natural ☐ Aquatic ☐ Conservancy ☐ Other _____

9g. What is the Washington Department of Natural Resources Water Type? [help]

- Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx for the Forest Practices Water Typing System.

☒ Shoreline ☐ Fish ☐ Non-Fish Perennial ☐ Non-Fish Seasonal

9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help]

- **If No**, provide the name of the manual your project is designed to meet.

☐ Yes ☐ No NOT REQUIRED

Name of manual:

9i. Does the project site have known contaminated sediment? [help]

- **If Yes**, please describe below.

☐ Yes ☒ No

9j. If you know what the property was used for in the past, describe below. [help]

FARMING

9k. Has a cultural resource (archaeological) survey been performed on the project area? [help]

- **If Yes**, attach it to your JARPA package.

☐ Yes ☒ No

9l. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [help]

CHINOOK
CHUM
COHO
SOCKEYE
PINK
} SALMON

PACIFIC BULL TROUT
PUGET SOUND STEELHEAD
KILLER WHALE
STELLAR SEA LION

MARBLE MURRELET
COMMON LOON
PEREGRINE FALCON
SPOTTED OWL
BALD EAGLE

9m. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [help]

SAME AS 9L AND SAMISH BAY

Part 10–SEPA Compliance and Permits

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at http://apps.ecy.wa.gov/opas/.
- Governor's Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.
- For a list of addresses to send your JARPA to, click on agency addresses for completed JARPA.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [help]

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

☐ A copy of the SEPA determination or letter of exemption is included with this application.

☐ A SEPA determination is pending with _____ (lead agency). The expected decision date is _____.

☐ I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.) [help]

☐ This project is exempt (choose type of exemption below).

☐ Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt?

_____

☐ Other: _____

☐ SEPA is pre-empted by federal law.

10b. Indicate the permits you are applying for. (Check all that apply.) [help]

LOCAL GOVERNMENT

Local Government Shoreline permits:

☐ Substantial Development ☐ Conditional Use ☐ Variance

☒ Shoreline Exemption Type (explain): MAINTENANCE OF EXISTING DIKE (PENDING)

Other city/county permits:

☐ Floodplain Development Permit ☐ Critical Areas Ordinance

STATE GOVERNMENT

Washington Department of Fish and Wildlife:

☒ Hydraulic Project Approval (HPA) ☐ Fish Habitat Enhancement Exemption – Attach Exemption Form

Effective July 10, 2012, you must submit a check for $150 to Washington Department of Fish and Wildlife, unless your project qualifies for an exemption or alternative payment method below. **Do not send cash.**

Check the appropriate boxes:

☐ $150 check enclosed. (Check #_____)
Attach check made payable to Washington Department of Fish and Wildlife.

☐ Charge to billing account under agreement with WDFW. (Agreement #_____)

☐ My project is exempt from the application fee. (Check appropriate exemption)
- ☐ HPA processing is conducted by applicant-funded WDFW staff. (Agreement #_____)
- ☐ Mineral prospecting and mining.
- ☐ Project occurs on farm and agricultural land. (Attach a copy of current land use classification recorded with the county auditor, or other proof of current land use.)
- ☐ Project is a modification of an existing HPA originally applied for, prior to July 10, 2012. (HPA #_____)

Washington Department of Natural Resources:

☐ Aquatic Use Authorization
Complete JARPA Attachment E and submit a check for $25 payable to the Washington Department of Natural Resources. **Do not send cash.**

Washington Department of Ecology:

☐ Section 401 Water Quality Certification

FEDERAL GOVERNMENT

United States Department of the Army permits (U.S. Army Corps of Engineers):

☐ Section 404 (discharges into waters of the U.S.) ☐ Section 10 (work in navigable waters)

United States Coast Guard permits:

☐ General Bridge Act Permit ☐ Private Aids to Navigation (for non-bridge projects)

Part 11–Authorizing Signatures

Signatures are required before submitting the JARPA package. The JARPA package includes the JARPA form, project plans, photos, etc. [help]

11a. Applicant Signature (required) [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. _____ (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. _____ (initial)

Applicant Printed Name	Applicant Signature	Date
JAN DAVIS	Jan Davis	5/19/15

11b. Authorized Agent Signature [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Authorized Agent Printed Name	Authorized Agent Signature	Date

11c. Property Owner Signature (if not applicant). [help]
Not required if project is on existing rights-of-way or easements.

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Property Owner Printed Name	Property Owner Signature	Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact the Governor's Office of Regulatory Assistance (ORA) at (800) 917-0043.
People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-019-09 rev. 06-12

From:	Bill Dewey
To:	PDS comments
Cc:	Betsy D. Stevenson
Subject:	SMP comments
Date:	Monday, April 04, 2016 8:21:23 AM
Attachments:	image003.png

Attached please find our comments on Skagit County's draft SMP.

Thank you,

Bill Dewey

Director of Public Affairs

130 SE Lynch Rd., Shelton, WA 98584
W: 360-432-3334 | C: 360-790-2330
taylorshellfish.com | tayloroysterbars.com

130 SE LYNCH ROAD, SHELTON, WA 98584
P: 360.426.6178 • F: 360.427.0327
WWW.TAYLORSHELLFISH.COM
WWW.TAYLOROYSTERBARS.COM

April 4, 2016

Via email: pdscomments@co.skagit.wa.us
Comments on the Skagit County Shoreline Master Program Update
Planning and Development Services
1800 Continental Place
Mount Vernon WA 98273

RE: Comments on the Skagit County Shoreline Master Program Update

Dear Skagit County Planning Commission:

Thank you for the opportunity to submit comments on Skagit County's Draft Shoreline Master Program ("SMP") update. I am submitting these comments on behalf of Taylor Shellfish Farms.

Taylor Shellfish is a fifth-generation, family-owned company based in Shelton that has grown shellfish on Washington State shorelines for over 100 years. All of the shellfish species that Taylor Shellfish cultivates in the state—oysters, clams, geoduck, and mussels—are recognized as sustainable, earning a "Best Choice" rating by the Monterey Bay Aquarium's Seafood Watch.

Taylor Shellfish has a significant presence in Skagit County, where it owns or leases approximately 2,300 acres of tidelands in Samish Bay, has an adjacent retail and processing facility on Chuckanut Drive and directly employs 40 area residents. Taylor Shellfish has a strong commitment to sustainable shellfish cultivation in Skagit County and all other areas that it farms. In recognition of this commitment, they have pursued third party certification by the Aquaculture Stewardship Council ("ASC"). The ASC Bivalve Standards are globally recognized and evaluate the performance of our operations against criteria related to the natural environment and biodiversity; water resources and water quality; species diversity, including wild populations; disease and pest management and resource efficiency. The standards also address social issues related to a company's engagement and support of local communities and the quality of the workplace for employees. In March, ASC announced the certification for Taylor's operations in south Puget Sound. Taylor Shellfish is the first and only shellfish grower in the country to achieve this recognition to date.[1] Taylor Shellfish has also received independent, third-party sustainability certification from Food Alliance.

[1] The March 2016 certification only encompassed Taylor's operations in four south Puget Sound Inlets. This week ASC also certified our 6,000 acre Willapa Bay farm and the company is pursuing certification to cover Samish Bay and all of their farms in the near future. An ASC article announcing this certification is available at: http://www.asc-aqua.org/index.cfm?act=update.detail&lng=1&uid=389.

In addition to being Director of Public Affairs for Taylor Shellfish Farms, I own and operate Chuckanut Shellfish, Inc. Chuckanut Shellfish owns approximately 32 acres in Samish Bay where we farm mainly clams. While Shelton is where I have my primary residence I have a home on Samish Island as well that serves as our base when we are working on our farm.

Taylor Shellfish's farms help diversify and support the County's economy by providing numerous jobs and producing healthy, nutritious shellfish. Yet the company's investment in the County is not purely economic. Shellfish rely on high quality water and habitat, and Taylor Shellfish has a strong history of working with numerous stakeholders to preserve and improve the quality of the County's waters. Samish Bay is particularly vulnerable to water degradation and is frequently closed to shellfish harvest due to upland pollution. In the 1980s I chaired a two-year multi-stakeholder process to develop a WAC 400-12 nonpoint pollution plan for the Samish watershed. At the time I worked for Rock Point Oyster Company who owned the farm for 70 years prior to Taylor's purchasing it in 1991. With Taylor's support I was very involved in the efforts to address failing septic systems in Blanchard and Edison in the 1990s and me and other Taylor Shellfish staff have been active participants in the Clean Samish Initiative—a collaborative effort by the county, state, tribes and stakeholders in the Samish River watershed to reduce water pollution through bacteria. I also participated actively in similar efforts in Similk Bay. We leased beds and actively farmed oysters there prior to it being downgraded due to failing septic systems.

A. The Shorelines Management Act Recognizes Shellfish as a Preferred Use.

The Shorelines Management Act ("SMA") establishes a cooperative program of shoreline management between state and local governments. RCW 90.58.080. The SMA and Ecology guidelines establish the fundamental policies and regulations with which all SMPs must comply. RCW 90.58.020, 90.58.080.

The SMA and Department of Ecology guidelines, chapter 173-26 WAC ("Ecology's guidelines"), recognize aquaculture as a water-dependent, preferred use of the shoreline that provides important ecological benefits and requires protection from potentially harmful activities. Under the SMA, local governments must give preference to uses that are "unique to or dependent upon use of the state's shoreline," protect the statewide interest over local interest, preserve the natural character of the shoreline, result in long term over short term benefits, and protect the resources and ecology of the shoreline. RCW 90.58.020. Ecology guidelines specifically identify aquaculture as a water-dependent, preferred shoreline use that provides important ecological benefits. WAC 173-26-241(3)(b)(i)(A) states, in full:

> Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.
>
> This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.

> Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Local government should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.

Because aquaculture is a preferred, water dependent use that can result in long-term benefits and protect the shoreline, Ecology's guidelines require local governments to encourage this use and protect it from damage by other activities. For example, WAC 173-26-241(3)(b)(i)(D) requires local governments to "ensure proper management of upland uses to avoid degradation of water quality of existing shellfish areas." Moreover, WAC 173-26-221(2)(c)(iii) identifies shellfish beds as critical saltwater habitat. "Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide." *Id*. Therefore, "[m]aster programs shall include policies and regulations to protect critical saltwater habitats and should implement policies and programs to restore such habitats." *Id*.

Additional state laws beyond the SMA further support the protection and expansion of shellfish aquaculture. In fact, some of the first laws passed by the Washington State legislature authorized the sale of state-owned tidelands to private parties for the express purpose of farming shellfish and growing. RCW 79.1135.010. Samish Bay and Similk Bay contain many of these tidelands (known as Bush Act lands) that are specifically designated for shellfish aquaculture.[2] The legislature emphasized the importance of a healthy aquaculture sector more recently by enacting the Aquaculture Marketing Act, chapter 15.85 RCW. RCW 15.85.010 announces the intent of this act as follows.

> The legislature declares that aquatic farming provides a consistent source of quality food, offers opportunities of new jobs, increased farm income stability, and improves balance of trade.
>
> The legislature finds that many areas of the state of Washington are scientifically and biologically suitable for aquaculture development, and therefore the legislature encourages promotion of aquacultural activities, programs, and development with the same status as other agricultural activities, programs, and development within the state.
> . . .
>
> It is therefore the policy of this state to encourage the development and expansion of aquaculture within the state. It is also the policy of this state to protect wildstock fisheries by providing an effective disease inspection and control program and prohibiting the release of salmon or steelhead trout by the private

[2] A map of Bush Act tidelands in Skagit County is available at: http://file.dnr.wa.gov/publications/aqr_bush_callow_skagit_20130529.pdf

sector into the public waters of the state and the subsequent recapture of such species as in the practice commonly known as ocean ranching.

Under this legal framework, a local government's SMP should contain policies and regulations to both encourage and protect aquaculture as a preferred, water-dependent use that provides important environmental and economic benefits. This is particularly important in Skagit County, where shellfish culture has such a rich history and is an integral part of the local culture and heritage[3].

B. <u>State and National Policies Promote the Preservation and Expansion of Shellfish Aquaculture Beds, and Recognize the Ecosystem Benefits They Provide.</u>

While the SMA expresses a preference for all types of aquaculture, federal and state governments have recently announced policies specifically promoting shellfish aquaculture. In 2011, the National Oceanic and Atmospheric Administration ("NOAA") enacted a National Shellfish Initiative "to increase shellfish aquaculture for commercial and restoration purposes, thereby stimulating coastal economies and improving ecosystem health." National Shellfish Initiative, p. 1.[4] This initiative recognizes shellfish aquaculture provides a "broad suite of benefits" by improving water quality, conserving habitat, stabilizing coastlines, restoring depleted species, and creating jobs. *Id*. Further, the National Ocean Council's April 2013 National Ocean Policy Implementation Plan stresses "[t]he aquaculture industry will benefit from streamlined Federal permitting and coordinated research efforts to support sustainable aquaculture." National Ocean Policy Implementation Plan, p. 3.[5] NOAA recently reaffirmed its support of domestic shellfish aquaculture in a message from Eileen Sobeck, Assistant Administrator for NOAA Fisheries, emphasizing shellfish farming "provides an important source of healthy domestic seafood, creates jobs, and helps preserve working waterfronts."[6]

To implement the National Shellfish Initiative, and underscore the importance of shellfish farming in Washington State, former Governor Gregoire launched the Washington Shellfish Initiative in 2011. The Washington Shellfish Initiative recognizes shellfish aquaculture as critically important to the state's ecology, economy, and culture. Washington Shellfish Initiative, p. 1.[7] Washington State leads the country in the production of farmed clams, oysters, and mussels with an annual value of over $107 million and a total economic contribution to the state of $270 million. *Id*. Washington shellfish growers directly and indirectly employ over

---

[3] Examples of how shellfish are integral to Skagit County's culture and heritage are the Oyster Run motorcycle rally drawing tens of thousands of people to the county each year, retail stores at Taylor's and Blau's that draw people from all around the Pacific Northwest, regional restaurants who have relied for decades on the shellfish farms for shellfish products and even include oysters in their name (Oyster Bar, Oyster Creek Inn)

[4] http://www.nmfs.noaa.gov/stories/2011/12/docs/noaa_national_shellfish_initiative.pdf.
[5] http://www.whitehouse.gov//sites/default/files/national_ocean_policy_implementation_plan.pdf.
[6] Sustainable Shellfish Aquaculture: A Message from Eileen Sobeck, Head of NOAA Fisheries, February 3, 2015: http://www.nmfs.noaa.gov/aboutus/leadership/feb_2015_leadership_message_aq.html.
[7] http://www.governor.wa.gov/sites/default/files/documents/WSI_WhitePaper2001.pdf

3,200 people in the state and are among the largest private employers in some counties. *Id.* Further, shellfish help filter and improve the quality of marine waters and are an important part of the solution to restore and preserve the health of endangered waters. *Id.* The Washington Shellfish Initiative lists several programs to restore and expand shellfish resources throughout the state, including improved guidance for local SMPs "to protect against habitat impacts and planning to minimize conflicts with adjoining shoreline owners and other marine water users." *Id.*, p. 3. Ecology issued this guidance in 2012.[8] The Washington Shellfish Initiative has already produced impressive results, including helping to reopen 2,429 acres of shellfish beds throughout Washington State by solving water quality pollution problems.[9]

Following up on these initial efforts, Governor Jay Inslee launched Phase II of the Washington Shellfish Initiative earlier this year. A key goal of Phase II is to improve permitting processes to maintain and increase sustainable aquaculture. Washington Shellfish Initiative – Phase II Work Plan, pp. 10-11.[10] Streamlining permitting requirements is critical to increasing shellfish production in Washington State, as shellfish farmers are subject to numerous federal, state, and local permitting requirements[11] that can be extremely costly and difficult to navigate.

These national and state initiatives align with the Puget Sound Partnership's effort to restore and protect Puget Sound. The Puget Sound Partnership is the state agency leading the region's collective effort to restore and protect Puget Sound, and it works with several other agencies and stakeholders in this endeavor. A key component of this effort is restoring and expanding shellfish beds. In 2007, the Partnership identified a target of adding 10,800 harvestable shellfish acres in the state by 2020, including 7,000 acres where harvest is currently prohibited due to pollution. The Partnership has identified three strategic initiatives that prioritize restoration efforts, one of which is to recover shellfish beds. The Partnership recognizes: "Shellfish harvesting is both a treaty right for tribes and a vital industry in our region. It is also a treasured tradition for countless northwest families. Shellfish health begins on land, through reduction of pollution from rural and agricultural lands and maintenance and repair of failing septic tanks." Puget Sound Partnership 2014/2015 Action Agenda for Puget Sound, p. 2-1.[12] The Partnership recently begin work on a pilot strategy for shellfish beds to implement the Shellfish Strategic Initiative. The Shellfish Beds strategy describes the importance of restoring shellfish beds, as approximately 36,000 acres in the state are closed due to pollution sources.[13] The Strategy notes that conditions are improving, as there has been a net increase in shellfish beds since 2007, but it also states gains elsewhere in the state have been offset by the 2011

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[8] Department of Ecology Pub. No. 11-06-010, Shoreline Master Program Updates: Aquaculture Interim Guidance, in SHORELINE MASTER PROGRAM HANDBOOK (2012):
http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/aquaculture_guidance.pdf.
[9] http://www.governor.wa.gov/issues/issues/energy-environment/gov-inslee%E2%80%99s-shellfish-initiative
[10] http://www.governor.wa.gov/sites/default/files/ShellfishWorkPlan.pdf
[11] A permitting flowchart for shellfish farming created by the Shellfish Interagency Permitting team illustrating these numerous processes is available at: http://www.ecy.wa.gov/programs/sea/aquaculture/pdf/PermitChart.pdf.
[12] https://pspwa.app.box.com/s/wq6u6hencdsndpf0qowrfkhimz1dke87.
[13] http://www.psp.wa.gov/vitalsigns/shellfish_beds_reopened_indicator1.php

downgrade of the Samish Bay shellfish growing area. Therefore, restoring and expanding shellfish beds in Skagit County will be critical to achieving the Partnership's efforts to increase shellfish beds and help ecosystem recovery in the greater Puget Sound.

C. Comments on the Draft SMP Update

The County's Draft SMP Update is the result of extensive and thoughtful analysis by numerous stakeholders and the Planning Commission. I have first-hand knowledge of this as I am one of the 17 members of the Shoreline Advisory Committee (SAC) that provided input on the Draft SMP Update as it was being developed. The Shoreline Advisory Committee began meeting in 2011, and it met regularly each month to review technical documents created to support development of the SMP as well as draft policies and regulations. This was a very informative and dynamic process, and it provided an avenue for parties who represent diverse perspectives—including timber, agriculture, business, fish, wildlife, and recreation—to offer input on the Draft SMP Update. During these meetings we vigorously discussed scientific and technical information pertaining to activities regulated by the SMP, including information offered by individuals with differing backgrounds and perspectives. This was particularly true of aquaculture, which was discussed more than any other issue by the SAC at many meetings and for which a separate subcommittee of the SAC met many additional times.

The end result of this careful analysis and hard work is the Draft SMP Update, which does an impressive job of balancing these various perspectives and advancing the goals and policies of the SMA. Accordingly, we recommend that the County move forward with adopting the Draft SMP Update. We do, however, have some minor suggestions shown below (deletions are in ~~strikethrough~~, additions are in underline, and brief explanations follow the suggested revisions). We believe these suggestions will help provide clarity and ensure that aquaculture is regulated consistent with its classification as a preferred shoreline use that can provide ecological and economic benefits to the County and state.

SCC 14.26.415(2)(b) When shoreline review is required.

> (ii) Ongoing maintenance, harvest, replanting, changing culture techniques or species does not require shoreline review unless cultivating a new species in the water body or using a new culture technique, and that new species or culture technique has significant adverse environmental impacts (if not allowed by an existing shoreline permit).
>
> (iii) Expansion of existing aquaculture.
>
> (A) For aquaculture without an existing shoreline permit, ~~a~~ shoreline review ~~permit~~ is required for any expansion.

The revision to subsection (ii) is important to provide clarity to aquaculture operators and County staff who will be charged with administering the updated SMP. "Shoreline review"

refers to the requirement to obtain a shoreline permit or a letter of exemption for a specific use or activity. Draft SMP Update, p. 4. It is our understanding that shoreline review is only intended for changes to ongoing aquaculture activities when those changes have significant adverse environmental impacts (whether those significant impacts are associated with the introduction of new species or new culture techniques). However, we are concerned that this provision as currently written could cause confusion and lead to the unintended interpretation that the cultivation of any new species on existing farms would require shoreline review, regardless of whether that species is already being cultivated in the water body or has any environmental impacts. Since the Washington Department of Fish and Wildlife ("WDFW") has expertise and jurisdiction over importing and transferring shellfish between water bodies, there is no reason to require County approval simply for introducing new species. WAC 220-72-076. We also presume that County staff does not want to dedicate its limited time and resources to duplicating WDFW's work. Nonetheless, we recognize that if cultivation of a new species would have significant impacts on environmental parameters beyond those considered by WDFW, it would be appropriate for the County to conduct shoreline review of the proposal. The suggested edits help provide clarity and strike this appropriate balance.

The revision to subsection (iii)(A) is also intended to provide clarity and consistency with state law. As currently drafted, it would appear to require a shoreline permit for any expansion of aquaculture without an existing permit. While it is appropriate to require shoreline review for such expansions, and the result of that review may result in the requirement to obtain a permit, it is not appropriate to automatically require a permit. General aquaculture is allowed pursuant to a substantial development permit *or* a shoreline exemption in every shoreline environment, except for Natural where it is allowed as a conditional use. SCC 14.26.405. Many aquaculture activities qualify for a shoreline exemption because they do not constitute substantial development or are otherwise exempt from the substantial development permit requirement. In fact, many of the aquaculture activities that fall under subsection (iii)(A) are likely to be of a type that do not require a shoreline permit since no permit has been granted for them in the past. Therefore, since a shoreline permit cannot automatically be required all expansion to which subsection (iii)(A) would apply, it should be revised to instead require shoreline review.

SCC 14.26.415(3) Permit Exemptions.

> A letter of exemption is required for aquaculture activities that <u>require shoreline review and</u> do not constitute substantial development or otherwise require a Conditional Use Permit or Variance.

When read in conjunction with SCC 14.26.415(2), it is clear that a letter of exemption is only required for new and certain limited existing aquaculture activities (new species or new culture techniques that have significant adverse environmental impacts). *See also* Draft SMP Update at 4 ("Where this document refers to shoreline review, it means the use or activity needs to obtain either a "shoreline permit" or a letter of exemption from the permit requirement"). And, as stated above, we understand that County staff does not intend to review and issue exemption letters for all existing aquaculture activities. However, we are concerned that if read

in isolation, SCC 14.26.415(3) could improperly be interpreted as requiring a letter of exemption for aquaculture activities that are not subject to shoreline review, including activities that have been ongoing for decades. Therefore, we encourage the County to revise this provision as shown above to ensure a letter of exemption may only be required for aquaculture activities that require shoreline review as defined in 14.26.415(2)(b)(ii).

SCC 14.26.415(4)(h) General requirements.

> Predator control measures used in aquaculture may not include those intended to kill or injure wildlife, except for invasive species. Predator control methods must comply with federal and state regulations, as determined by applicable federal and state agencies.

Some predators, such as oyster drills, are considered invasive species and are encouraged to be controlled by state agencies.[14] We assume that this provision as currently written is not intended to prohibit the control of invasive species contrary to state policy. Nonetheless, we suggest you make this clear to provide clarity and ensure the SMP is consistent with state policy.

SCC 14.26.415(8)(d) Geoduck Aquaculture

> An application for geoduck aquaculture must include:
>
> . . .
>
> specific periods when limits on activities are necessary to protect priority habitats and associated species and avoid significant conflicts with navigation and other water-dependent ~~neighboring~~ uses;

The language "and avoid conflicts with neighboring uses" is not contained in the state guidelines addressing geoduck farming. *See* WAC 173-26-241(3)(b)(iv)(L)(III). State guidelines do, however, provide that aquaculture should not significantly conflict with navigation and other water-dependent uses. *See* WAC 173-26-241(3)(b)(i)(C). This state law provision is reasonable and consistent with the classification of aquaculture as a preferred use, and a requirement to avoid any conflicts (even, presumably, insignificant or immeasurable) with other uses is not. Therefore, we recommend this provision be revised to ensure the geoduck application requirements are reasonable and consistent with state guidelines.

SCC 14.26.440(b) Fill, Excavation, and Grading

> This section does not apply to:
>
> . . .

[14] *See, e.g.*, Marine Invasive Species Identification Guide, sponsored by Washington Department of Fish and Wildlife and Puget Sound Partnership, available at: http://www.psp.wa.gov/downloads/ANS/MISM_Online.pdf.

(iii) Aquaculture activities, which are regulated under 14.26.415, Aquaculture.

It is our understanding that section 14.26.440 is not intended to apply to aquaculture activities, which are strictly regulated under section 14.26.415, and the language currently in subsection 14.26.440(1) supports this position. Given all potential impacts of aquaculture activities are addressed in section 14.26.415, there is no reason to subject these activities to the additional regulations of section 14.26.440. The suggested revision shown here helps clarify that aquaculture activities are not subject to the additional and unnecessary regulations in section 14.26.440.

Thank you for your time and consideration of these comments.

Sincerely,

Bill Dewey
Director of Public Affairs

From: Robb Dibble
To: PDS comments
Subject: FW: SMP Update - Lake Cavanaugh
Date: Wednesday, March 16, 2016 4:25:57 PM
Attachments: image001.png
image003.png

As I understand that we need to have the Subject heading specific, please see the email below for the record.

Dear Skagit Panning Commission and Staff:

This email is sent to comment on the pending Shoreline Management Plan that is being considered for approval. As a property owner at Lake Cavanaugh, I would like to go on record requesting that you consider making modifications to the plan to address the unique conditions of our lake environment.

My concern is regarding 2 primary issues: Dock size and building setbacks.

Docks take a beating up at this lake. Lake fluctuations of 4 feet or more require substantial structures and often mandate utilizing portions of the dock that float. Many portions of the lake are quite shallow so it is common to see docks that are 100 feet long to simply access 4 feet deep water. Boats on the lake are recreational in nature and are often 20-25 ft in length. I believe docks should be permitted to allow for these conditions rather than restricted to 8'x8' with a max length of 25 ft from shoreline. Please consider revising the proposed dock regulations to consider these environmental conditions.

To further add that our existing dock which must be about 75-80' long with the boat lift at the very end was so shallow last year, we could not get our boat off the lift. We literally had to tie the boat to the side of the dock off the lift or not be able to use the boat. For our site on the east end of the lake, we really need another 25-30' dock extension in addition to what we have currently just to get our boat in and out of the water that is four feet deep for a boat lift plus its draft depth. The concept of arbitrarily stating a length of dock is not a good idea.

Building setbacks of 100 ft sound like a nice idea. Who wouldn't want more beach and room to play on the lake side of the property? The reality is that there are few lots that can reasonably accommodate this due to topography, geometrical and practical constraints. The county would like buildings set back from the noisy road (this is a road used daily as a logging road by lots of semi-trucks). We need to keep trees at the beach. We need setbacks from the wells as there is no public water. Sewage treatment is appropriately required to be setback from the lake, too. This means there is not much room on a 60' wide by 200-400 ft lot to put the house. Requiring a 100 ft setback will mandate almost every building to receive a variance and make most of the properties on the lake existing non-conforming structures. With relatively few lots remaining undeveloped on the lake and with exceptionally high water quality under present conditions, it seems warranted to maintain the status quo. Perhaps setbacks could be established by matching or averaging the setbacks of adjacent structures on either side (maybe match the greater of 25 ft or the average of the neighbors on both sides.....need a variance otherwise). This would reduce variances to the

properties that truly need special attention such as those lots that are less than 50 feet deep.

Thanks for your attention to this matter. I appreciate your efforts on this endeavor.

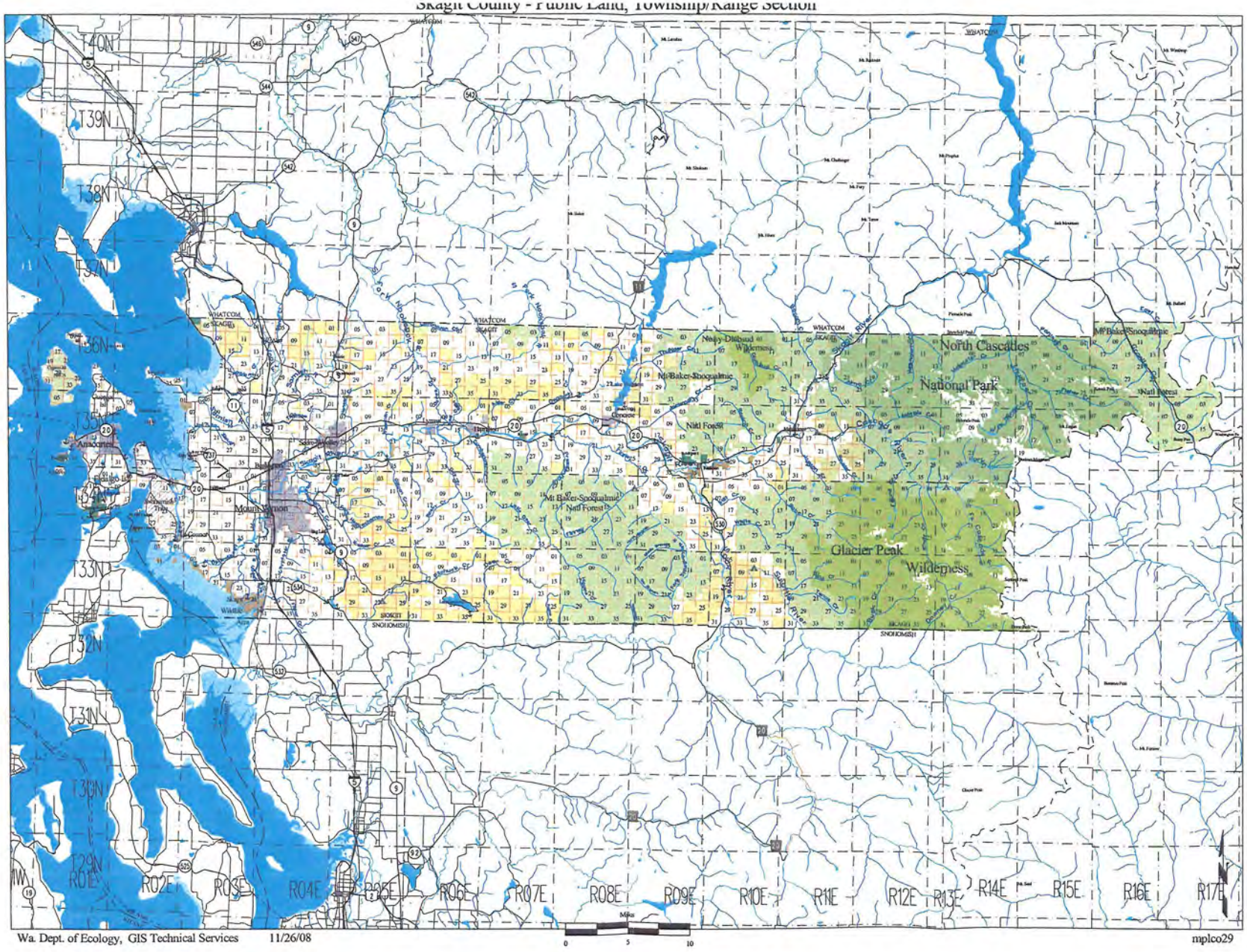
Robb A. Dibble
Cabin Address Only, (No Correspondence please)
35061 South Shore Drive

Thanks,

Robb Dibble, PE | Principal
robb@dibbleengineers.com
t 425.828.4200 x222
1029 Market Street, Kirkland, WA 98033
www.dibbleengineers.com

New Year! New Look! Celebrating our 15th Anniversary!

Skagit County - Public Land, Township/Range Section



Wa. Dept. of Ecology, GIS Technical Services 11/26/08 mplco29

Re: Shoreline Management Plan 4/4/16

The Shoreline Management Plan (SMP) and the Comp Plan are so closely interrelated there must be time for the Planning Commission (PC) and the public to thoughtfully review not only the "Big Picture" but also the details which will be used by the governments and the NGO's to enforce their will onto those of us who own property and pay taxes in Skagit County (SC).

I request an extension of time for review of the SMP and the Comp Plan, for hearings on the 3 Watershed documents being used by SC for policies, regulations and, later enforcement. The 9/11 Inventory had open house review but is neither accurate nor complete. It is not cited as 9/11 Inventory or Revised. Their 2013 Designation Map first appeared 3/1/16 and has not been ground truthed either. The March 2016 Analysis arrived after all public process discussion was over. These three useful documents, 200 pages must be correct.

The SMP, Comp Plan and Watershed documents add up to 889 pages of text to be read, reviewed and analyzed by the Public and the PC. To rush through the public part of the process, having taken years for the governments to think, is a favorite technique of government to deprive the public adequate time to understand, edit and correct. It violates the Growth Management Act that requires real Public Participation.

Send the SMP to DOE after their review. Have hearings on the watershed information. Read the Rural Plans omitted from the Comp Plan. Create real info files for SC geography, based on GIS maps. Walk problem areas. Then give us 6 months, not in planting or harvest season to discuss in public & PC Plans that increase SC economy and full market tax acreage, not damage as has been done since 2009.

Carol Ehlers
3898 Wind Crest Lane
Anacortes, WA 98221

RECEIVED
APR 04 2016
SKAGIT COUNTY
PDS

From: Jeff Eustis
To: Betsy D. Stevenson
Cc: PDS comments
Subject: LCIA comments on draft SMP update
Date: Tuesday, March 15, 2016 2:32:27 PM

Betsy,

Please find attached comments and attachments I will be submitting to the Planning Commission at the hearing this evening. If equipment is available, I would like to load up some photos for display by computer and projector.

Thank you,

Jeffrey Eustis
Aramburu & Eustis, LLP
720 Third Avenue, Ste 2000
Seattle WA 98104
Phone: (206)625-9515
Fax: (206)682-1376

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March 15, 2016

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

Re: Shoreline Master Program Update

Dear Planning Commissioners:

On behalf of the Lake Cavanaugh Improvement Association, I write to propose modifications to the draft Shoreline Master Program to address two circumstances unique to the lake: building setbacks and dock dimensions.

Background

Lake Cavanaugh is an 830 acre lake, located roughly 25 miles east of Mt Vernon at an elevation of about 1,000 feet. The lake is stream fed and holds near drinkable quality water. Although the lake drains to Pilchuck Creek to the west, a barrier constructed under the supervision of the state Department of Fish and Wildlife prevents the upstream migration of fish into the lake, so it is not an anadromous fish lake. Among other species, the lake supports large mouth bass, sculpins, kokanee, coastal cutthroat and rainbow trout, which are fished by residents and visitors alike. See http://wdfw.wa.gov/fishing/washington/20/.

As a result of platting in the 1940's most of the lake's shores have been subdivided into 60 foot wide lots. Access is provided by the shore roads, which encircle the lake. For the most part, these roads have produced longer or deeper upland lots on steep slopes that surround the lake and shorter or shallower waterfront lots. The attached map and aerial photograph of a portion along South Shore Drive show the shorter depth of waterfront lots.

With breaks for areas where the land was too steep to plat, the lake has about 500 lots. Of these, about 10% remain undeveloped; of the built-on lots, about 40% are underdeveloped in the sense that they hold older, smaller cabins which are steadily being replaced with more contemporary houses. The lands above the platted lake lots are largely timber resource lands held by the State Department of Natural Resources

and actively logged. Logging trucks regularly use the shore roads for access to timber lands.

In the early decades following platting, the lots were developed with small summer cottages, often drawing lake water for household use and using outhouses or small drainfields for septic disposal. In more recent times, the summer cottages have been replaced with homes and many of the vacant lots have been developed with more contemporary houses. Summer weekend use has given way to both full-summer residency and full-time residency.

The lake has generally benefited from more contemporary building, as it has produced higher quality construction and upgrades to septic systems. Even though the shore land is largely built out, the water quality remains excellent. For example, the water column has visibility to over 20 feet in depth and subsurface temperatures remain cool, which is good for fish. A copy of the Water Quality Report for Lake Cavanaugh taken in September 2015 is attached to this letter.

As its name suggests, the Lake Cavanaugh Improvement Association (LCIA) is an active association of Lake Cavanaugh homeowners. It monitors lake levels and water quality, it carries out lake improvement projects, and it represents lot owners on issues of concern, such as provisions within the Draft Shoreline Master Program.

Building Buffers and Setbacks

The Draft SMP designates most of the Lake Cavanaugh shoreline as Shoreline Residential. The remaining portions are designated Shoreline Conservancy, a designation that appears to be reserved for the steep, unplatted shorelands around the lake. At table 14.26.310-1 the draft SMP proposes a minimum 100 foot buffer from the lake's line of ordinary high water. Since the term is not defined in the draft SMP and the SMP is intended to consolidate critical areas and shoreline regulations for the shorelines, LCIA construes "buffer" to be a building setback requirement. If this is not correct, and a buffer means something other than a building setback, please clarify this point. In either event, the imposition of a 100 foot building setback would create an impractical and unnecessary restriction on the development and redevelopment of lake lots.

A large number of lake lots do not have sufficient distance between the shore road and the water to accommodate 100 foot buffers. The lots were platted, and many of the lots initially were built upon, prior to modern laws, such as, the current subdivision act, the Shoreline Management Act, the State Environmental Policy Act and the Growth Management Act. Subsequent to the passage of those laws, old cottages have been reconstructed into larger homes and new homes have been built on vacant lots in the pattern of prior construction, often using the shallower waterfront portions of the lots for

homes and the upland portions for other improvements, such as garages, outbuildings and septic drain fields.

By establishing building setbacks (or shoreline buffers) at 100 feet, the Draft SMP would impose unfair and unnecessary regulatory burdens on lot owners seeking to rebuild existing cottages or to build on vacant lots in built-out areas. Already, existing building setback requirements have forced many to go through lengthy and expensive variance procedures to reconstruct existing cottages or to simply continue the pattern established by their neighbors.

It would be unfair to require increased building setbacks, because it would subject those who would build after adoption of increased setbacks to different standards than neighbors who had built beforehand. In many cases, it would force new builders to construct homes on the upland side of the shore road, when their neighbors were allowed to build on the shore side. And in many cases, the upland portion of the lots is unbuildable on account of the steepness of slopes.

The increased setback is unwarranted, because the objective sought by the increased setbacks cannot be realized at the lake. Presumably, a building setback of 100 feet would serve to provide greater protection for the near shore environment. If the lake were currently sparsely developed, a goal of 100 foot setbacks around the lake possibly could be realized. But the reality is quite the opposite: nearly all of the 500 lots have been built on with houses far closer than 100 feet from the shoreline. At this late stage in the history of Lake Cavanaugh, the imposition of an increased setback would provide only a small marginal change to the development pattern around the lake.

The additional setback requirement would be unnecessarily burdensome. Faced with the inability to build on the shore side portion of their lots like their neighbors and the inability to build on upland portions on account of steep slopes, lot owners would be forced to seek variances from the buffer or setback requirements, obliging them to incur the delay and expense of simply re-proving what their neighbors have already proven: the shore side portion cannot satisfy the 100 foot setback; the upland portion is too steep; they could build without impacting lake water quality (as shown by existing reports); their construction would not impact protected species; and they would otherwise be denied the same benefits accorded to other property owners in the area.

To remedy the problems created by increased building setbacks and buffers, LCIA proposes that the SMP allow outright the following exceptions to the 100 foot setbacks in the Shoreline Residential district on Lake Cavanaugh (without the need for a shoreline or critical areas variance):

- Where an existing residential structure is to be rebuilt, remodeled or reconstructed; the building setback would be the existing setback for that structure;

- Where adjacent or near adjacent lots (within 300 feet) have been developed, the building setback for an undeveloped lot would be the average of adjacent lots;

LCIA would be available to help develop regulatory language to implement these proposed changes.

Dock area limitations

The proposed standards for docks are unclear. For example, Table 14.26.420-1 sets a maximum height of 3 feet from the surface of the water, presumably for fixed piers. But It is unclear whether height is to be measured from pier decking or the bottom of the pier structure and if measurement would be taken from winter high water or some other elevation. During the year the surface elevation of Lake Cavanaugh fluctuates around four to five feet. However the measurements are taken, they must allow piers to be constructed so they are higher than the floats they would access.

The maximum dimensions for floats also are unclear. The same table (14.26.420-1) imposes a width of eight feet for floating sections. Since the length of the entire pier/ramp/float structure is addressed elsewhere, it is assumed that the floating section is not subject to a separate length requirement. Again, the large fluctuation of the lake encourages the use of floating docks. If the eight foot dimension also applied to the length of floats, it would not allow for the safe moorage of all but the smallest row boats, skiffs and sailboats.

The proposed widths for piers and ramps are inadequate. On account of the need to provide sufficient clearance above high water and on account of the fluctuation of the water level, the pier and ramp top could easily be six feet above the beach area during late summer months. The maximum six foot width for piers and four foot width for ramps are simply insufficient to allow safe use, especially by children.

As for total length of the pier/ramp/float structure, an additional consideration should be given to allow moorage without creating the potential for prop wash. The gradient of the shoreline varies around the lake. In most cases, allowing dock length to meet the average of lengths within 300 feet should be sufficient. But where taking the average of dock length would not allow for sufficient depth to prevent prop wash or grounding, water depth should be considered.

For restrictions relating to docks as well, LCIA would welcome the opportunity to work toward regulations that would be more specifically tailored to the special circumstances of Lake Cavanaugh. A special shoreline district for Lake Cavanaugh may be the most efficient vehicle for addressing the lake's unique conditions.

Thank you for your consideration of these proposals.

Sincerely yours

Aramburu & Eustis, LLP

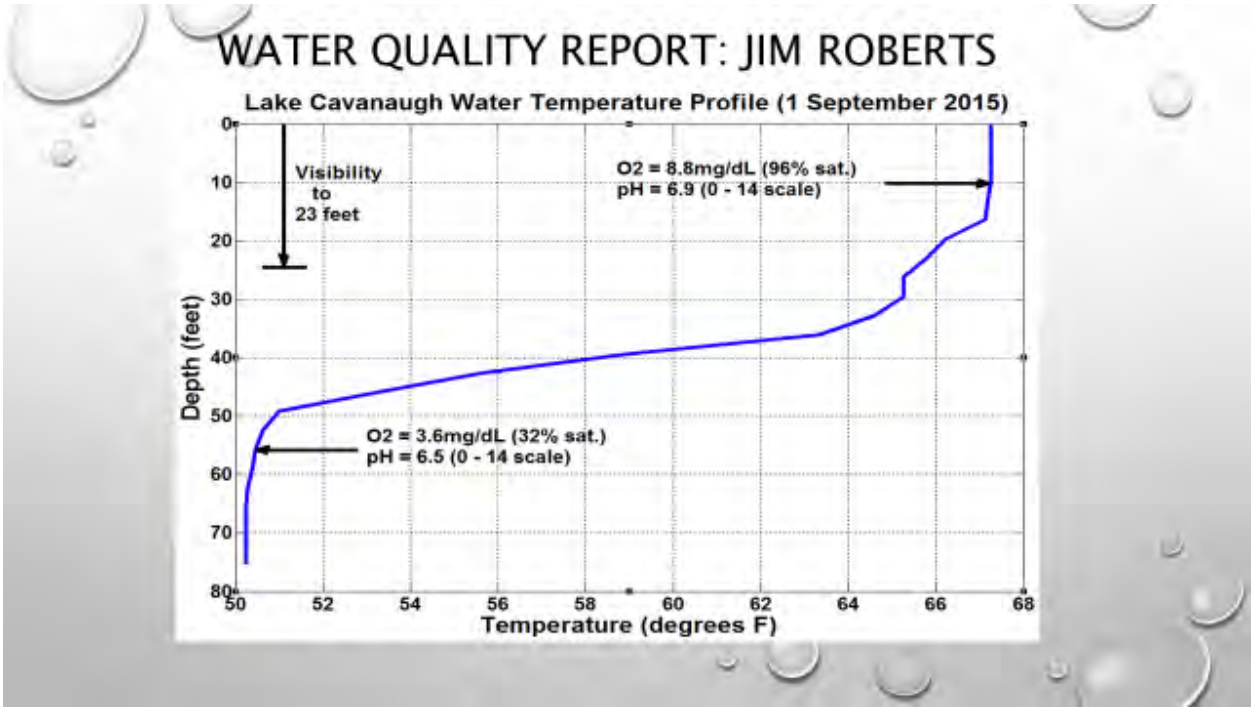
Jeffrey M. Eustis

Cc: Lake Cavanaugh Improvement Association

SOUTH SHORE DRIVE
SOUTH SHORE DRIVE

1100
South Shore Drive

Water Quality Report from September 1, 2015



Samples are taken in five locations around the lake.
Additional observations:

No algae blooms this summer
Very low fecal coliform counts
Water clarity has been unusually good all summer
Surface layer (0 - 20 feet) chemistry has remained healthy
No fish kills

From: Jeff Eustis
To: PDS comments
Cc: Betsy D. Stevenson
Subject: FW: Lake Cavanaugh proposals for SMP update
Date: Monday, April 04, 2016 4:05:46 PM

Betsy,

The comments are being sent as well to the pdscomments email address you provided.

Jeffrey Eustis
Aramburu & Eustis, LLP
720 Third Avenue, Ste 2000
Seattle WA 98104
Phone: (206)625-9515
Fax: (206)682-1376

From: Jeff Eustis [mailto:eustis@aramburu-eustis.com]
Sent: Monday, April 04, 2016 11:53 AM
To: 'Betsy D. Stevenson'
Subject: Lake Cavanaugh proposals for SMP update

Betsy,

The attached letter and memorandum supplement earlier comments on the SMP update. LCIA remains available to confer with you to elaborate upon these proposals.

Thanks,

Jeffrey Eustis
Aramburu & Eustis, LLP
720 Third Avenue, Ste 2000
Seattle WA 98104
Phone: (206)625-9515
Fax: (206)682-1376

This message may contain attorney-client or work-product protected information, which are not waived by this transmission. If you have received this message in error, please delete and discard it without forwarding it to others. Thank you.

ARAMBURU & EUSTIS, LLP

Attorneys at Law

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April 4, 2016

Betsy Stevenson
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Re: Shoreline Master Program Update

Dear Ms. Stevenson:

On behalf of the Lake Cavanaugh Improvement Association, I submit the attached proposal for modifications to the draft Shoreline Master Program to address circumstances unique to Lake Cavanaugh. These proposals supplement prior recommendations. As stated in my letter of March 15, 2016, a special shoreline district for Lake Cavanaugh may be the most efficient vehicle for addressing the lake's unique conditions. The LCIA remains available to assist in developing such a district.

Thank you for your consideration of these proposals.

Sincerely yours

ARAMBURU & EUSTIS, LLP

Jeffrey M. Eustis

Cc: Lake Cavanaugh Improvement Association

April 4, 2016

Proposal by Lake Cavanaugh Improvement Association regarding docks & setbacks for the Skagit County SMP Update

BACKGROUND OF LAKE CAVANAUGH:

1. Platted in 1940's. Approximately 500 lots are present on the lake. There are 420 existing docks.

2. Approximately 90% of lots developed with homes and cabins as of 2016; it is close to 100% on flat lots. Use on summer weekends is intense, both by residents and by those who access from the public boat ramp. Summer weekend population is higher than any other lake in Skagit County, and approaches that of Lake Stevens in Snohomish County. However, due to cold winters, use is seasonal with decreased winter use, mostly for fishing.

3. Average setback from the lake for buildings is under 50 ft.

4. Most existing properties have docks 25 – 110 ft long.

5. Lake level varies approximately 4 feet throughout the year, but fluctuations of up to 5 feet have been experienced:
    a. High level in January & November – 1013 approx.
    b. Low level May – Oct – 1009.4 approx.
    c. Average water level from Jun – Oct is 1010.5
    d. Ordinary High water is around 1011.

6. Fish stocked on lake by WSDFW include:
    a. Kokanee (September)
    b. Cutthroat Trout (June)
    c. Other species found include Rainbow Trout, Bass and Sculpin.
    d. No fish migrate to Lake Cavanaugh from the Pilchuck River. A fish blockage was installed in the early 1970's by WDFW to prevent eels and other invasive species from reaching the lake, and because of natural waterfalls.

7. No Stores, marinas, or public beaches are present on the lake. WDFW maintains a public boat launch at the east end of the lake.

8. Lake temperatures range from surface freezing in winter months (Dec – Feb) to approximately 80 degrees in summer months. The lake is over 100 feet deep at its deepest point.

9. The lake is approximate 3 miles long by 1 mile at its widest.

10. Water quality is exceptional with about 1/3 of property owners drawing water from the lake for drinking water.
    a. Oxygen content:
        i. 10 ft: 9.3 ppm (110% saturation);
        ii. 55 ft: 5.0 ppm (47% saturation).
    b. Acidity:
        i. 10 ft – 7.0
        ii. 55 ft -6.5
    c. Visibility: 28 ft approx.
    d. Fecal Coliform: 0 colonies (occasionally measure minor amounts)

11. Surrounding land uses are DNR and private working forests.

12. Weather patterns are unusual with shear winds coming from the east when winter weather is traveling from the west. Winds often exceed 100 mph. Winters are particularly violent as the lake level is high and winds are exceptional. Damage occurs every year to docks, buildings, and trees. Due to weather, most boats and boat lift covers, and swimming floats are removed by October until mid-May. Little activity occurs on the lake from November to April, except for fishing. Exposure of docks to winds varies greatly, with some lots in protected coves, and others exposed to full force of the winter shear winds.

13. Geology around the lake varies from steep cliffs to wide flat areas. Rock is present at surface in some areas and other areas require pile foundations of 42 feet to reach firm bedding.

PROPOSED SETBACKS:

1. Minimum setback of 50 feet, subject to an allowance of decks and patios up to a width of 10 feet within the setback area. Similar setbacks have been approved by the Department of Ecology for other residential lakes, such as Lake Stevens (50 feet with allowance of 10 feet for decks and patios), Lake Sammamish (50 feet), and Beaver and Pine lakes (45 feet). See Section 5.C.8 of the Lake Stevens SMP and section 25.07.020 of the Sammamish.

DOCK OBJECTIVES:

1. Locate to avoid prop wash of lake bottom.

2. Address structural requirements unique to the environment at the lake.

3. Allow for use of docks for recreation including access to lake for swimming, boating (average boat at the lake is 20-25 ft), water sports, and fishing.

4. Avoid placement of toxic products, tires, and exposed floats (Styrofoam) in water.

5. Allow for boat lifts to remove boats from lake during moorage (including covers that are tops only, not side covers, that are removed during the winter). Lifts to be minimum 9 ft waterside of summer shoreline.

6. Avoid Skirting on docks.

7. Avoid new enclosed boat Houses and enclosed covered moorage.

8. Encourage floating docks.

9. Introduce sunlight thru decking to allow safe use of docks for recreation. Surface to allow for children, boaters, and dogs to safely use surface. Products with 30%-40% daylight would allow cost-effective solution.

PROPOSED DOCK RECOMMENDATIONS:

1. Docks, piers and floats should minimize adverse impact to shorelines ecological functions or processes and minimize impacts to navigation of adjacent properties. However, the size of over-water structures will vary, and should be no greater than that required for safety and practicality for the primary use. Swimming, boating, mooring boats, and other recreational uses are permitted, and considered necessary uses.

2. Dock lengths established at maximum of 50 ft; or longer if necessary due to shallow water depth for boat mooring; and also longer if equal to the average of docks within 300 ft of subject property. Similar provisions exist within the Lake Stevens SMP.

3. Dock widths shall be:
   - 15 feet from ordinary high water mark – 6 feet maximum width
   - Beyond 15 feet - fixed (non-floating portions) – 12 feet maximum width
   - Beyond 15 feet -floating portion used for access to boats – 16 feet maximum width.

   Widths may be increased by up to 50% with an administrative variance if: 1) conditions require additional width for stabilization due to individual environmental conditions such as exposure to wind and waves; or 2) if distance between pilings is increased; or 3) if light-permitting grating on dock surface is increased.

4. Create incentive for shared docks by allowing 25% increase in length and 50% increase in width if located on a property line and shared with at least 2 property owners.

5. Establish docks to provide at least 4 feet of water depth for June water elevations (when lake is at 1010). This may require dock lengths in excess of the existing average within 300 ft. Administrative variance may be used to extend dock by up to 50% with notification and comments by adjacent property owners.

6. Over water portion of docks to provide at least 30% daylight on at least 50% of the dock surface. Outer 25 ft of dock is encouraged to be floating with grated surface as described above.

7. No artificial lighting is allowed on docks other than navigational markers and minimum amount needed to locate dock at night. Focus lighting on deck surface to minimize illumination of surrounding area. Minimize glare and incorporate cut-off shields, as appropriate. Reflectors are encouraged.

8. No toxic treated wood to be utilized for portions of dock in the water. No tires or exposed Styrofoam to be utilized in dock construction (encapsulated foams may be utilized).

9. No skirting is allowed on docks below 1 ft from the decking surface.

10. Pilings shall be installed at maximum spacing practical for the specific location.

11. Floating or suspended watercraft lifts should be located a minimum of 9 feet from the summer shoreline.

12. No dock shall be used for a residence.

13. Floats. The maximum width and length and diameter of floats (including trampolines) not attached to docks (anchored) shall be 16 feet each, without any permit or showing of need. Such detached recreational floats shall only be allowed from May 1 – October 30. Detached floats will be removed or attached to the shore for remainder of year.

FOR MAINTENANCE/REMODEL/REPLACEMENT:

1. During maintenance, repairs shall be made without the use of toxic materials. If more than 50% of decking is replaced, decking shall be updated to current requirements. Repairs may be made with in-kind materials as existing with exception that toxic materials and un-encapsulated foam floats described

above shall not be utilized. New, expanded and replacement docks must comply with new standards.

INAPPLICABLE PROPOSALS:

Due to unique conditions of Lake Cavanaugh, including development, use, wind, and geology, the following parts of the draft county proposal on docks are not applicable to Lake Cavanaugh:

Delete: "(B) Individual recreational floats are only allowed if the applicant can demonstrate that all other reasonable community or joint-use options have been investigated and found infeasible." It is unclear what this means, but trampoline floats are common on the lake for recreation, not for mooring boats. They are not popular because other uses are "infeasible", but because they are uniquely enjoyable for water recreation.

Delete: "A need must be demonstrated for expansion of existing docks. . . " 14.26.630(4)" This is unclear because it does not state what would constitute need. Would water recreation be a need? It would be sufficient that expansions, replacements, and new docks meet the proposed standards, as stated in this proposal.

Delete: "7. "In locations where grasses are present near shoreline, . . ." This is too vague – how much grass, how near to the lake, etc. The maximum size rules proposed by the LCIA above are sufficient to address this concern.

From:	FLORES, HUGO (DNR)
To:	PDS comments
Cc:	Betsy D. Stevenson; FLORES, HUGO (DNR); AMIOTTE, LALENA (DNR); Gibbs, Heather (DNR)
Subject:	Comments on Skagit SMP
Date:	Monday, April 04, 2016 8:42:22 AM

Attached are comments of the Skagit County SMP.

Hugo Flores
SMA-GMA-HARBOR AREAS
1111 Washington St SE
PO Box 47027
Olympia, WA 98504-7027
(360) 902-1126
Hugo.flores@dnr.wa.gov
www.dnr.wa.gov

WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

March 31, 2016

Betsy Stevenson, AICP, Senior Planner
1800 Continental Place
Mount Vernon, WA 98273

RE: Comments on Skagit County Shoreline Master Program Update

Dear Betsy,

Thank you for the opportunity to provide comments on the Skagit County Shoreline Master Program Update (SMP). The Department of Natural Resources (DNR) would like to take this opportunity to congratulate you and your staff for the planning efforts and your hard work in completing the SMP update. As you know, the Department of Natural Resources manages 2.6 million acres of state-owned aquatic lands for the benefit of current and future citizens of the state. As steward of these lands, DNR is responsible for balancing the benefits provided by state-owned aquatic lands which include encouraging direct public use and access; fostering water dependent uses; ensuring environmental protection; utilizing renewable resources; and when in agreement with these public benefits, generating revenue constitutes also a public benefit. DNR is always interested in finding ways to plan and coordinate with local governments on different issues related to shoreline management, providing technical, policy, and updated information related to state-owned aquatic lands. The Department of Natural Resources comments are intended to avoid inconsistencies with the Skagit County SMP and to manage state-owned aquatic lands sustainably and efficiently. Staff at DNR have reviewed the proposed SMP and provided comments that I have summarized in a table attached to this letter. If you have questions, you may contact me at (360) 902-1126 or hugo.flores@dnr.wa.gov

Sincerely,

Hugo Flores
SMP Program Manager

CC:

Location	Comment	Suggested Language
Page 103, 14.26.420(4)(f)(ii)(A), Boating Facilities and Related Structures and Uses.	DNR staff developed a summary of publically available GIS layers for aquatic lands. This information would provide additional information for locating mooring buoys.	http://www.dnr.wa./programs-and-services/aquatics/aquatic-science/washington-marine-vegetation-atlas
Page 103, 14.26.420(4)(f)(ii)(D), Boating Facilities and Related Structures and Uses.	DNR would like to share the Recreational Mooring Buoy brochure with information on application and installation requirements. DNR believes that this information would be beneficial for waterfront owners and the general public interested in mooring buoys.	http://file.dnr.wa.gov/publications/aqr_mooring_buoy_brochure.pdf
Page 107, 14.26.425(4)(d), Breakwaters, Groins and Jetties	DNR supports Skagit's preference of floating breakwaters over fixed structures.	Consider adding the following language: If project site is within state-owned aquatic lands, applicant will coordinate with the Washington State Department of Natural Resources before final design is developed.
Page 137, 14.26.480	DNR supports the	Consider adding the following language: Contact the Department of

(4) (B)(iii), Structural Shoreline Stabilization	use of soft shoreline stabilization projects. However, some of these projects may intrude into state-owned aquatic lands impacting aquatic resources.	Natural Resources to find out if state-owned aquatic lands are present and available within the project area before any design and/or financial resources are committed to the project. Filling of state-owned aquatic lands is not a preferred use.

March 15, 2016

To: Planning and Development Services
1800 Continental Place, Mount Vernon WA 98273
From: Nancy Fox, Chair, Guemes Island Planning and Advisory Committee
7202 Channel View Drive, Anacortes, WA 98221
Re: Comments on the Skagit County Shoreline Master Program Update

On behalf of the Guemes Island Planning and Advisory Committee (GIPAC), I am writing to provide testimony and comments on the draft County Shoreline Master Program (SMP). We understand this proposal represents the culmination of many years of work and congratulate staff on getting to this point in the process.

As context to our comments, it is important to note that Guemes Island went through its own 20-year planning process to develop a Sub-Area Plan for our community ("Guemes Plan"), one that was reviewed by the Planning Commission and adopted by the Skagit County Board of Commissioners in January of 2011. We are pleased that the County is now, as it works toward updating its Comprehensive Plan, SMP, and associated codes, finally moving to incorporate elements of the Guemes Plan into its development regulations.

As part of its Sub-Area Planning process, Guemes Island volunteers conducted a Rapid Shoreline Inventory with support from People for Puget Sound and funding from the Skagit County Marine Resource Committee. This survey provided "on the ground" data supporting its recommendations relating to shoreline environment designations and other proposed policies aimed at protecting the island's shoreline resources. The Rapid Shoreline Inventory documents areas of exceptional habitat where conservation should be a priority. These findings are consistent the County's "Functional Analysis and Scoring" report (Appendix E of the County's background report) which consistently ranks Guemes Island near the top of the scale in supporting shoreline hydrologic functions, native vegetation and wildlife habitat values.

GIPAC has provided comments and information throughout the County's SMP planning process. In the early information-gathering stages of the process, we requested that the Guemes Plan and associated work products such as the Rapid Shoreline Inventory be incorporated in the County's Analysis and Characterization report, the data foundation for development of the SMP. We are not sure if the Guemes Plan has been taken into consideration in the process – and would therefore ask again that it be incorporated in the background materials for the SMP and reflected in the SMP itself.

We have focused our review on comparing the shoreline recommendations in the adopted Guemes Plan to the draft SMP. Our plan recognizes the high resource values of our marine shoreline and puts a priority on conservation of those values.

SHORELINE ENVIRONMENTS MAP

Based on extensive fieldwork and assessment of the State's new designation criteria, the Guemes Plan recommended specific shoreline environments for each part of its shoreline. These recommendations are not fully incorporated in the draft SMP. We ask again that our recommendations be incorporated in final revisions to the SMP map. Unlike the County's proposed designations, the proposed designations in the Guemes Plan reflect site-specific understanding of factors such as steep and unstable slopes, where houses have already been built, and where there are exceptional habitat values.

There are nine areas of discrepancy – each highlighted by a number on the attached map. We would like to ask the county to reconsider the designations for these sites. Some areas of particular concern:

Map Issue #1. East end of West Shore Road where it meets Guemes Island Road – this site is a single parcel of 19 acres in the Rural Intermediate zone. This property already hosts 3 houses; we believe the appropriate designation is Shoreline Residential.
Guemes Plan – Shoreline Residential
SMP Update – Rural Conservancy

Map Issue #4. Property just south of Square Harbor – an undisturbed shoreline property of 20 acres, zoned Rural Reserve. This property is steeply sloped and provides habitat for peregrine falcons; we believe it meets the designation criteria for the Natural Shoreline Environment.
Guemes Plan – Natural
SMP Update – Rural Conservancy

Map Issue #6. Shoreline from ferry dock approx. ½ mile to the east – 21 properties, 14 of which are 1 acre or larger. Of the remaining lots, 5 are in same ownership as an adjacent lot, and almost all of these are nearly 1 acre (.95-.98 acres). The underlying zoning is Rural Reserve. This area meets the criteria for Rural Conservancy.
Guemes Plan – Rural Conservancy
SMP Update – Shoreline Residential

Map Issue #8. Ocean Acres – 14 lots, including 4 lots 1+ acres, the rest are .93 acre and/or are owned by an adjacent property owner. Most have houses already. Properties share 37 acre inland common area. Rural Reserve zone. There is an active, sloughing bluff in this area, definitely a steep and unstable slope. Houses need to be set well back for protection from the collapsing bluff. We believe these properties meet the criteria for Rural Conservancy.
Guemes Plan – Rural Conservancy
SMP Update – Shoreline Residential

Map Issue #9. Lervick – 30 acres. Rural Intermediate zone. This property hosts a steep unstable slope, and we believe it meets the criteria for a Natural designation.

Guemes Plan – **Natural**
SMP Update – Rural Conservancy

In addition, we would appreciate clarification about Map Issue #7, the ferry dock. Our goal in proposing the High Intensity designation was to make sure the County would have flexibility for ferry dock and landing improvements that may be needed in the future. Does the County's proposed shoreline environment designation provide for this?
Guemes Plan – High Intensity
SMP Update – Shoreline Residential

SHORELINE SETBACKS AND VARIANCES

A key concern of the Guemes Plan was the need for increasing building setbacks from the shore, to provide greater protection for shoreline resources and habitat. Setbacks play an important role in meeting the State's directive of ensuring "no net loss" of shoreline functions.

The County's draft SMP incorporates the setbacks recommended in the Guemes Plan: 150' in the Rural Conservancy Environment and 100' in Shoreline Residential. However, the County proposal also incorporates a new variance process that would allow these setbacks to be reduced up to 50% by a simple administrative decision, with no required hearing before the Hearing Examiner nor approval by the State. This proposed variance process is inconsistent with the Guemes Plan goal of achieving greater building setbacks to protect shoreline functions and resource values. In fact, when combined with the new methodology for calculating shoreline setbacks, i.e. the average setbacks of neighboring properties will no longer be taken in to consideration, in some cases shoreline setbacks could actually be less than the present plan provides, through a simple administrative action. In our view, administrative discretion to reduce shoreline setbacks should be no greater than 25%.

A related concern goes to the matter of public notice for variance requests. The adopted Guemes Plan includes a requirement that the county send public notices for development proposals to the community newspaper and other widely read island media and, in addition, it assigns GIPAC responsibility for monitoring development activity and serving as liaison to the County on planning issues. We have repeatedly asked that the island newspaper and GIPAC receive notice of administrative variances as well as other development proposals for the island, and once again reiterate this request in the context of the draft SMP.

OTHER ISSUES

1. **Accessory buildings** (such as garages and sheds): The Guemes Plan calls for a height limit of 15' and requires that accessory buildings be located landward of principal structures – standards aimed at preserving views along the shoreline. The draft SMP incorporates the 15' height limit for Guemes Island, which we support. The requirement to locate accessory structures landward of principal structures, previously proposed by County staff in an early

draft of the SMP, was dropped from the current proposal. We ask that this requirement be returned to the plan.

2. **Vegetation Conservation Areas:** The Rapid Shoreline Inventory tells us "that much of the Guemes Island shoreline vegetation has been maintained substantially intact and provides excellent habitat for marine dependent life." The Guemes Plan notes that increased development along the shoreline represents a threat to this rich vegetation and the habitat it supports. The plan calls for shoreline residential development to provide a "vegetation conservation area" that insures assemblages of native vegetation including trees, shrubs and groundcovers.

   The draft SMP includes some provisions regarding the protection of native vegetation at the shoreline at the time that shoreline development is proposed. However, we believe that a significant gap exists in the protection of native vegetation due to: a) the lack of a tree cutting/clearing ordinance for critical areas such as wetlands and shoreline areas; and b) the woefully inadequate state of critical areas enforcement by the County. This gap results in shoreline lots being clear-cut and wetland areas cleared, sometimes in advance of any permit application, and with no meaningful enforcement or penalties imposed by the county.

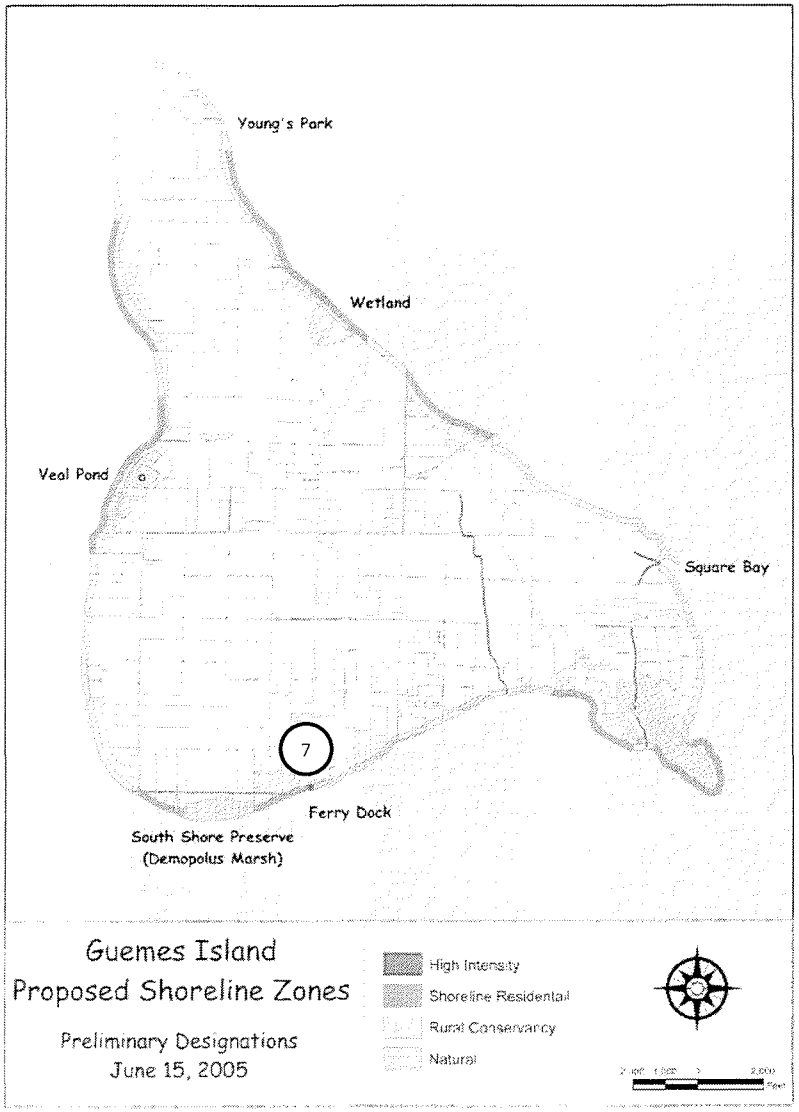
   Given the potential for damage to shoreline areas, we believe it should be a high priority for the County to develop a strong tree-cutting and clearing ordinance for the protection of wetlands and shoreline areas, coupled with significant bolstering of the enforcement system. If this cannot be incorporated in the draft SMP at this time, we ask that it be included in the Planning and Development Services work plan for the upcoming year.

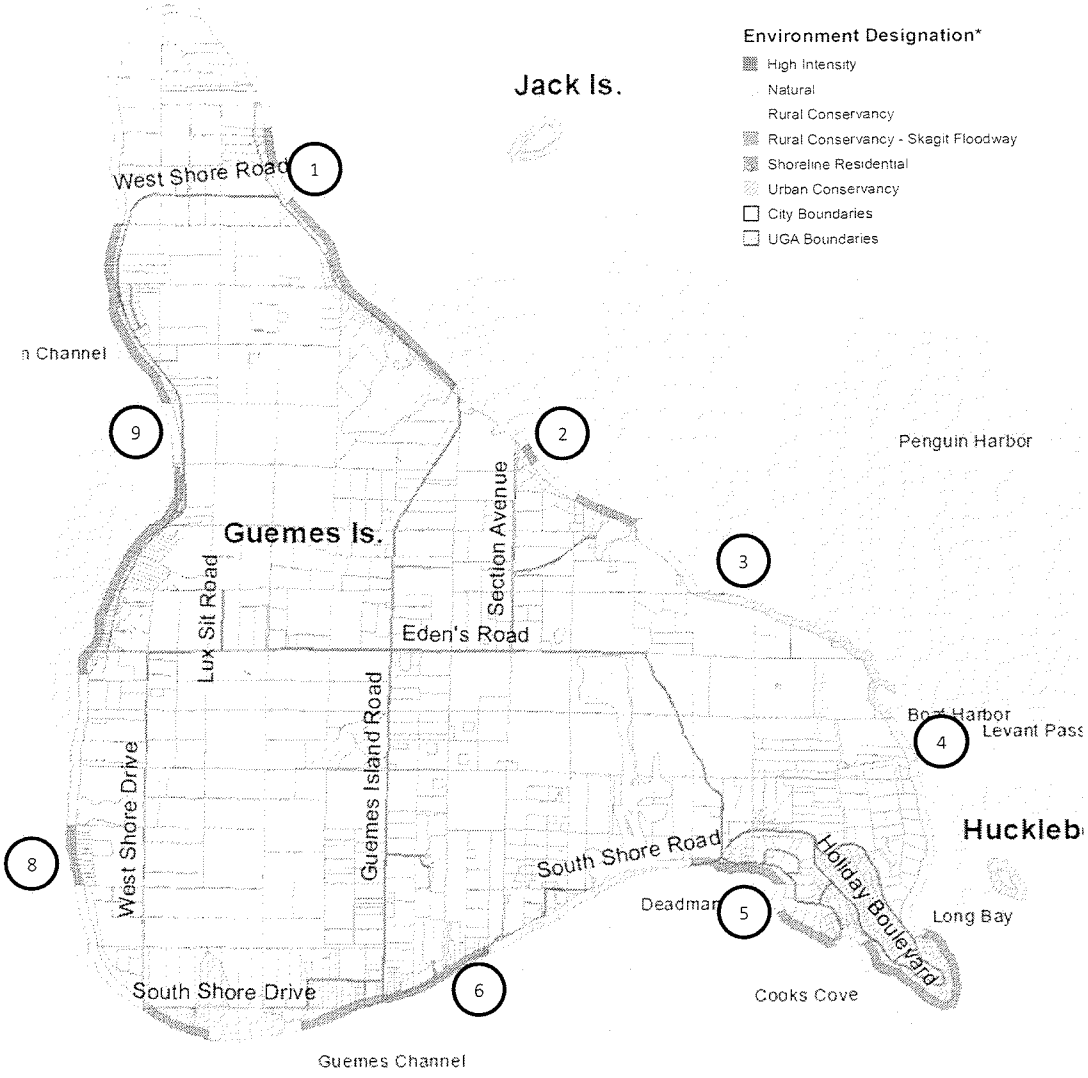
3. **Docks:** The Guemes Plan notes that piers and docks are vulnerable to break-up by the powerful, often destructive currents and tides that move around the island. For this reason, the plan would prohibit individual private docks along its shoreline. We ask that this prohibition be added to the draft SMP, for protection of property owners as well as the environment.

4. **Mining:** The proposed SMP would allow mining as a Conditional Use in the Rural Conservancy Environment. We find this provision completely inconsistent with protection of fragile shoreline resources on Guemes Island and ask that mining and associated activities be prohibited in the shoreline, consistent with the adopted Guemes Plan.

5. **Commercial Aquaculture:** The Guemes Plan states that commercial aquaculture "shall not be permitted on the shoreline of Guemes Island because of its potential to significantly degrade ecological functions over the long term." We ask the County to include this prohibition in the draft SMP.

Thank you for your consideration.


Young's Park
Wetland
Veal Pond
Square Bay
7
Ferry Dock
South Shore Preserve
(Demopolus Marsh)
Guemes Island
Proposed Shoreline Zones
Preliminary Designations
June 15, 2005
High Intensity
Shoreline Residential
Rural Conservancy
Natural


Environment Designation*
High Intensity
Natural
Rural Conservancy
Rural Conservancy - Skagit Floodway
Shoreline Residential
Urban Conservancy
City Boundaries
UGA Boundaries
Jack Is.
West Shore Road
1
n Channel
9
2
Penguin Harbor
Guemes Is.
Section Avenue
3
Lux Sit Road
Eden's Road
Guemes Island Road
West Shore Drive
Levant Pass
4
8
South Shore Road
Holiday Boulevard
Deadman
5
Long Bay
South Shore Drive
6
Cooks Cove
Guemes Channel

From: Fritzen, Bob (ECY)
To: PDS comments
Subject: SMP Comments.
Date: Monday, April 04, 2016 9:07:16 AM

Thank you for the opportunity to comment on the latest draft of the shoreline master program. Ecology appreciates the time and effort the county has put into updating the document. If you have any questions I continue to remain available any time.

Bob Fritzen
Department of Ecology
Bellingham Field Office
1440 10th Street, Suite 102
Bellingham, WA 98225
(360) 715-5207

Department of Ecology Comments – March 31, 2016

To

Skagit County SMP, Public Comment Draft Dated February 4, 2016

SMP – Shoreline Master Program

SMA – Shoreline Management Act

PAGE 5 (Shoreline Permits)

There are three types of "**shoreline permits**" that you might need under the rules of this SMP.

Type of Shoreline Permit	Needed if your proposed activity or development…	Process
Substantial Development Permit	qualifies as "substantial development"; see ___	SCC 14.26.720 (pg **Error! Bookmark not defined.**)
Conditional Use Permit	is not ~~specifically allowed~~ classified by this SMP, or if this SMP otherwise requires a Conditional Use Permit.	SCC 14.26.730 (pg **Error! Bookmark not defined.**)
Variance	doesn't comply with the specific ~~use or~~ dimensional criteria in this SMP.	SCC 14.26.750 (pg 12)

Exemptions

There are two kinds of exemptions defined in state law that lessen the regulatory impact of the Shoreline Management Act.

- **Exempt from a Shoreline Substantial Development Permit:** Some activities or developments have to comply with the rules of the SMP, but do not require a Substantial Development Permit; for example, some single-family residences (see Appendix 1). You still have to obtain a "letter of exemption" (described above) for these activities. See SCC 14.26.760 (pg **Error! Bookmark not defined.**) for information on the process.
- **Exempt from the ~~SMA~~**SMP: A few activities are ~~completely~~ may be exempt from shoreline rules, for example, existing agricultural activities (see page 6). These

Commented [FB(1]: Using "not specifically allowed" infers it is "prohibited". Conditional use permits are used for use or development that is either named as a conditional use in the SMP or is unclassified in the SMP. It is suggested that "classified" or similar word be used. See WAC 173-26-241(2)(b).

Commented [FB(2]: Variances are not to be used to change a use. See WAC 173-27-030(17).

Commented [FB(3]: Existing ag activities are still regulated by the SMA. For example RCW 90.58.065(2)(a) requires replacement facilities to encroach no closer to the shoreline. Also new agricultural structures may require a shoreline exemption.

activities require no shoreline permit or letter of exemption, and do not have to comply with SMP regulations.

PAGE 8 (Purpose)

RCW 90.58.020 provides that:

> It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all-reasonable and appropriate uses. This policy is designed to insure [sic] the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto. The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The Department of Ecology, while adopting guidelines for shorelines of statewide significance, and local government, while developing master programs for shorelines of statewide significance, shall give preference to uses, in the following order which:

Commented [FB(4]: Since the paragraph is not in quotes it is suggest to change it to "ensure".

PAGE 14 (Natural Designation)

6B-3.5 Commercial forestry may be allowed in the Natural environment by a shoreline conditional use permit provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of the Natural environment designation.

Commented [FB(5]: Required per WAC 173-26-211(5)(a)(ii)(D).

PAGE 19 (Shoreline Uses and Modifications)

6c-1. Agricultureal ~~Activities~~

Commented [FB(6]: "Agricultural activities" are specifically defined and a subset of agriculture in general. The section is about "agriculture". Similar changes will need to be made in the document.

PAGE 23 (Shoreline Uses and Modifications)

6C-4. Breakwaters

Commented [FB(7]: Why separate "breakwaters" from "jetties and groins"?

PAGE 28 (Residential Development)

6C-11.7 Residential developments should provide public or community access opportunities to publicly owned shorelines or public water bodies. Such access should be of a mode and size appropriate to the site, size, and general nature of the development. (current policy, modified)

Commented [FB(8]: This is consistent with WAC 173-26-241(3)(j).

PAGE 29 (Residential Development)

6C-11.9 Recreation-oriented developments should provide adequate, diverse recreation opportunities to serve resident members and other users. (current policy, modified)

Commented [FB(9]: Should this be in the "recreation" section? Not sure of the intent.

PAGE 42 (Circulation)

6A-1.1 Location

a. ~~Comprehensive Plans, which include Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities, as defined in RCW 47.06.140.~~

b. Essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140, may locate in shoreline jurisdiction consistent with institutional development policies and regulations, provided that they should be consistent with any Countywide Planning Policies and Skagit County siting requirements. Such essential public facilities should demonstrate a need for a shoreline location or infeasibility of other locations and provide a public benefit consistent with the SMA such as public access and restoration.

Commented [FB(10]: Items (a) and (b) seem to conflict. The intent can be captured in (b) with the additional language.

PAGE 53 (Authority, Purpose, and Jurisdiction)

14.26.130 Applicability

(1) Except when specifically exempted by statute, ~~A~~all proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of the SMA and this SMP even when a permit or other form of

authorization is not required. ~~But see the exemption in SCC 14.26.410 Agricultural Activities.~~

(2) The shoreline permit procedures, policies, and regulations established in this SMP apply countywide to all nonfederal uses, activities, and development.

(3) This SMP applies to lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of federal ownership. The following subsections guide the determination of SMP applicability on federal lands:

(a) Federal development on land owned or leased by the federal government ~~is not subject to this SMP~~ shall be consistent to the maximum extent practicable with the enforceable policies of the most recent federally approved Washington state coastal zone management program pursuant to the Federal Coastal Zone Management Act, 16 U.SC. 1451 et seq. (CZMA) and federal regulations adopted pursuant thereto;

Commented [FB(11]: The added language is required by WAC 173-26-191(2)(a)(iii)(A) and makes the deleted language unnecessary.

Commented [FB(12]: Required per WAC 173-27-060(1).

PAGE 59 (General Regulations)

14.26.310 Dimensional Standards

(3) Buffers for lakes, streams and marine shorelines are measured from the OHWM.

Commented [FB(13]: The change is suggested since wetlands and geologic hazards typically do not have an OHWM.

Table 14.26.310-1 Dimensional Standards

The following table sets out minimum buffer widths and other dimensional standards for each shoreline environment designation. For other dimensional standards, see SCC **Error! Reference source not found.**.

Hard Surface Limits (% area outside the buffer)						
for all commercial and industrial upland uses	n/a	30%	70%	n/a	70%	n/a
recreational uses	5%	25%	30%	30%	40%	n/a

Commented [FB(14]: This or similar language is needed for clarification.

PAGE 60 (General Provisions Upland of OHWM)

(4) Preference for water-oriented facility location. Shoreline developments must locate all nonwater oriented facilities landward of water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible or as allowed by mixed-use regulations. (based on use preferences in RCW 90.58.020, WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))

Commented [FB(15]: This or something similar needs to be added consistent with allowances elsewhere in the SMP.

PAGE 70 (Public Access)

14.26.370 Public Access

(1) Applicability.

Water-enjoyment, water-related, and nonwater-~~dependent~~ oriented uses; (WAC 173-26-221(4)(d)(iii).)

Commented [FB(16]: Nonwater-dependent includes water-oriented and water-related.

PAGE 74/75 (Public Access)

(4) Shoreline Public Access Plan.

(a) The Skagit Countywide UGA Open Space Concept Plan and the Skagit County 2012 Comprehensive Parks and Recreation Plan provide for a connected network of parks, open space, and trails, and together constitute Skagit County's Shoreline Public Access Plan. The plan may be utilized where proved to ~~which~~ provide ~~s~~ more effective public access concepts than individual project requirements for public access.

Commented [FB(17]: It is not clear what the county's intent is by including this statement. WAC 173-26-221(4)(d)(iii) requires local government to provide standards for public access except where it is demonstrated that a local public access plan is more effective. The county appears to have done both. Suggested change made.

PAGE 83/84 (Uses and Modification Matrix)

Table 14.26.405-1.

	Shoreline Environment Designation					
Shoreline Use	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Agriculture (see SCC 14.26.410)						
Ag activities, facilities, and accessory uses (other than those that are ~~exempt~~ existing on Ag land at the time of SMP adoption)	SD/E	SD/E	SD/E	SD/E	SD/E	see aqua-culture
Breakwaters, Groins, and Jetties (see SCC 14.26.425)						
All Breakwaters on Lakes	X	X	X	X	X	X
Fixed Breakwaters on Marine/Rivers	X	X	X	CU	SD/E	upland
Floating Breakwaters on Marine/Rivers	X	CU	CU	CU	SD/E	upland
Groins and Jetties, Lakes	X	X	X	X	X	X
Groins and Jetties, Marine/Rivers	X[1]	X[1]	X[1]	CU	SD/E	upland
Forest Practices (see SCC 14.26.445)						
All	CU~~SD/E~~[2]	SD/E	SD/E	SD/E	SD/E	X

Commented [FB(19]: Either a footnote or language in the agriculture section is required consistent with WAC 173-26-211(5)(a)(E). Only very low intensity agriculture consistent with the natural environment is allowed.

Commented [FB(18]: Necessary change to avoid confusion with the SDP exemption in table.

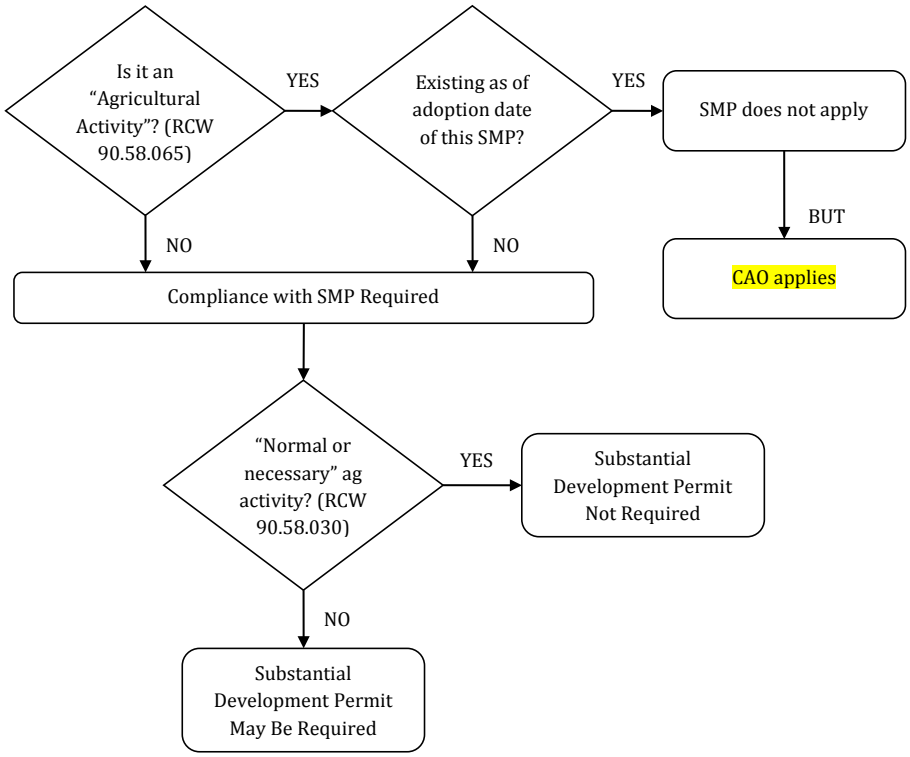
Commented [FB(20]: WAC 173-26-231(3)(d) requires a CUP for breakwaters, jetties, and groins unless to protect or restore ecologic functions unless the county can demonstrate otherwise with a compelling reason.

Commented [FB(21]: Required change per WAC 173-26-211(5)(a)(ii)(D).

PAGE 86/87 (Agriculture)

14.26.410 Agriculture~~al~~ ~~Activities~~

(2) Applicability. The Shoreline Management Act includes two different exemptions for agriculture—an exemption from modification or limitation by ~~all provisions of~~ the SMP for the "agricultural activities" on "agricultural lands", and a more ~~limited~~ general exemption from the requirement to obtain a shoreline Substantial Development Permit. (*Comments to "CAO applies" in the table below.*)



(a) SMP-Exempt Activities. If the activity qualifies as "agricultural activities" on "agricultural land," as defined in Part VIII, and the activity existed as of the date of adoption of the SMP, then the provisions of this SMP, including subsections (ii)-(iii) below, do not apply and no shoreline permit is required for that qualifying activity.

Commented [FB(22]: "Agricultural Activities" is a subset of agriculture and the section is about "agriculture" in general.

Commented [FB(23]: The changes are consistent with the rest of the section and RCW 90.58.065. They changes better describe the extent of the ag activity "exemption". Ag activities are not exempt from the entire SMP. They may require an exemption from an SDP for activities not covered by the definition of Ag activity.

Commented [FB(24]: How can the CAO apply? The CAO, as opposed to the sections of the CAO adopted as part of the SMP, no longer regulates in shoreline jurisdiction.

Commented [FB(25]: This says "iii" does not apply if SMP-exempt, but "iii" says the activity still needs to comply with the CAO, now part of the SMP, even if SMP-exempt? Once the SMP is adopted the CAO does not apply to land within shoreline jurisdiction.

Suggest changing the format so that (i), (ii), and (III) are (b), (c) and (d).

(i) In all other cases not specifically exempted from the ~~SMA~~ SMP, all substantive SMP provisions apply. For example, the following activities are not exempt from the SMP:

(A) new agricultural activities on land not meeting the definition of agricultural land;

(B) expansion of agricultural activities onto non-agricultural lands or conversion of non-agricultural lands to agricultural activities;

(C) conversion of agricultural lands to other uses;

(D) replacement of agricultural facilities closer to the shoreline than the original facility;

(E) other development on agricultural land that does not meet the definition of agricultural activities.

(ii) "Maintaining, repairing, and replacing agricultural facilities" includes modernization and replacement of existing facilities ~~and new construction of agricultural facilities~~ related to existing agricultural activities on existing agricultural lands.

(iii) ~~An SMP-exempt activity must still comply with the provisions of SCC 14.24, the Critical Areas Ordinance~~:

(A) If the activity qualifies as "ongoing agriculture" as defined in SCC 14.04.020, the activity must comply with the special provisions of SCC 14.24.120 Appendix 2, Ongoing Agriculture.

(B) If the activity does not qualify as "ongoing agriculture," then the standard provisions of SCC 14.24 Appendix 2 apply.

PAGE 88 (Agriculture)

(2) Development Standards. In addition to the provisions of ~~SCC 14.24,~~ Part V Critical Areas ~~Ordinance~~ & Appendix 2, including the provisions of SCC 14.24.120 - Appendix 2 for Ongoing Agriculture where applicable, the following standards apply:

Commented [FB(26]: Ongoing Ag is not exempt from the SMA.

Commented [FB(27]: New agricultural facilities may be exempt from a substantial development permit but do not fall under the definition of "agricultural activities" or a common definition or "maintaining, repairing and replacing".

Commented [FB(28]: Once the SMP is approved by Ecology, the CAO no longer regulates critical areas in shoreline jurisdiction. If the county wishes to apply certain sections of the Appendix 2 then the activity is no longer exempt from the SMP.

Commented [FB(29]: The changes are needed to clarify that the language comes from the SMP.

PAGE 100 (Boating Facilities and Related Structures and Uses)

Table 14.26.420-1. Standards for docks.

Element/ Sub-Element	Water Type				
		Marine Waters	Lakes With Anadromous Fish	Lakes Without Anadromous Fish	Rivers
	Max Height from Surface of Water				
Individual dock		?	3 ft	3 ft	3 ft
Joint-use dock		?	3 ft	3 ft	3 ft
Commercial/Industrial Docks		as demonstrated by needs analysis			
	Max Width for Individual and Joint-Use Docks				
Pier/Fixed-Piling		6 ft	4 ft for single user; 6 ft for joint use	6 ft	NA
Ramp		4 ft	4 ft	4 ft	4 ft
Floating section		8 ft	8 ft	8 ft	8 ft
	Max Width for Community Docks				
All segments		8 ft			

Commented [FB(30]: Should this be "pier" or is it meant to include either a pier or float? Maybe it could be indicated on illustration.

Commented [FB(31]: Language in boating facilities section limits height above water for pier to be 1.5 feet above OHWM.

Commented [FB(32]: Language in boating facilities section only allows floating docks on rivers.

Commented [FB(33]: 8 foot wide ramps?

PAGE 118/119 (Forest Practices)

(b) ~~All other forest practices are regulated by the Forest Practice Rules and do not require shoreline review~~. Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of statewide significance. Exceptions to this standard shall be by conditional use permit only. [WAC 173-26-241(3)(e)] Compliance with the Shoreline Management Act, chapter 90.58 RCW, is required. The Shoreline Management Act is implemented by the department of ecology and the applicable local governmental entity. A substantial development permit must be obtained prior to conducting forest practices which are "substantial developments" within the "shoreline" area as those terms are defined by the Shoreline Management Act. [Forest Practices Board WAC 222.50.020]

Commented [FB(34]: Changes required per WAC 222.50.020.

PAGE 131 (Shoreline Habitat and Natural Systems Enhancement Projects)

(1) Development Standards.

(b) Long-term maintenance and monitoring (minimum of ~~three~~ five years) must be arranged by the project applicant and included in restoration or enhancement proposals.

Commented [FB(35]: This is consistent with 16.26.480(3)(a)(ii)(C)(III) and 14.24.540(3).

PAGE 132 (Structural Shoreline Stabilization)

(2) **When Allowed**. These uses are allowed in the shoreline environment designations listed in SCC 14.26.405 Uses and Modifications Matrix.

a) New hard shoreline stabilization structures are prohibited, except when an analysis confirms that that there is a significant possibility that an existing primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard shoreline stabilization structures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions.

Commented [FB(36]: Per WAC 173-26-231(2) & (3)(a) and 14.26.480(2)(c)(i).

PAGE 135 (Structural Shoreline Stabilization)

(C) For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program (ten years for woody vegetation) to include the following:

(I) Goals and objectives of the shoreline stabilization plan;

(II) Success criteria by which the implemented plan will be assessed;

(III) A five-year maintenance and monitoring plan (ten years for woody vegetation), consisting of at least one site visit per year by a qualified professional, with annual progress reports submitted to the Administrative Official and all other agencies with authority;

Commented [FB(37]: Suggested change based on best science practices.

PAGE 149 (Critical Areas)

6A-1.2 (4) Project monitoring, for an appropriate period as determined by the Administrative Official and this shoreline master program, is required for individual mitigation and restoration projects. [Based on WAC 173-26-201(2)(e)(i)]

Commented [FB(38]: Various sections of the SMP set monitoring standards.

PAGE 150 (Critical Areas)

14.26.520 Additional Provisions for Wetlands

(1) Section 14.26.200 Wetland designations (2): The reference to the Washington State Wetland Identification and Delineation Manual, Department of Ecology publication No. 96-94, shall be replaced by the approved federal wetland delineation manual and applicable regional supplements as amended.

(2) Section 14.24.210 Wetland classification: The reference to the Department of Ecology 2004 classification system shall be replaced by the 2014 Update (Ecology Publication #14-06-029 or as revised and approved by Ecology).

(3) Section 14.24.230 Wetland protection standards (1)(b), Optional Wetland Buffers: The current table shall be replaced by the habitat scores from the new rating system.

(4) Section 14.24.240 Wetland performance-based buffer alternatives and mitigation standards (6)(c): The reference to publication No. 05-10-033 shall be replaced by 14-10-055 or as revised by Ecology.

Commented [FB(39]: This or equivalent language is required in order to reflect updated documents. The county may wish to add the tables into the document.

PAGE 153/154 (Pre-Existing Single-Family Residences and Appurtenant Structures)

(3) Enlargement or expansion.

(a) A pre-existing residential or appurtenant structure, that ~~is~~ does not ~~non~~conform~~ing~~ with respect to dimensional standards, may be enlarged provided that such enlargement does not increase the extent of the nonconformity.

Commented [FB(40]: The suggested change is consistent with 14.26.610(1) which states that these structures are considered "conforming structures".

(b) Minor. Enlargement or expansion that would not otherwise be allowed under this SMP, by the addition of space to the main structure, or by the addition of space to an appurtenant structure, may be approved by the Administrative Official if all of the following criteria are met:

(i) the enlargement does not extend farther waterward than the existing primary residential structure or farther into the minimum side yard setback;

(ii) the enlargement does not expand the footprint of the existing structure by more than 200 square feet;

(iii) [the enlargement does not increase the height of the existing structure;] [~~or~~]

(iv) [~~the height of the enlargement does not exceed the height limit in this SMP~~;]

(v) potential adverse impacts to shoreline or critical area ecological functions or processes from the expansion are mitigated on site, in accordance with SCC 14.26.310; and

(vi) any applicable requirements of SCC 14.34 are met.

Commented [FB(41]: Increasing the height within in the buffer is an increase in the nonconformity. Impacts from increased light and noise need to be mitigated. Ecology would consider allowing upward expansion in the buffer through a CUP.

PAGE 154 (Pre-Existing Docks)

14.26.630 Pre-Existing Docks and Boat Launches

(1) Applicability. This section applies only to pre-existing docks and boat launches.

(2) Repair.

(a) Normal repair of existing legally established facilities that fall below the thresholds for replacement identified in (3)(a) ~~are~~ is allowed ~~without shoreline review~~.

Commented [FB(42]: Suggested change consistent with (3) (iii) of this section that addresses boat launches: "Replacement of 75 percent or more (cumulatively over a five-year period) of a boat launch."

Commented [FB(43]: The change is required per WAC 173-27-040 and is consistent with 14.26.650(2), 14.26.720(3) and the definition of "shoreline review".

PAGE 155 (Pre-Existing Structural Shoreline Stabilization)

14.26.640 Pre-Existing Structural Shoreline Stabilization

(1) Applicability. This section applies only to pre-existing structural shoreline stabilization.

(2) Repair. Normal repair and normal maintenance, including modification or improvement of an existing shoreline stabilization structure designed to ensure the continued function of the structure by preventing failure of any part, is allowed ~~without shoreline review~~.

Commented [FB(44]: Required per WAC 173-27-040 and is consistent with 14.26.650(2), 14.26.729(3) and the definition of "shoreline review."

PAGE 156 (Other Pre-Existing Structures)

14.26.650 Other Pre-Existing Structures

(4) Replacement.

(a) A structure damaged or destroyed by fire, natural disaster or other casualty may be reconstructed to the configuration existing immediately prior to the time the development was damaged, if all of the following occur:

Commented [FB(45]: Formatting needs change from (b) and (c) to (i) and (ii).

(b) The applicant submits a complete application for reconstruction or replacement within 12 months of the date the damage occurred. The applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12-month period. Such a request is a Level 1 application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant's control (not market conditions or financing delays) have delayed submittal of a complete application.

(c) The applicant obtains all permits and completes construction within five years.

(d) Other than single-family homes, the replacement cost does not exceed 75% value of the original structure.

Commented [FB(46]: Given the preference to eliminate nonconforming structures, Ecology suggests utilizing the 75% of value as a limitation to replacement consistent with WAC 173-27-080.

PAGE 163 (Variance Permits)

14.26.735 Shoreline Variance

(2) Types. There are two types of variances: administrative variances and Hearing Examiner variances.

(a) Administrative variance. An application to reduce a standard buffer width by ~~50~~25% or less is an administrative variance.

Commented [FB(47]: Ecology's BAS for wetlands states that the buffer at its narrowest point should never be less than a 25% reduction. To allow more than 25% reduction for any buffer without shoreline variance will be difficult to approve.

PAGE 170 (Definitions)

14.26.820 Definitions

Agricultural activities: per RCW 90.58.065, agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation; (b) "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products.

Commented [FB(48]: Since this is a separate definition it is suggested that it have its own place.

From: Gwen Geivett
To: PDS comments
Cc: Joe Geivett; Gwen Geivett
Subject: Skagit County Shoreline Master Plan Comments
Date: Saturday, March 12, 2016 8:10:46 PM

I am corresponding with you in regards to the proposed Shoreline Master Plan revisions that are proposed as they affect future development at Lake Cavanaugh.

My family acquired our property over 10 years ago and built a house in 2005. As a condition of our development, we were required to set our house back about 100 ft from the lake, construct creek mitigations, and develop a state of the art septic system. We are fortunate to have one of the largest lots on the lake and were able to construct such improvements. A large lot creates open space and opportunities to get more sunshine. However, the downside to a large lot comes in the winter months when severe winds batter the shoreline and structures.

Lake Cavanaugh is unlike any other area in the county. We get up to 4 feet of snow here in the winter (event though it is only at elevation 1000!) due to a severe wind that comes off the mountains to the east. The lake occasionally freezes over in the winter. The water level fluctuates 4 ft from winter to summer and lake temps vary from freezing to 80 degrees. The area around the lake is a working forest and there are a lot of noisy trucks on the roads. Mountains surround the lake on all sides and slopes are steep on many properties. Power outages are routine. Retired people live at the lake year round along with several "commuters". Fisherman sit in their boats out on the lake almost year round. In the summer, the lake is vibrant with ski boats, fishermen, crew boats, kayaks, jet skis, sailboats, seaplanes, and all of the vibrance of waterfront in western Washington. Traffic on the road includes bikes, walkers, joggers, motorcycles, cruizers in their fancy cars, RVs and boats on trailers. Many of the summer lake residents travel between properties by boat (which is the whole point of owning property on a lake!). Docks need to be able to accommodate guest boats win addition to the homeowners' boat. Lake Cavanaugh is truly unique.

I would like to comment on both the setbacks and the dock sizes presently proposed in the plan.

Setbacks: Most of the properties on the lake do not seem to be anywhere close to 100 ft setbacks. Most lots are seriously constrained by lot depth and topography that would make 100 ft setbacks impossible. I am concerned that you are essentially requiring everything to be subject to a variance due to unmanageable setbacks. Many lots on the lake are less than 200 ft deep. With 100 ft setbacks, you end up with new houses being set behind the existing houses that are about 50 ft from the waterfront. Additionally, you are asking for the house to be closer to the noisy road where there are lots of logging trucks. It seems there is limited room for driveways, septic drainfields, wells with their required setbacks from the septic, etc. I think Lake Cavanaugh needs to maintain setbacks that are more consistent with existing structure locations.

Docks: I understand that docks are to be restricted to 8'x8'. Every winter we have small docks like this wash up on our beach as they are torn off their pilings and tossed around the lake by the severe storms of the winter (it is not uncommon to see a catamaran flying in the wind our here). Winds get beyond 50 mph frequently. Gusts are ridiculous and result in real damage to properties (we have lost portions of our roof and had trees knocked down). I believe that the 8 ft dimensions on the docks are not practical for use, either. Most of the people we know on the lake have boats in the 20-25 ft range (ours is 22 ft). Boats need to reach depths of 4 feet or so in order to avoid parking in the muddy lake bottom. It seems that larger docks do not break-up in the winter and are better suited for parking boats. I would expect to see more of the floating docks in the future as it seems the best solution for the lake level variations.

It seems that the requirements outlined in the plan may be reasonable for waterfront that is closer to town and may not be appropriate for Lake Cavanaugh. So I ask if it is feasible to do a special overlay for Lake Cavanaugh where we would be subject to slightly different requirements that take into account the nature of this unique part of the county. I do not think there is another lake which has such a density of logging activity, severe weather, recreational demands, and such a density of development that is present at Lake Cavanaugh. I have seen this done in other communities and believe it makes sense for this condition.

I would like to see the guidelines revised to allow larger docks, setbacks more in line with adjacent existing buildings, and for Lake Cavanaugh to be recognized as a special district.

Thanks you for your time and work on this matter. I am sure you are receiving lots of comments. Please let me know if I can be of further assistance.

Gwen Geivett
gwen@writingpart.com
35035 S Shore Drive
Mount Vernon, WA 98274
206-499-5079

From: Joe Geivett
To: PDS comments
Subject: SMP UPDATE
Date: Wednesday, March 16, 2016 1:58:15 PM

Resending to make sure topic line was correct

From: Joe Geivett
Sent: Monday, March 14, 2016 10:58 AM
To: pdscomments@co.skagit.wa.us
Cc: Joe Geivett <joe@emeraldbayequity.com>
Subject: Shoreline Management Plan - Lake Cavanaugh

Dear members of the Skagit Planning Commission and Staff:

I write to you regarding the proposed Shoreline Plan that you are endeavoring to update and, specifically, its implementation at Lake Cavanaugh. As a licensed Civil Engineer and homeowner at the lake for the past 10 years, I have actively surveyed and monitored lake level on behalf of the LCIA. Additionally, others monitor the water quality at the lake and the results are stunning regarding the purity of the water (even with all of the development up here and proximity of the houses to the lake, the water is more pure than drinking water in most of western Washington).

In this effort, I have contacted WS Dept of Fish and Wildlife, Skagit County, Army Corps of Engineers, DNR and Dept of Ecology to collect background information on the lake level and studies conducted in the past.

The lake community has actively worked with agencies for over 40 years to address severe weather conditions and damage caused by lake fluctuations, snow/ice, and severe storms. A considerable effort was made in the 1971-1977 period (and again in 1993 – see attached ACOE Section 205 summary) in which an EIS was prepared in an effort to install a new channel and address lake fluctuations of up to 5 feet (we have really only seen 4 ft fluctuations for the last 10 years) by building a concrete weir structure. Even in the mid-seventies the local agencies recognized the unique circumstances at this lake as it related to recreation and human habitation versus the great forces of nature.

Throughout this effort, the ACOE and Skagit County agreed that something should be done to address the impacts of natural forces on property owners at the lake. Ultimately, concerns over payment and legal costs killed the project and property owners remained reliant on an old logging dam and the creative work of the beaver community to keep the lake from getting too low. Nothing was done to address the extreme high water conditions which lead to the majority of the damage to docks, boats, bulkheads and houses (although with much of the redevelopment that has occurred in the last 40 years, there are relatively few houses that still flood in the high water condition).

I bring this to your attention as I believe this background helps you to understand 2 points of view:

1) The older folks at the lake are still upset that the county did not do enough to control the water up here at the lake. Since the 70's the property owners have spent considerable energy to make things STRONGER and LARGER in order to fair the harsh winter conditions, understanding that relief thru a municipal project in not forthcoming. I apologize ahead of time for some of the comments you may get from the elder folks up here….I am afraid it is scratching at a bit of a scab.

2) The regulations for smaller docks (as small as 8x8 as I understand) simply do not take into consideration half a decade of work in the 1970's that documented the conditions at Lake Cavanaugh and the damage that occurs from the natural forces. Docks need to be stout and floating docks need to be large (probably 25 feet x 10 ft) to really counter the forces seen up at the lake. It seems as though the County should recognize all of the prior work and account for the unique conditions at this community. Specifically, with lake fluctuations and relatively shallow lake depths, docks should be permitted that reflect this environment.

I would like to be on record requesting that Skagit County take into account the efforts of the agencies and residents that worked diligently to address these concerns in the 1970's. I have copies of reports and documentation from these efforts, if you would like them for the files.

Current dock regulations establish length of docks as an average of other docks within 300 ft of the property. Width allowed is 10 ft. This seems to allow folks to have a dock similar in length as their neighbors (which helps as maneuvering boats on 60 ft lot widths is challenging unless everyone has a boat out at the end of the dock). This also effectively accounts for depth of the lake at their particular location (some places on the lake are very shallow and others very deep near the shore). These regulations have evolved over the last 60 years as the docks remaining out there are the survivors! The smaller, lesser docks have been destroyed. I believe we need to have regulations that better align with the reality of the environment.

Please feel free to contact me if you have further questions. I thank you for your efforts on this matter and I am happy to share the research and documentation that I have in my possession.

Thanks

Joe Geivett, PE
35035 S Shore Dr
Mount Vernon, WA 98274
joe@ebequity.com
(206) 910-3825

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
1519 ALASKAN WAY SOUTH
SEATTLE, WASHINGTON 98134

NPSEN-PL-EP

29 FEB 1972

SUBJECT: Lake Cavanaugh Near Mount Vernon, Washington, Section 205 Reconnaissance Report

Division Engineer, North Pacific

1. Authority. This report is submitted under authority of Section 205 of the 1948 Flood Control Act, as amended, and as authorized by ER 1165-2-12.

2. Location. Lake Cavanaugh is approximately 14 miles east and 7 miles south of Mount Vernon, Washington in Skagit County, as shown on Plate 1. The lake drains into Lake Creek which flows 2 miles to its confluence with Pilchuck Creek, a tributary of the Stillaguamish River.

3. Flood problem. Low-lying waterfront flooding and consequent property damage are caused by high lake levels during winter rain and snowmelt conditions. The most serious damages occurred during the winter of 1965 when warm weather accompanied by rain and melting snow caused a sudden increase in the lake level. The outlet was clogged with debris, preventing normal outlet discharge. The high water caused many boats and docks to float away. Strong winds and floating debris caused damage to the remaining structures. Failure of a pile foundation caused one cabin to fall into the lake. Waterfront damages also included septic tank inundation, dock losses, debris pileups, loss of beach sand, and access bridge washouts. High water inundated summer cabin floors in February 1965 and January 1971.

4. Nature and extent of investigation. Investigations were made to consider the Federal interest in participating in the construction of flood control measures at the Lake Cavanaugh outlet to stabilize the lake level and to eliminate the flood damages to lakefront properties. This study is based on field reconnaissances, information available in the District Office, USGS quadrangle sheets, meetings with lakefront property owners, and informal comments by local interests and the State Department of Game. Lake-stage readings and rainfall information based on privately-installed staff and rainfall gages, respectively, were furnished by a Lake Cavanaugh property owner. Instrument surveys were limited to determining the outlet cross sections at several locations. Economic studies were limited to a brief field reconnaissance and office studies. Basic data for estimates of flood damage were obtained from local interests.

5. Related studies. Flood control opportunities in the Stillaguamish River basin are discussed in the report, "Comprehensive Study of Water and Related Land Resources, Puget Sound and Adjacent Waters, State of Washington." However, this report does not include reference to the Lake Cavanaugh flood problem.

6. Basin description. Lake Cavanaugh, with a surface area of one and one-third square miles, drains an area of 8.2 square miles, most of which is timbered and rugged. Lake Cavanaugh is about 2.7 miles long, 0.9 mile wide, has a perimeter of 7 miles and is approximately 80 feet deep under average lake level conditions. The elevation of the Lake Cavanaugh drainage basin ranges from 2,681 feet at the top of Frailey Mountain along its southern boundary to 1,008 feet at the lake. The lake discharges into Lake Creek which flows for 2 miles to its confluence with Pilchuck Creek. Pilchuck Creek flows into the Stillaguamish River. The Stillaguamish River drainage basin comprises an area of 684 square miles. No discharge records are available in the Lake Creek drainage area.

7. Existing non-Federal projects. There are no existing non-Federal projects at Lake Cavanaugh.

8. Flood control district. On 1 September 1970 Skagit County established a county-wide flood control district which would enable the county to assume the responsibility of sponsorship of Lake Cavanaugh improvement if a flood control project is determined to be economically feasible.

9. Economic environment. Lake Cavanaugh frontage development consists of between 350 and 400 minimum-prices summer cottages, 6 permanent residences, 1 grocery store, a Washington State Department of Natural Resources building, and a Washington State Department of Game public boat launching facility. Access to Lake Cavanaugh is by paved road from State Highway 9 via Pilchuck Creek and Lake Creek, or by dirt road from Oso, Washington. Skagit County maintain a paved road around the lake. Mount Vernon, the Skagit County Seat, has a population of 8,800. Lake Cavanaugh is planted each year with rainbow trout and contains sustained populations of kokanee. Cutthroat and eastern brook also occur. The lake has not been very productive for game fish. Although the Washington Department of Game constructed a barrier dam on Lake Creek to prevent infestation of Lake Cavanaugh with non-game species, the lake now supports a large number of squaw fish. Anadromous fish are prevented from reaching Lake Cavanaugh by a waterfall on Pilchuck Creek. The Puget Sound and Adjacent Waters Comprehensive study gives a priority rating to laddering this fall to provide access for anadromous fish to possible upstream spawning areas.

10. Climatology. The climate of Lake Cavanaugh is typical of the Puget Sound subregion, with cool dry summers and mild rainy winters. The normal annual precipitation is estimated at 80 inches, of which more than 70 percent occurs during the six-month period from October through March. December and January are usually the wettest months, with combined precipitation equal to 30 percent of the normal annual amount. During exceptionally wet winters, the combined precipitation may reach 60 percent of the normal annual precipitation. July is usually the driest month of the year, with no precipitation occurring in some years. Snowfall averages 35 inches per year and occurs most frequently in January and February. Temperatures are generally moderate throughout the year. The average annual temperature is about 47°F. The average maximum temperature in July is near 75°F, while the average minimum temperature in January is near 40°F. Temperature extremes of 105°F and -5°F have been recorded at nearby stations.

11. Hydrology. Lake Cavanaugh receives runoff from the drainage basin through several small ungaged tributaries and from direct surface drainage. Lake stage readings, based on a privately-installed staff gage and assumed data, were kept by a local property owner from 1964 to the present time. Zero on the gage was set to represent "normal summer lake level." The lake stage gradually rises in the fall and winter of the year and declines in the spring. Typically the lake reaches a low level average of plus 0 to 6 inches during the summer and plus 20 to 24 inches in the winter when the lake is at its highest. Local residents report that the lake reached a recorded level of plus 56 inches in January 1971, reportedly its highest level in 20 years. The previous high level was a plus 36 inches in February 1965. The lake stage-frequency curve, shown on Exhibit 2, is based on incomplete data on the observed maximum stages for the period 1964 to present. The datum is "normal summer level."

12. Extent and character of flooded area. Development in the inundated area consists of residences, yards, lawns, beaches, retaining walls, docks, septic tanks, roads and bridges.

13. Flood damages. During the winter months, heavy rains and snowmelt cause the lake to rise, damaging shoreline improvements. Damage is estimated to start when the lake stage exceeds 2.0 feet, which occurs on the average of every 1.5 to 2 years. Damages include mooring facilities and dock floating free from piling supports; undermining of buildings and damage to contents; deposition of debris on lawns; scouring of yards by wave action; loss of beach sand; septic tank inundation; and access bridge washouts. Damage to 100 developed and undeveloped parcels was considered in the evaluation. The estimated average annual damages are $8,600 under 1971 prices and conditions. Considering the number of vacant lots and possible upgrading of present developments, lake frontage subject to flood damage is expected to be developed at an estimated rate

of 1.5 percent per year. The average annual equivalent growth factor for a 100-year period is 1.38. The average annual equivalent damages are $11,900. Residual damages and land enhancement were not considered in the above figures.

14. Desired improvements. Local residents and landowners at Lake Cavanaugh have expressed a desire for remedial measures to stabilize the lake level to provide flood protection for their homes and property. By letter dated 4 May 1971 (Exhibit 3), the Board of Skagit County Commissioners requested the Corps of Engineers to make Section 205 studies of the Lake Cavanaugh flood problem and agreed to sponsor the project.

15. Project formulation. The control of the lake to prevent its rising above the zero damage level would require increased outlet capacity during the flood season. One plan for obtaining such capacity was considered to determine whether a feasible project is possible and whether there should be Federal interest in such a project. The existing outlet channel (Lake Creek) would be improved to provide capacity for 920 cfs flows, a 100-year flood event. It would provide for a 2-foot lake fluctuation from 0.0 feet to 2.0 feet (zero damage level). Details of the outlet improvement considered are shown on Plate 2. The improvement would consist of an 82-foot reinforced concrete ogee crest uncontrolled weir located approximately 400 feet downstream from the lake, and channel excavation extending from 300 feet upstream of the weir to 1,500 feet downstream. Two-hundred feet downstream of the weir, the outlet channel would be reduced to 40 feet bottom width. The first 200 feet of channel downstream of the weir would be lined with Class II riprap, providing protection for velocities up to 14 feet per second. Side slopes of the channel improvement would be 1 on 2. As Lake Cavanaugh does not support migratory fish, no fish passage facilities were included in the structure. The lake fishery management could be improved by fishery rehabilitation for trout and provision of a fish screen in the structure to prevent trout escapement and influx of scrap fish. A structure to accommodate a fish screen was not considered in this study.

16. Estimate of first cost. The estimated construction costs of the improvements based on 1971 price levels are as follows:

Item	Amount (Federal-cost)	Unit	Unit price	Cost
Access	1	Job	L.S.	$ 2,000
Clearing	2	Acre	$ 2,000.00	4,000
Excavation (channel)	7,000	Cu.yd.	2.50	17,500
Filter layer (select gravel)	530	Cu.yd.	6.00	3,180
Riprap (Class II - 38")	600	Ton	8.00	4,800

Item	Amount (Federal-cost)	Unit	Unit price	Cost
Architectural treatment and landscaping (3%)				950
Subtotal				$ 32,430
Contingencies 30%±				9,730
Total construction cost (Federal)				$ 42,160
E&D and S&A (26%)				10,940
Total Federal cost				$ 53,100
	(Non-Federal cost)			
Rights-of-way	4	Acre	1,000.00	4,000
Excavation (structure)	2,000	Cu.yd.	2.50	5,000
Diversion	1	Job	L.S.	1,000
Concrete (incl. reinf.-concrete)	110	Cu.yd.	175.00	19,250
82' x 10' Icos cutoff gate	820	S.F.	10.00	8,200
Piling	200	L.F.	15.00	3,000
Seeding	9,000	S.F.	0.05	450
Architectural treatment and landscaping (3%)				1,200
Engineering and legal (26%) and S&A				10,900
Subtotal				$ 53,000
Contingencies 30%±				15,900
Total non-Federal cost				$ 68,900
Total project cost				$122,000

17. Economic evaluation.

a. General. The evaluation was made only on flood damage prevention benefits to determine whether a feasible project is possible. Average annual flood damages with growth are $11,900 as given in paragraph 13. Land enhancement values were not considered. Some fishery benefits could be attained from improved lake fishery management through provision of a

fish screen at the outlet structure. However, costs for this screen and accommodating structure modification could exceed the benefits. Evaluation of any fishery benefits or mitigation was not made for this study. Increased floodflows which would result from Lake Cavanaugh improvement in the Pilchuck Creek and lower Stillaguamish River may result in increased downstream flood damages. The adverse effect of such increased flooding was not evaluated.

b. Annual charges. Based on a 100-year life and 5-3/8 percent Federal discount rate and estimated operation and maintenance charges, the average annual costs are:

Amortization (122,000 x .05404)	$ 6,600
Operation, maintenance and repair	1,200
Total annual cost	$ 7,800

c. Damages, benefits, and benefit-to-cost ratio. Based on values and data obtained from Exhibits 1 and 2, the average annual damages, benefits, benefits with growth, costs and benefit-to-cost ratio have been determined and are listed below for the outlet channel improvement providing 100-year flood protection.

Average annual damages	$ 8,600
Average annual residual damages	--
Average annual flood damage prevention benefits	8,600
Average annual flood damage prevention benefits with growth	11,900
Average annual land enhancement benefits	--
Total annual benefits	$11,900
Annual cost	7,800
Benefit-to-cost ratio: 1.53	

18. Local cooperation. By letter dated 4 May 1971, the Skagit County Board of Commissioners agreed to sponsor the project.

19. Study cost estimate.

a. Reconnaissance report. The cost of preparing this report was $2,500.

b. Detailed project report. The estimated cost of preparing a detailed project report is summarized below:

Detailed project report cost estimate

Item	Estimated cost	
Planning and public contacts	$11,800	
Hydrology studies	2,400	
Surveying and mapping	11,600	
Foundations and materials	6,960	
Stream regulation studies	6,000	
Design and cost estimate	4,200	
Economic studies	6,200	
Real estate studies	1,500	
Conservation studies	7,300	
Preparation of report	4,600	
Subtotal		$62,560
District overhead (13.3%)		8,340
Contingencies (15%)		10,100
Total		$81,000

20. Discussion. This study indicates that there appears to be an economically feasible and socially viable solution which would eliminate the flooding and threat of flooding to the waterfront properties around Lake Cavanaugh. An overflow ungated reinforced-concrete ogee-crest weir and necessary channel improvement would provide for a lake fluctuation of 2 feet and for capacity of 920 cfs to protect against a 100-year flood event. Interest in the project is very high. Lake Cavanaugh property owners have formed a Water Control Committee within the Lake Cavanaugh Improvement Club to seek means of eliminating the flood threat to their property. Although a large degree of flood control could be provided through widening and deepening of the outlet channel and removal of debris, this improvement would not meet the desires of local interests to stabilize the lake level. Studies were not made of providing flood control through channel improvement only. The cost of the weir structure and associated work to provide for lake stabilization is assumed to be a local cost. This assumption is based on OCE 2d Indorsement ENGCW-PD (24 Jul 70) to Division Engineer, North Pacific dated 9 November 1970, subject: Big Lake Near Mount Vernon, Washington - Section 205 Reconnaissance Investigation, which stipulates that the additional costs required to stabilize the water levels are a local responsibility. If the costs of the

weir structure and associated work is a local cost, this would amount to 56 percent of the total project cost. The local sponsor was advised at the beginning of the study that its costs would include those associated with the usual a, b, c items of cooperation, such as rights-of-way. They were not advised that their cost may include the cost of a weir or control structure. A channel improvement project to provide flood protection is feasible. However, because of possible high local costs, the question remains - what should be the Federal interest in the Lake Cavanaugh improvement and other projects of this type? This question is particularly apropos in today's milieu as the Corps is trying to develop socially acceptable solutions even though they may not be the cheapest or maximized on the basis of economic efficiency. If Corps policy is firm on local responsibilities for lake outlet structures, several options are available. If local interests accept the high local cost sharing, the options would be: (1) continue the study through the detailed project phase, assume all study costs and proceed with construction under Corps authority. A precedent for this course of action is the Wynoochee Dam project where the local share is 78.23 percent of the joint costs of the project, (2) continue study in the Detailed project phase and assume only those study and construction costs associated with channel improvement as an integral part of the outlet structure scheme. Another option (3) would be to discontinue the Section 205 study and provide technical assistance only if local interests lack capability to share 56 percent of the total project costs or total costs as discussed above. The last option, (4) is to discontinue all further study or assistance.

Further study of methods to protect the property around Lake Cavanaugh is warranted on the basis of flood control benefits, but Federal interest in the project is doubtful because of the possible large local costs involved and the capability of local interests to share these costs. Local interests have not been advised of these possible high local costs pending a firm decision on Corps policy.

21. In view of the above, Corps of Engineers' policy should be reviewed to determine the Federal interest in lake outlet improvements for the purposes of flood control, lake level stabilization, fish passage and other water resource purposes, particularly as precedence has already been established in the Seattle District at the Hiram M. Chittenden Locks, American Lake, and to some degree in the Lake Stevens detailed project report currently under review at OCE.

22. Recommendations. In view of the foregoing considerations, we have assumed that there is a lack of Federal interest in the outlet structure as its purpose is primarily to stabilize lake levels. Accordingly, I recommend:

NPSEN-PL-BP
SUBJECT: Lake Cavanaugh Near Mount Vernon, Washington, Section 205 Reconnaissance Report

a. That detailed project report studies be continued on the basis of the conceptual plan described herein which includes an outlet structure and channel improvement.

b. That local interests be advised immediately upon approval of this report of their responsibility for sharing in a substantial portion of the project cost including the total cost of the outlet structure.

c. That the detailed project report be discontinued immediately should local interests be unable or decline to assume sponsorship responsibilities.

H. W. MUNSON
Lt. Colonel, Corps of Engineers
Acting District Engineer

5 Incl (8 cys)
1. Plate 1, Drainage Basin Map
2. Plate 2, Outlet Improvement
3. Exhibit 1, Discharge Frequency Curve
4. Exhibit 2, Lake Stage Frequency Curve
5. Exhibit 3, Letter from sponsor

Rec 11-1-76
These letters were copied with Bob Berg

WASHINGTON STATE
PARKS & RECREATION COMMISSION

LOCATION: THURSTON AIRDUSTRIAL CENTER PHONE 753-5755

P. O. BOX 1128 OLYMPIA, WASHINGTON 98504

July 13, 1976

IN REPLY REFER TO:
35-2640-1820

Declaration of Environmental Significance - Lake Cavanaugh Flood Control Subzone

(D-17)

Mr. Lloyd H. Johnson, P.E.
Skagit County Engineer
Office of Skagit County Engineer
P.O. Box 396
Mount Vernon, Washington 98273

Dear Mr. Johnson:

The Washington State Parks and Recreation Commission has reviewed the above-noted document and has no comment to make as an agency with expertise.

However, for your information, may we point out that it appears that the proposed channel change is in violation of your own Shoreline Master Program since Lake Creek is within the Conservancy environment (see Page 7-111- Conservancy (4)(c). . ."Channel direction modification, realignment and straightening are not permitted."). Skagit County Master Shoreline Program

Thank you for the opportunity to comment.

Sincerely,

David W. Heiser

David W. Heiser, Chief
Environmental Coordination

sg

May require obtaining Variance

WASHINGTON
Department of
FISHERIES

DANIEL J. EVANS
GOVERNOR

ROOM 115, GENERAL ADMINISTRATION BUILDING • PHONE 753-6600
OLYMPIA, WASHINGTON 98504

DONALD W. MOOS
DIRECTOR

July 8, 1976

Mr. Lloyd H. Johnson, P.E.
Skagit County Engineer
Post Office Box 396
Mount Vernon, Washington 98273

Dear Mr. Johnson:

Thank you for information packet on the proposed project of clearing an outlet channel from Lake Cavanaugh to Lake Creek and construction of a small concrete dam for lake stabilization.

The Department of Fisheries is presently gathering appropriate information that will be forwarded in the near future.

Sincerely,

Richard E. Noble
Fisheries Biologist

sc

cc: Russ Orrell - WDF

Dos Nelson
Engineering

WASHINGTON Department of FISHERIES

DANIEL J. EVANS
GOVERNOR

ROOM 115, GENERAL ADMINISTRATION BUILDING • PHONE 753-6600
OLYMPIA, WASHINGTON 98504

DONALD W. MOOS
DIRECTOR

September 15, 1976

Skagit County Planning
120 West Kincaid Street
Mt. Vernon, WA 98273

Gentlemen:

Proposed Project Involving Dredging
And A New Dam on Lake Creek -
Near Outlet of Lake Cavanaugh.

The Fisheries Department has great concern over the referenced proposal. Area biologist Mr. Russell Orrell indicates such a project would undoubtedly be detrimental to the future fisheries resource. Lake Creek is potentially the best tributary of the upper Pilchuck system for salmon. Lake Creek could be eliminated as a potential high producer of salmon if channelization occurs without appropriate controls and maintenance of spawning/rearing habitat. Placement of a higher dam could reduce streamflows and would thus add to the adverse environmental effects of the proposal.

It's important for the local agency to work directly with Fisheries during all stages of the project proposal.

As a matter of information, the following is a description of the upper Pilchuck River.

Pilchuck Creek

I) RM 11.0 - RM 16.0 (Falls to just below the mouth of Bear Creek).

This section was surveyed by spot checks at several sections between RM 12.5 and 16.0, at the falls and just above them. This reach of stream appears to be most suitable for transportation to higher spawning grounds. There are some patches of suitable spawning area but most of this section is characterized by large boulders and rapids and pools. Rearing area is present here although the percent of the creek that is shaded is rather low.

II) RM 16.0 - 17.0 (Just below mouth of Bear Creek to mouth of Lake Creek).

A moderately higher percentage of this section is suitable for spawning although the boulder content is still rather high. Patches between the boulders have a high sand content. Rearing in this section is rated good

to excellent. The estimated flow is 50-60 cfs; the average summer width is 16-20 yards, winter 22-30; average summer depth is ½-1', winter 1½-2½: Pool: riffle:rapid = 55:40:5 B:R:G:S: = 40:10:25:25.
Approximately 80% of the creek is shaded by deciduous and evergreen trees.
Water quality appears good.

Sincerely,

Richard E. Noble
SEPA Coordinator

sc

cc: Russ Orrell

cc - Stan
cc - Alan Lange

DEPARTMENT OF GAME

600 North Capitol Way / Olympia, Washington 98504

July 12, 1976

Mr. Lloyd H. Johnson, P.E.
Skagit Count Engineer
P.O. Box 396
Mount Vernon, WA. 98273

Dear Mr. Johnson:

Your letter of June 29, 1976, requesting Pre-Draft Consultation regarding Lake Cavanaugh Flood Control Subzone was received. The request was referred to our field staff for intermediate action preparatory to our formal department response. Our staff will proceed with activities required under state guidelines implementing SEPA (WAC-197-10-210 and 520).

Regarding your question concerning permits, our department and Department of Fisheries will jointly require that a Hydraulics Project Application be submitted prior to commencement of work in state waters. Your checklist indicates that this proposal is being handled through the ECPA procedure. If so, state permits and approvals will be administered by Department of Ecology.

If you have additional questions or concerns, the person to contact is Arthur Stendal, Biologist II. He can be reached by phone at our Mount Vernon Office, 424-1177.

Sincerely yours,

THE DEPARTMENT OF GAME

Leslie A. Lynam

Leslie A. Lynam
Environmental Coordinator
Environmental Management Division

LAL:dsm
cc: Arthur Stendal

DEPARTMENT
OF GAME

600 North Capitol Way / Olympia, Washington 98504

August 20, 1976

Lloyd H. Johnson, P.E.
Skagit County Engineer and
Designated Responsible Official
P.O. Box 396
Mount Vernon, Washington 98273

Dear Mr. Johnson:

Our staff has reviewed material you sent us concerning the Lake Cavanaugh Flood Control Subzone Pre-Draft Consultation. A hydraulics permit will be required of you by this Department and the Washington Department of Fisheries. You may obtain a hydraulics permit application from our regional office in Seattle.

Our main concerns are the effects which your proposed 600 foot channel change and concrete dam will have on fish and wildlife habitat; it appears that potential effects may be quite serious, and urge you to examine all alternatives carefully. We also ask that you re-evaluate your environmental checklist in the light of information we are sending. Answers to items addressing flora and fauna should be changed.

Enclosed please find a report on the subject compiled by Game Biologist, Arthur Stendal. We trust it will assist you.

Sincerely,

THE DEPARTMENT OF GAME

Michael Jennings
Fish and Game Technical Aide

MJ:cw

Encl.

cc: Agencies

LAKE CAVANAUGH FLOOD CONTROL PROJECT

INTRODUCTION

Skagit County, in response to requests from property owners, has undertaken a plan to improve the drainage of run-off waters from Lake Cavanaugh via Lake Creek. Currently there is a log jam located approximately 1/3 mile downstream from the lake. It is felt that this log jam results in a significant hinderance to stream flow.

Skagit County Engineers have made the decision to improve the Lake Creek channel for a distance of 1/2 mile downstream from the lake. It also has been decided to by-pass the log jam by digging a new channel around it. In addition to improving the creek channel, the project incorporates a control structure which will in effect raise the low level of the lake 1.5 feet. This is planned to stabilize the low level of the lake during the recreation season (Appendix Ia.). incorrect statement

The following report deals with the current condition of the proposed project area and the types of wildlife, fish, and vegetation that are found there.

Additionally, an effort has been made to determine the impacts of the proposed project on the present populations of fish and wildlife and the environment.

FISH: Present Status without Project

Game fish species present in the project area are listed in Appendix Ib.

1. Lake Creek from Lake Cavanaugh to log jam #1. Low-moderate numbers of resident trout usage for rearing and shelter, particularly by younger age classes. Low gradient, slow moving; pond lilies along edge.
2. Log jam - manmade weir or dam site; same as previous section.
3. Dam downstream - the old fallen log bridge. Moderate-high usage by game fish for both spawning and rearing. Gradient increases with alternating pool and riffles. Spawning gravel is abundant. streambank is presently unimpacted by activities of man.
4. Fallen bridge to weir above South Shore Drive culvert. Moderate use by resident trout for primarily rearing purposes, with some spawning potential. Slower moving than #3 segment, but more rapid than #1 and #2.

WILDLIFE: Present Status without Project

Lake Creek between Lake Cavanaugh and South Shore Drive can be divided into three segments, each with some unique characteristics.

The first segment includes the bulk of the proposed project area, and extends from the lake approximately 1/2 mile downstream. This area is typified by boggy type habitat covered by a fairly dense growth of brushy vegetation dominated by Douglas spirea, (Spirea douglasii) there are openings and side channels in this segment. The openings are vegetated with grasses and sedges. It appears that these may function as high water channels during periods of heavy run-off. The swampy area is surrounded by second growth timber and offers cover for big game species such as deer and bear.

Snags are present in the swampy area and the whole area appears to be heavily utilized by a wide variety of song birds. The presence of deer, coyote, raccoon, and other small rodents were confirmed by their tracks and trails in the area (Appendix I and II).

This area is probably under some water during the wet season of the year. The site would appear to be suitable for some waterfowl nesting. However, at this time the water level has dropped to a point where the flow is not over-topping the small dam near South Shore Drive. No waterfowl were observed in the area.

Old beaver workings were observed; however, no dams or evidence of current activities were noted during the survey. Don Nelson, Skagit County Engineers, indicated that a beaver dam had been present in the area of the water control structure located approximately 1/2 mile downstream from the lake. It would appear from the evidences of past beaver work on some cedar and hemlock trees that the animals may have exceeded the food supply of the area at some time in the past and have not been re-established in the area.

From the amount of sign present, it is evident that deer are fairly abundant in the general area. There are trails adjacent to the swampy area which led into the creek bottom. This usage probably begins as soon as the water recedes in the spring and the spring flush of vegetation begins.

The stream with its attendant species of fish, insects, and crustaceans is also utilized by species of furbearers such as raccoon, mink, and perhaps otter.

The second segment encompasses the steeper gradient portion of the stream. The vegetation is dominated by second growth timber, primarily Douglas fir, hemlock, and cedar. This segment is relatively untouched since the early days of logging. There is an old bridge near the lower portion of the section which has collapsed into the stream and forms a partial block to the stream. There are two other log jam blockages between this area and the beginning of the segment.

Wildlife use of this area would be somewhat limited since food production is rather low. However, this segment would provide cover for big game species.

Raccoon and mink would find food in the form of small fish and crustaceans in the creek.

The third segment is a lower gradient section of the creek bottom. This section is just upstream from the culvert on South Shore Drive. The bulk of this area is wet and boggy; however, the vegetation growing here is more advanced in terms of height. There are few openings apparent and little in the way of grasses and sedges.

The pool area behind the dam has long since filled in with streambed materials, so that level of the streambed has been raised approximately three feet.

Both the first and third habitat segments are suitable habitat for waterfowl nesting. The first section would rank the highest in terms of productivity. Field examination by Biologist Robert Jeffrey indicated that the productivity of the first segment would be equivalent to a production type 1 a. The third segment was classified as a type 3 b. (Appendix III).

The first segment of habitat, which will be impacted by the flood control project, contains numerous aquatic and marsh plants which produce abundant seed and consequently are valuable food sources for waterfowl and other avian species (Appendix IV).

IMPACTS OF THE PROJECT

FISH: Short-term effects

It would appear that the present project would reduce the rearing potential of the upper section of Lake Creek to nearly nothing, due to the removal of the habitat diversity.

Construction phase of the project is difficult to assess since the downstream extremity of the project is not clear. If the downstream extent were the dam, the short-term effect would be the elimination of viable production of the steeper gradient mid-section of Lake Creek due to siltation. This would probably occur even though the actual construction were accomplished during a period when the streambed was "dry". Since construction would create a disturbed streambed, stream flow beginning in the fall would flush silt downstream. Spawning occurs in the period of March - June. Fry would emerge from the gravel during mid-July.

Siltation would have a delayed impact, in that the effects would be on the next year's spawning activity and food organism production. The impact of a single incident of heavy siltation might require several years to clear, depending on the magnitude of the siltation, the nature of the material, and the frequency of freshet flows.

WILDLIFE: Short-term effects

The channelization of the 1/2 mile of stream from the lake to the proposed dam site will have a negative impact on the aquatic vegetation in the stream as well as the bank vegetation. In addition, the spoils dredged from the streambed will be deposited on vegetation on the area which will have an additional negative impact. These would constitute temporary impacts, generally having a duration of one to several years, during which time most of the vegetation should re-establish itself.

Additional temporary impacts can result with harassment of wildlife species during the period of actual construction and channel work.

FISH: Long-term effects:

Magnitude of freshet flows and velocities, downstream, would be greater with the increased channel capacity; causing:

1. Increased scouring and movement of stream materials downstream.
2. Reduced quantities of desirable spawning material.
3. Reduced food organism production and consequential rearing capacity.
4. There is no opportunity of recruitment of replacement spawning materials from upstream reaches.
5. Detrimental effects of increased freshet flows will extend through the lower reaches of Lake Creek and into Pilchuck Creek.
6. Would expect the frequency of detrimental low flow conditions to increase. Flooding conditions, and enhanced erosion will be

transferred downstream. Natural flood control capabilities of Lake Cavanaugh will be reduced.

The extent of channelization appears to extend only to the dam site. Three areas of natural obstruction were noted between the dam site and the second low gradient section above the culvert weir. This would appear to make the remainder of the project unworkable unless all obstructions were removed at least down to the low gradient portion before South Shore Drive.

WILDLIFE: Long-term effects

The impacts of dredging around the log jam will result in the permanent loss of habitat and, in particular, the loss of a productive section of Juncus and Carex which would fall directly in the line of the proposed by-pass channel. This would be a permanent reduction in the food producing capability of the marsh. At the present time it does not appear that there would be other open sites to replace the losses.

Another project-related impact could result from raising the lake level the proposed 1.5 feet.

This would mean that the water level behind the dam would be 1.5 feet higher at least for a part of the recreational (spring/summer) season. If this period of inundation is extended, there could be a significant impact on the vegetative types presently occupying the site. Those seed producing shrubs and trees such as cascara, wild crabapple, etc., will not tolerate extended periods of flooding. There is a possibility that these plants would be replaced by aquatic plants.

A possible beneficial impact of the increased water level could be increased waterfowl production as well as furbearer habitat. However, since the water level is expected to fluctuate lower than the proposed new low level during the late summer low flow periods, the benefit to a full time resident such as muskrat or beaver may be limited. Waterfowl nesting would take place during the higher water spring period and the broods would be advanced to the flying stage and gone by the time that the water level would begin to drop.

ALTERNATIVES:

Other alternatives to this project to be considered by the county are:

1. Directly addressing the problem - cost sharing, with damaged property owners, improvements to reduce and/or eliminate "flood" damages at their source. Addressing this problem in the manner the county proposes offers questionable solution and, at best, will only serve to transfer the problem downstream at considerable environmental cost.
2. Consider a dual outlet concept, utilizing the Deer Creek outlet as a higher level outlet, thus relieving some of the pressure on the Lake Creek facilities and habitats.
3. Remove the log jam on Lake Creek and not do the channelizing work.

Prepared by:
Arthur G. Stendal
Game Biologist

AGS:ela
8/10/76

STATE OF WASHINGTON
Department of
Natural Resources

COMMISSIONER
BERT COLE

DON LEE FRASER
SUPERVISOR

OLYMPIA, WASHINGTON
98504

August 19, 1976

Mr. Lloyd H. Johnson
Skagit County Engineer
P. O. Box 396
Mount Vernon, Washington 98273

Dear Mr. Johnson:

In response to the material made available to this Division in regards to proposed flood control work on Lake Cavanaugh, our classification as an Agency with Jurisdiction is derived from the requirement of obtaining an easement for the right to overflow State-owned shores and bed.

An easement for the right to overflow is needed when water levels will be maintained above the ordinary high water mark or when there is modification of the natural fluctuations between high and low water stages. It appears that either one or both of these situations will occur as a result of the proposed project.

Aside from the above referenced requirement, we are aware of Chapter 90.24 of the revised Code of Washington which addresses regulation of outflow of lakes. The procedures outlined there are administered by the Department of Ecology. A letter was written by Roy C. Bishop to Howard Miller on this subject on August 15, 1974.

We are also aware of a study by the Corps of Engineers in relation to work of a similar nature on Lake Cavanaugh. The results of that study were summarized in a letter dated May 16, 1974, to Howard Miller from Frederick W. Mueller.

In discussing the impacts upon the environment, mention should be made of the outlet at the extreme east end of the lake. Our understanding is that this outlet is only active at high water stages, being more of a bog at other times. Modification of the lake level could easily affect this area.

It also seems that there should be detailed discussion on the septic tank drain fields which are affected by high water levels. This discussion

EXPO'74

should relate expected water level, amount of blockage, and possible contamination, during the period of active use during the year.

If you should have any questions, please feel free to contact this office.

Sincerely,

BERT L. COLE
Commissioner of Public Lands

Ronald J. Holtcamp

RONALD J. HOLTCAMP
Division of Marine Land Management

RJH:saa

cc: Jerry Probst
5400

RECEIVED
AUG 12 1976
SKAGIT COUNTY

August 10, 1976

State of Washington
Department of Ecology

Skagit County Engineer
P.O. Box 396
Mt. Vernon, WA 98273

RE: Lake Cavanaugh Flood Control Sub zone; pre-draft consultation request for

Dear Mr. Johnson:

After a review of the information you sent, we have determined that the Department of Ecology does not have any permit or license granting authority with respect to the above proposed project. This decision is based on the following criteria:

1) Flood Control Zone Permit not required since it is not in a flood control zone.

2) Dam Safety Approval not required since you are not retaining water - just assisting maintenance flow.

3) Reservoir permit not required since you are not storing water - again, just assisting maintenance flow.

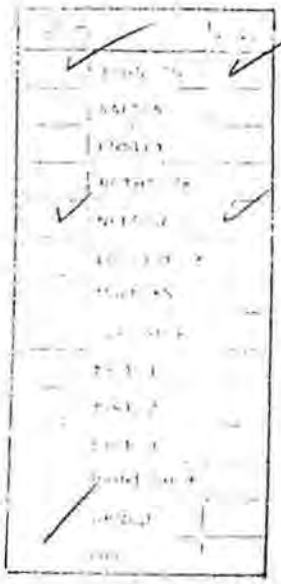
We appreciate the opportunity to have reviewed this information you have provided. It is hoped that the above comments will assist you in your preparation of a draft impact statement. If we can be of further service to you, please contact me at 753-6892.

Sincerely,

D.R. THOMPSON, C.E.T., P.E.
Environmental Review Section

DRT:bjw

cc: Greg Hastings, DOE Headquarters
Bob Aggas, N.W. Regional Office



DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX C-3755
SEATTLE, WASHINGTON 98124

RECEIVED
JUL 26 19[illegible]
SKAGIT COUNTY

NPSEN-PL-BP

23 JUL 1976

Mr. Lloyd H. Johnson
Skagit County Engineer
Post Office Box 396
Mount Vernon, Washington 98273

Dear Mr. Johnson:

Reference is made to your letter of 29 June 1976, regarding preparation of a Draft Environmental Impact Statement on the Lake Cavanaugh flood control project. The proposed project, to be undertaken by Skagit County, involves removing debris from Lake Creek, the outlet of Lake Cavanaugh; excavation of approximately 600 feet of bypass channel around an existing log jam; and the construction of a concrete check dam.

As you are aware, we performed a preliminary feasibility study of a Lake Cavanaugh outlet improvement project under Section 205 of the 1948 Flood Control Act. Our letter of 16 May 1974 to Mr. Howard Miller, Chairman, Board of Skagit County Commissioners, presented the study findings which supported further investigation of a bypass channel around the log jam in Lake Creek. In addition, Mr. Frank Urabeck, Manager for Lake Cavanaugh Study, made available to your office all pertinent information we had developed on the proposal.

If the outlet improvement project involves discharge of dredge or fill material into Lake Cavanaugh, then you should submit an application for a permit under Section 404 of the Federal Water Pollution Control Act Amendments for 1972. If the work in Lake Creek will not be completed before 1 July 1977, a permit will also be required for discharge of dredge or fill material in the creek bed or adjacent wet lands. Inclosed are several pamphlets which describe the Section 404 program (inclosure 1) and provide guidance for submitting permit applications, (inclosure 2). As the program is currently in a state of flux, we

suggest you contact Mr. Gerald Keller, telephone (206) 764-3495, before proceeding with a permit application. He would be pleased to answer any questions you may have.

Sincerely yours,

JOHN J. TERPSTRA, JR.
Lt. Colonel, Corps of Engineers
Acting District Engineer

2 Incl
1. Sec 404 Permit Prog
2. EP 1145-2-1, 1 Oct 74

SKAGIT COUNTY PLANNING DEPARTMENT

TELEPHONE (206) 336-2188
120 W. KINCAID, COURT HOUSE ANNEX II
MOUNT VERNON, WASHINGTON 98273

ROBERT C. SCHOFIELD
DIRECTOR

DAVID C. HOUGH
ZONING ADMINISTRATOR

July 7, 1976

Lloyd H. Johnson,
Skagit County Engineer
P.O. Box 396
Mount Vernon, WA 98273

Dear Lloyd:

RE: Lake Cavanaugh Flood Control Subzone

In your letter of June 29, 1976, you requested information regarding necessary permits from this office. I am enclosing a shorelines management application for you to fill out as the required permit from the Planning Department for this project. You have already supplied an environmental checklist with your SEPA Declaration so an additional checklist is not necessary.

In light of the fact that you will have to obtain several State permits for this project, I would suggest that you go through the Environmental Coordination Procedures Act (ECPA) process to obtain all necessary permit applications from the various State agencies. An application form for the ECPA process is also included if you decide to pursue this course of action.

If you have any further questions in this regard, please call our office.

Sincerely,

R. C. Schofield

Robert C. Schofield, Director
SKAGIT COUNTY PLANNING DEPARTMENT

bnr

Enclosures

SPECIAL STUDY

FLOOD PLAIN DETERMINATION

LAKE CAVANAUGH

Skagit County, Washington

PREPARED FOR SKAGIT COUNTY
PUBLIC WORKS DEPARTMENT

by U.S. ARMY CORPS OF ENGINEERS
SEATTLE, WASHINGTON

FEBRUARY 1996

SEATTLE DISTRICT 1896 - 1996
100 YEARS OF SERVICE TO THE NORTHWEST

Lake Cavanaugh - Lake Creek

CONTENTS

TABLES

PLATES

TRODUCTION

ırpose of Study

This special study provides flood plain information for Lake Cavanaugh, Skagit County, Washington. Floods on Lake Cavanaugh, caused by backwater and debris blockage from Lake Creek, were studied in detail to determine the extent of the 100 year lake level and impacts that the debris dam on Lake Creek has on Lake Cavanaugh.
The information provided by this report may be used by Skagit County to update existing floodplain regulations for the of the National Flood Insurance Program (NFIP). The information may also be used by local and regional planners to further promote sound land use and floodplain development.

ıthority and Acknowledgments

The source of authority for this Special Study is Section 206 of the 1960 Flood Control Act as Amended.
The hydrologic and hydraulic analyses for the special study were performed by the U.S. Army Corps of Engineers (COE), Seattle District.

ıordination

The U.S. Army Corps of Engineers, through the FPMS program was contacted by Skagit County to perform this study for Lake Cavanaugh. Skagit County provided benchmark information around Lake Cavanaugh.

ior Reports

Studies performed for the Lake Cavanaugh community that were used as reference for this report are:

- Corps of Engineers, Section 205 Flood Reduction Reconnaissance Report, 1974.
- Skagit County & VTN Engineers, Environmental Impact Statement, Lake Cavanaugh Flood Control Project, 1977.
- Corps of Engineers, Section 205 Initial Appraisal Report, 1994.
- Washington State Department of Ecology, Reconnaissance Data on Lakes in Washington, Vol. 1, 1976

2.0 AREA STUDIED

2.1 Basin Description

This Special Study covers the unincorporated area of Lake Cavanaugh, Skagit County, Washington as shown on the vicinity map. The lake is located in the Pilchuck River Basin approximately 15 miles southeast of Mount Vernon. The lake drains into Lake Creek, which flows 2 miles to its confluence with Pilchuck Creek, a tributary of the Stilliguamish River. The Stilliguamish River drainage basin compromises an area of 684 square miles. Lake Cavanaugh drains an area of 7.36 square miles, most of which is timbered and rugged (Department of Ecology). The elevation of the lake drainage basin ranges from 2,681 feet at the top of the Frailey Mountain along its southern boundary to 1,009 feet at the lake. Lake Cavanaugh is approximately 850 acres in size. It is 2.7 miles long, 0.9 miles wide at its widest point, and has a perimeter of 7 miles.

2.2 Community Description

Intense residential development surrounds Lake Cavanaugh with several homes located in the 100 year flood plain. Approximately half the residences are modest summer homes and the rest are permanent year round residences.

2.3 Datum and Reference Marks

All elevations are referenced to the National Geodetic Vertical Datum (NGVD) of 1929. Lake elevation can be determined from a USGS benchmark (brass cap set in concrete) located on the eastern boundary of the public access boat ramp located in the southeastern corner of the lake (see enclosed map). The elevation of the benchmark is 1027.03 feet (benchmark number is unknown).

2.4 Flood Characteristics

Flooding can occur in the winter or spring when either an above-normal snowpack melts due to heavy rainfall (the principal cause of flooding) or, to an unknown (probably lesser) extent, during a heavy spring ice breakup causing an ice and debris jam at the outlet to Lake Creek (VTN Engineers). USGS topographic maps suggest the possibility of Lake Cavanaugh draining to the southeast into Deer Creek. Field observations, however, dispel this possibility. Furthermore, the Lake Cavanaugh road which has only a small culvert through it would additionally block the flow in this direction. The maximum stage of record, 1015.0 feet NGVD, at Lake Cavanaugh occurred in February 1951 and had a recurrence interval of 67 years.

2.5 Principal Flood Problems

Lake Cavanaugh stages are impacted by a log jam located approximately 1600 feet downstream from the outlet on Lake Creek. Lake stages are secondarily controlled, primarily at low lake levels, by a beaver dam and man-made weir located approximately 200 feet downstream of the log jam.

3.0 ENGINEERING METHODS

3.1 Hydrologic Analyses

Hydrologic analyses were carried out to establish peak stage-frequency relations for Lake Cavanaugh. Observed maximum annual lake stages and information on the source are shown in Table 1.

TABLE 1
Observed Maximum Annual Lake Stage

Date	Lake Stage feet, NGVD	Source
1951	1015.0	USGS, observed gage height
1962	1011.8	Mr. Boone, former resident
1963	1011.4	"
1964	1012.4	"
1965	1011.8	"
1966	1012.3	"
1967	1011.7	"
1968	1012.3	"
1969	1011.7	"
1970	1014.2	"
1971	1012.8	"
1994	1012.8	Mr. Ploudre, present resident
1995	1013.1	"

An existing stage frequency curve for Lake Cavanaugh, developed in 1976 by the COE, Seattle district, was updated in this study. Additional observed lake stages were added to those used for the previous study to update the frequency curves. Resulting peak stage-frequency relations are shown on Table 2.

TABLE 2
Computed Maximum Annual Lake Stage Frequencies

Location	Drainage Area (square miles)	Peak Lake Stages (feet, NGVD) 10 year	50 year	100 year	500 year
Lake Cavanaugh	7.36	1013.5	1014.7	1015.2	1016.3

TABLE 3

Computed Maximum Annual Lake Discharges Frequencies

Location	Summer Low Flow	Peak Discharge (cfs) 10 year	50 year	100 year	500 year
Lake Cavanaugh	less than 5	200	820	920	1200

The 100 year lake stage computed for this study is 0.2 feet higher than that computed in 1976.

3.2 Hydraulic Analyses

Analyses of the hydraulic characteristics of flooding from Lake Creek were studied to provide estimates of the effects on Lake Cavanaugh stages for selected recurrence intervals.

Water-surface elevations for floods with recurrence intervals of 10-, 50-, 100-, and 500 years and for the summer low flow condition were computed using the step backwater computer program HEC-2 developed by the COE Hydrologic Engineering Center.

Cross section data used in the hydraulic analysis were obtained during a field reconnaissance trip in 1994. Locations of selected cross sections used in the hydraulic analyses are shown on the enclosed flood profile sheets and floodplain map. Due to the inaccessibility of the area downstream of the logjam, field observations rather than measurements were used to construct cross sections in this reach. Generally, the observations showed a steepening of the stream gradient and significant deepening of the channel, 10-15 feet, relative to the reach above the logjam.

Roughness coefficient factors were derived from field observations and calibration analysis using high-water elevations measured during the January 1995 high water event. Channel "n" values ranged from 0.050 to 0.090 and overbank "n" values ranged from 0.10 to 0.20.

Starting water-surface elevations downstream of the logjam were estimated to reflect influences due to the log jam and secondary obstructions downstream of the log jam. Sensitivity runs with the HEC-2 hydraulic model were performed to establish starting water surface elevations and to calibrate the model. Adjustments to the model were made to balance the hydraulic features and roughness conditions in Lake Creek relative to the statistically derived Lake-Stage Frequency curve. Final calibration runs reproduced the 1994 summer low and 1995 winter high stage events to within -0.2 feet while the statistically derived 100 year lake stage was reproduced to within -0.3 feet, which is considered reasonably good for evaluating the incremental effects of removing the logjam on lower and higher lake stage.

Hydraulic analysis for the reach upstream of the logjam was based on unobstructed flow i.e., no additional debris blockage from dislodged docks or other material. The reach that contained the log jam was modeled as a bridge that blocked the flow from 1 foot above the invert to 1 foot over the summer low flow elevation. Also hydraulic analyses of the effects of removing the log jam (with beaver dam and weir in place) were conducted to establish the impacts on Lake Cavanaugh of erosion in the channel due to headcutting.

Computed and observed water surface profiles for the 100-year flood and the summer flows with and without the logjam are shown on the enclosed profile sheet (Plate 1).

3.3 Flood Boundary Map

The 100-year flood limits for Lake Creek and Lake Cavanaugh were delineated on the enclosed 1989 USGS 1:24,000 Quadrangle map (Plate 2). Since more detailed topography was not available, a field inspection was made to verify the flood limits drawn on the quad map.

3.4 Results

Removing the log jam will have virtually no impact on the 100 year lake elevation (lowers the lake by only 0.03 feet). However, removing the log jam would lower the summer lake level by over 1.4 feet. The primary reason that removal of the logjam would not decrease the 100-year lake stage is that a significant portion of the flow for the larger flood events is conveyed in the overbank.

Removing the logjam also has the potential to initiate severe headcutting upstream toward the lake outlet. The driving force behind the head cutting is the 10-15 feet difference in thalweg elevation from upstream to downstream of the logjam, mentioned earlier. In a worse case scenario, removing the logjam could cause the channel upstream of the logjam to degrade 15 feet, thereby dropping the summer lake level about 10 feet. This could be a possibility since the channel in this area consists of sunken woody debris that during large events could be dislodged and moved out of the system allowing the accumulated fine grained material to be easily eroded. The upstream channel would then seek to find equilibrium with the steeper downstream channel. By leaving the logjam in place, the channel upstream of the logjam remains stable and the summer lake level will not decrease.

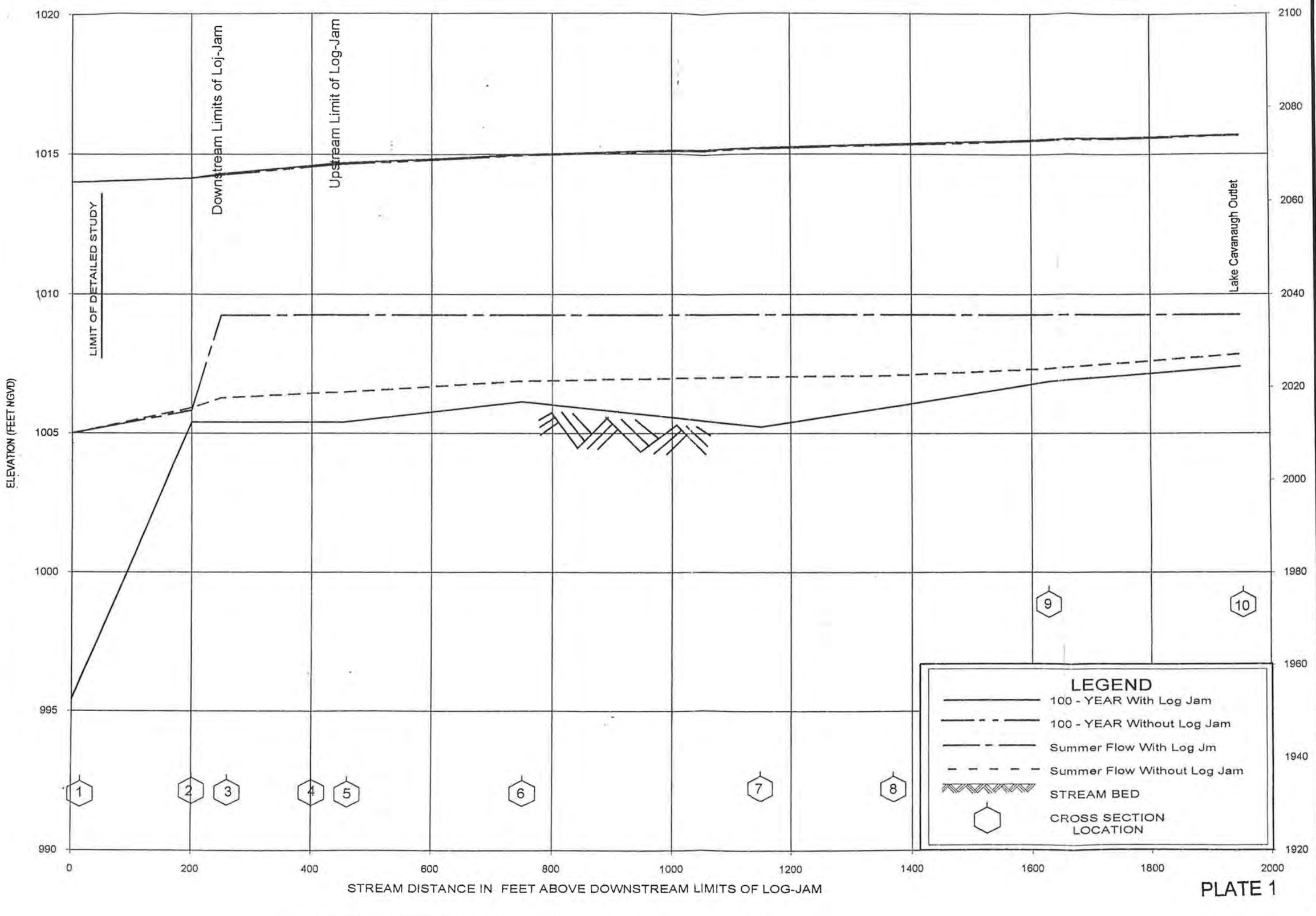


PLATE 1

FLOOD PROFILES

LAKE CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SKAGIT COUNTY, WA

(INCORPORATED AND UNINCORPORATED AREAS)

01P

104 Lake Creek

Beaver Dam / Weir

Log-Jam

1

2-5

6

7

8

9

10

1298T

1028T

100 year
Flood Limit

LAKE CAVANAUGH

Normal Summer Low Lake Level 1009.5 feet

27

100 year Lake Level 1015.2 feet

25

100 year
Flood Limit

Lake Cavanaugh
Skagit County, Washington
100 year Flood Map

Scale 1 inch = 1,625 feet
Contour Interval 20 feet

Prepared by
U.S. Army Corps of Engineers
Seattle District
October 1995

Map Source:
1989 USGS Quadrangle
Oso and Stimpson Hill, Washington

1210

2600

2725

MOUNTAIN

2587T

BOAT RAMP

USGS Benchmark
EL 1027.3 feet, NGVD

PLATE 2

4222 - 2nd Avenue N.E.
Seattle, Washington 98105
January 3, 1977

Skagit County Planning Dept.
County Court House Annex
Mount Vernon, Wa., 98273

Att: Shoreline Management Hearing Board

Chairperson:

FOR the Lake Cavanaugh Flood Control project as proposed by the Skagit County Engineering office:

In the spring of 1962 I purchased property on the lake and began to develop it. It soon became apparent that the winter high water level was a serious condition.

During the 14 years that I have been at the lake I have served 4 years as president and 6 years as a trustee of the Lake Cavanaugh Improvement Association (usually referred to as the club). The problem of the winter flooding and resulting damages has been a constant concern since the lake was developed in the late 1940's, as evident from club minutes back through the years and by the continuing discussions at club meetings and by the work of committees trying to find a solution for relief.

January of 1971 the lake rose to about 56" above the normal summer low level, causing considerable damage. When the water is high it floods the shore lands and if there is any amount of wind it tears the docks apart and floats logs, etc., from the shore, then this debris in turn works as a battering ram to further destroy more docks and bulkheads and beaches, and so on.

This same year the Army Corps of Engineers was asked for help. They studied the problem for over two years. One of their solutions was very similar to the one proposed by the County Engineers, but no help was forthcoming because of funding.

In the fall of 1971 the club committee on Flood Control obtained a permit from Georgia Pacific to enter their land to cut a path 30 feet wide by about 500 feet long through the dense hardhack brush around the log jam that restricts the flow of water in Lake Creek. This work was done by a group of property owners. This helped the flow of water but it does not start to work until after the water rises 2 feet to clear the creek bank.

The club sent damage report forms to property owners around the lake for the winters of 1970-71, 1971-72, 1973-4 and 144 were returned during these periods. A winter high of 30" or more is of serious concern. In the following years the highs above the elevation of 1009.56 (or my "0") were recorded as follows: 1965 - 35"; 1967 - 34"; 1969 - 33"; 1971 - 56"; 1974 - 48"; 1975 - 46". For each high like these, many experienced damage to property.

The Skagit County Commissioners were asked to help in 1973, and their petition requirements were met. They then held a public meeting in August of 1974. An estimate of over 200 property owners were present, the proposed project for flood relief was presented, with cost estimates, etc. A show of hands vote was taken, with a large majority in favor of the project.

The next year, August 1975, another public meeting was held and we were again presented with the work to be done and with same costs, subject to inflation, etc. The vote was taken by paper ballot with 69.8 for the project.

The lake low level control structure at elevation 1009.50, as proposed by the County Engineer and accepted at the public meetings, corresponds very closely with my observations since 1962, until June of 1974 when vandals removed part of the low level control structure, allowing the lake level to drop unusually low in the summer, causing more beach and docking problems.

I earnestly believe that the impact on the environment will be less with completion of the project than it is now.

The need for relief from winter flooding and unusual summer low is quite apparent from the general concerns expressed at club meetings; the work by the people to do what they could for themselves, such as cutting the path around the log jam; returning the damage report forms; and voting for the project by a substantial majority, knowing that they are to pay for it.

I sincerely hope the board will take action beneficial to this project.

Respectfully,

Floyd E Boone

Floyd E. Boone

Section 205 Initial Appraisal Report
Lake Cavanaugh, Washington

1. AUTHORITY AND SUMMARY OF FINDINGS. This report is submitted under authority of Section 205 of the 1948 Flood Control Act, as amended, and in accordance with ER 1105-2-100. Skagit County, by letter dated September 7, 1993 (enclosure 1), requested federal assistance in reducing flood damages along the waterfront of Lake Cavanaugh. The County was particularly interested in the Corps investigating the possibility of removing a downstream log jam on Lake Creek which may be contributing to lake flooding. This report finds that although the log jam may be contributing to lake flooding problems, the Corps cannot participate in the log removal because the construction project would be too small. The County could easily accomplish log removal on its own. The report also finds that the removal of the log jam may not be in the best interest of the lake shoreline residents because the log jam removal may result in a slight permanent lowering of the lake elevation. More study is needed to determine the impact of log removal on the lake. Despite the fact that the Corps cannot complete a Section 205 project to remove the log jam, hopefully the information presented in this initial appraisal report will help the County and the lake shoreline residents.

2. LOCATION AND BASIN DESCRIPTION. Lake Cavanaugh is approximately 14 miles east and 7 miles south of Mount Vernon, Washington, in Skagit County. The lake drains into Lake Creek, which flows 2 miles to its confluence with Pilchuck Creek, a tributary of the Stillaguamish River (see enclosure 2).

The Stillaguamish River drainage basin comprises an area of 684 square miles. Lake Cavanaugh drains an area of 8.2 square miles, most of which is timbered and rugged. The elevation of the lake drainage basin ranges from 2,681 feet at the top of Frailey Mountain along its southern boundary to 1009 feet at the lake.

Lake Cavanaugh is approximately 850 acres in size. It is 2.7 miles long, 0.9 miles wide at its widest point, and has a perimeter of 7 miles. The recorded lake level fluctuations range from an extreme low of 1008.9 feet above sea level to over 1014 during flooding conditions. The normal summer lake level elevation and the line of vegetation on the shoreline has been estimated at 1009.5 feet.

3. PROBLEMS AND OPPORTUNITIES. Low-lying waterfront flooding and consequent property damage are caused by high lake levels during winter rain and snowmelt conditions. An example of a damaging flood occurred in the winter of 1965, when warm weather accompanied by rain and melting snow caused a sudden increase in the lake level. The outlet was clogged with debris, preventing normal outlet discharge. The high water caused many boats and docks to float away. Strong winds and floating debris caused damage to the remaining structures. Failure of a pile foundation caused one cabin to fall into the lake. Waterfront damages also included septic tank inundation, dock losses,

debris pileups, and loss of beach sand.

Previous reports noted that during high flow conditions on Lake Creek, a log jam about 1300 feet downstream of the lake outlet served as a hydraulic bottleneck, exacerbating lake flooding. The log jam was described in the 1970's as being "massive", about 400 feet long and completely filling the channel. Corps of Engineers and County representatives participated in a March 30, 1994 field trip to the log jam. It is possible that some of the logs have been removed since the 1970's because the log jam did not appear to be 400 feet long and the logs did not completely fill the channel. It was relatively easy to walk the length of the debris jam. Some of the large logs had obviously been there for a long time, and some of the logs were stuck in the sediment. Water was flowing through the debris, and there may have been some relatively small head loss (less than one foot) between the upstream and downstream ends of the debris pile.

To some degree, ice jams at the lake outlet may also exacerbate lake flooding.

Based on our brief field investigation, it is difficult to identify the precise impact log jam removal would have on winter lake flooding. Log jam removal would improve conveyance along Lake Creek which drains the lake and would have some positive impact on reducing lake flooding. It is not known if this positive impact would be significant or not. Another unkown is what would happen to the summer lake elevation if the log jam is removed? Is the log jam a hydraulic bottleneck in the summer, and would its removal result in a permanent lowering of the lake and adverse impacts to shoreline facilities (such as docks)? If the log jam were removed and the lake was permanently lowered, this would probably not be considered a favorable project by the lake shore residents.

4. FLOOD DAMAGE REDUCTION ALTERNATIVE CONSIDERED. The primary alternative investigated was the removal of the log jam. For the initial appraisal report, we assumed that the log jam could be removed by sawing the logs up on site. The log sections could then be transported a short distance upstream on Lake Creek, where they would be removed from the right bank of the creek at a spot near the end of Bamboo Lane. Removal by helicopter is another possible method of log removal. No matter how the logs are removed, it appears that this would be a relatively easy, inexpensive task for the County to accomplish on its own, and therefore the Corps of Engineers can no longer consider participating in a Section 205 project at this site. However, because log removal may slightly lower the permanent lake elevation, it may not be in the County's or lake residents' benefit to remove the logs.

In the early 1970's the Corps of Engineers investigated a larger flood damage reduction project for the lake under our Section 205 authority. The Corps considered a potential project that would involve improving the lake's outlet capacity by widening and deepening the Lake Creek channel downstream approximately 3,500 feet. A reinforced concrete ungated weir was also part of this proposal. The weir would be needed to maintain the lake at or above the

normal summer lake level, as had been requested by the lakeshore property owners. This potential project was not economically justified at that time, and there is no reason to believe that such a project would be cost justified in the 1990's. In addition, due to environmental considerations, it would be extremely difficult to obtain the necessary permits for the modification of Lake Creek. On the other hand log removal, if that is determined to be an appropriate project, probably could be accomplished in a manner that has no significant adverse environmental impacts.

5. ECONOMIC EVALUATION. The development around Lake Cavenaugh has transitioned over the past twenty years from smaller moderately priced summer cottages to a more upscale resort community comprised of larger newer homes with many recreational amenities. Lake frontage development consists of approximately 450 homes, the majority of which are occupied in the summer only, and a grocery store. Public access to the lake is provided through a State Department of Game boat launching facility. Skagit County maintains a paved road around the lake.

The lake level typically fluctuates in a two foot range, the lower summer elevation being the base level. During the winter months, heavy rains and snowmelt cause the lake to rise. If winter lake levels rise in excess of two feet over the base summer level, damages begin to occur to shoreline improvements. The frequency of damaging events has not been evaluated. However, based on historical information, this occurs at a two year event. Damages include mooring facilities, dock piling supports, landscaping, and inundation of drain fields and septic tanks. During several historical events the lake level was known to rise three to four and a half feet, causing lake wide damage.

Average annual damages have not been estimated during this preliminary evaluation. However, it is not uncommon for some property owners to experience several thousand dollars in damage in a high water year. Property owners have conducted a survey on the desire for completing a flood control project in order to reduce lake levels during the winter months. The response rate for the survey was approximately 42%, extremely high for this type of questionnaire. Of the 188 responses approximately 80% were in favor of a flood control project and 20% opposed. Many of the responses were conditioned on the effect such a project would have on summer lake levels and project costs while others needed more information on a proposed project. For the Corps study, a request for information on historical damages experienced by property owners to help quantity benefits was published in the owners association newsletter. The Corps received one response from a property owner. The reason for this low response level is unknown.

6. FEDERAL PARTICIPATION AND PAST REPORTS. A Corps reconnaissance report which investigated flood damage reduction at Lake Cavanaugh was completed in 1974 under Section 205 authority. The report concluded that construction of a lake outlet improvement project (a concrete weir and Lake Creek channel modification) was economically infeasible. The report did, however, suggest that removal of the log jam seemed to be worthy of further investigation, but

Skagit County did not at that time ask the Corps to pursue that alternative. The Corps dropped the study in 1974.

In early 1977 a contractor, VIN Engineers, Architects, Planners of Bellevue, WA, prepared a draft environmental impact statement for a Lake Cavanaugh flood control project for Skagit County. The report primarily investigated a structural alternative on Lake Creek which included 2240 feet of earthen channel and a 3 foot high concrete weir. The report concluded that removal and disposal of the log jam would be twice as expensive as the structural alternative and would result in the permanent lowering of the summer lake elevation, making this alternative unacceptable. Ultimately, no project resulted from the 1977 report.

Both reports were extensively used to provide background information for this report.

7. ENVIRONMENTAL CONCERNS. The area near the Lake Creek log jam is surrounded by forest, comprised mainly of cedar, hemlock, and alder. The area immediately adjacent to the log jam is wetlands that is dominated by hardhack, willows, and sedges, with some red alder and western red cedar adjacent to the meadow areas. During the 30 March 1994 field trip to the log jam, the shoreline vegetation upstream of the log jam, at the log jam, and downstream of the jam all seemed very similar. It did not appear that the debris dam was significantly affecting vegetation along the Lake Creek shoreline. Therefore, removal of the log jam (if that is warranted and if removal is accomplished in an environmentally benign manner) should not adversely impact shoreline vegetation.

The Lake Creek area provides food and shelter for birds, mammals, and four species of game fish. Beaver and deer are believed to use the area, and the area seems suitable for water fowl nesting. It may be possible that the bald eagle uses the area, but the eagle was not identified as a bird using the area in previous reports. Four species of game fish can be found in Lake Cavanaugh (rainbow trout, cutthroat trout, brook trout, and kokanee), and some or all of these species could be expected to use the reach of Lake Creek where the log jam is located.

If the log jam were to be removed, it would appear that a Clean Water Act Section 404 permit may be required, depending on how the log jam were to be removed. Because the log jam itself is surrounded by wetlands, then a permit may also be required for any temporary access and/or construction pads. A state hydraulics permit may also be required for log jam removal. Again, it would seem likely that the County could devise a method of log removal that would be environmentally benign and which would not require permits, or which would make the permitting process relatively easy.

8. VIEWS OF SPONSOR.

Initial contacts with the study sponsor, Skagit County, indicate that they support the Corps' conclusion that a potential log removal project would be

relatively simple and inexpensive, but the County would still like help from the Corps in determining whether or not the log jam should be removed. The Seattle District can provide this help under our flood plain management authority.

9. CONCLUSIONS AND RECOMMENDATIONS. This initial appraisal report concludes that there is no Federal interest in continuing a Section 205 study of the Lake Cavanaugh shoreline flooding problem because the Corps can identify no flood damage reduction alternative that the Corps can participate in. We do, however, recommend that the County request under the Corps' flood plain management authority that the Corps investigate summer conditions at the Lake Creek log jam to determine whether or not removal of the log jam could impact the permanent lake elevation.

SKAGIT COUNTY PUBLIC WORKS DEPARTMENT

County Admin. Bldg., Room 203, 700 South Second St., Mount Vernon, WA 98273-3864 (206)336-9400 FAX (206)336-9478

September 7, 1993

Colonel Walter J. Cunningham
Seattle District Engineer
United States Army Corps of Engineers
Post Office Box C-3755
Seattle, WA 98124-2255

Dear Sir:

This letter is to seek the assistance of the U.S. Army Corps of Engineers under Section 205 of the 1948 Flood Control Act, as amended in reducing flood damages along the waterfront of Lake Cavanaugh in Skagit County, Washington.

In January of 1992, the residents of Lake Cavanaugh requested Skagit County to investigate the flood control problems occurring during peak storm events on Lake Cavanaugh. Our Public Works Department performed a field reconnaissance and determined that the flooding problems can be contributed to a large log jam at the lake's outlet stream (Lake Creek).

Additional research has shown that the Army Corps of Engineers conducted an reconnaissance level study on this same project in 1977 but failed to gain local property owner support; therefore it was not implemented. Since 1977, many more residents have become aware of the increasing need to look at some form of lake level control to minimize lake front property damages.

Prior to the issuance of this request, Skagit County asked that the local residents take an opinion survey to verify a consensus within the community. It was demonstrated to Skagit County that approximately 81% of the land owners around Lake Cavanaugh would like to see this problem addressed and would be willing to cost share.

The Skagit County Commissioners feel that it would be in the best interest of the Lake Cavanaugh residents to request that the Army Corps of Engineers initiate a 205 Project and utilize their existing data to develop an effective alternative and cost estimate to eliminate or minimize local property damages. Skagit County understands the cost sharing responsibilities of the 1986 Water Resource Development Act (PL 99-662).

enclosure1

Your consideration of this request would be appreciated. Please contact Dave Brookings, our Division Manager of Flood Control, at 336-9400 for further coordination.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

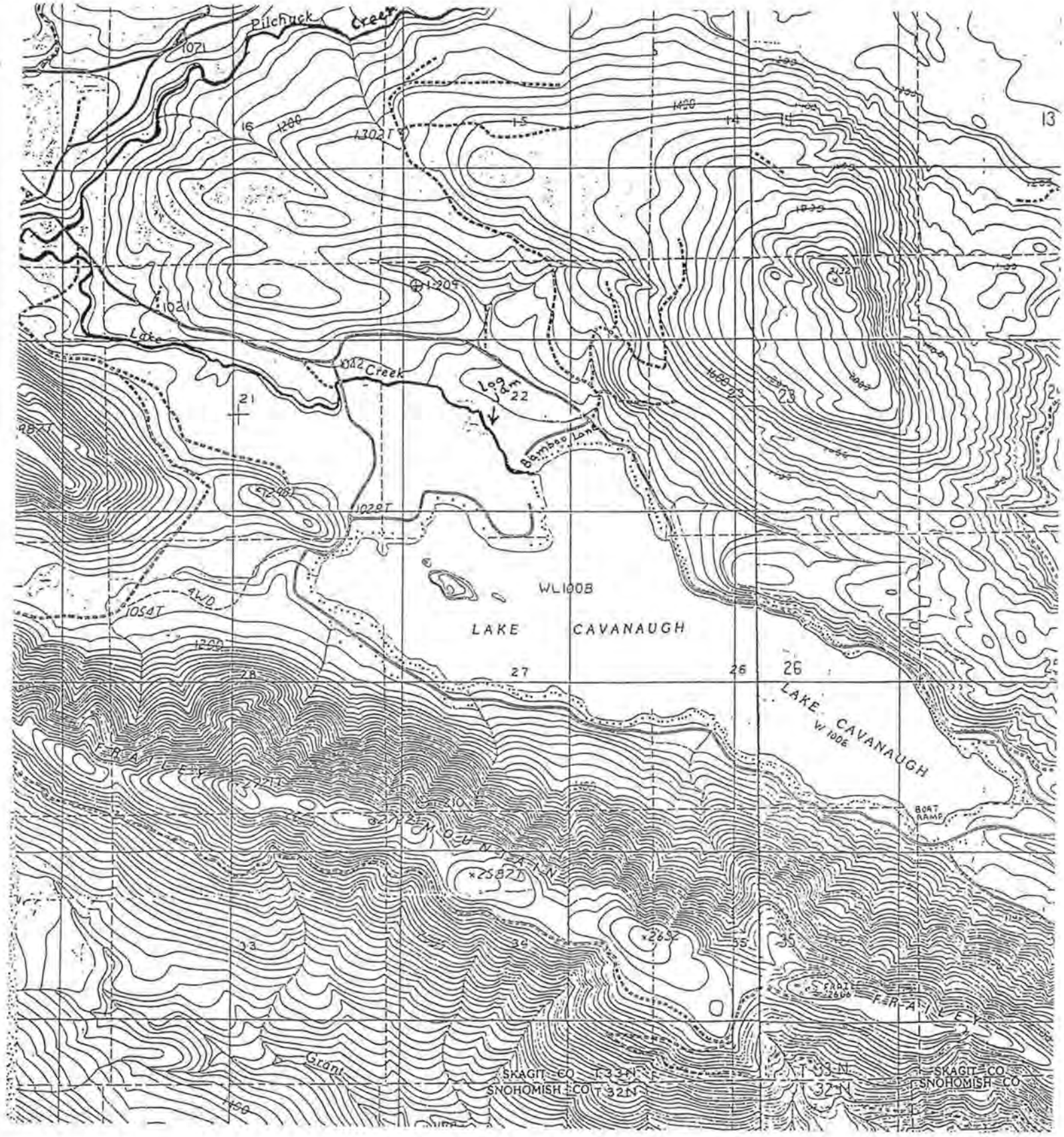
ROBERT HART, Chairman

HARVEY WOLDEN, Commissioner

ROBBY ROBINSON, Commissioner

ATTEST: Stephanie Wood for
CONNIE CARTER, Clerk of the Board

BCC/slc



NORTH

KILOMETERS 1 0 1 2
METERS 1000 0 1000 2000
MILES 1 .5 0 1
FEET 1000 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10 000

CONTOUR INTERVAL 40 FEET

LOCATION

Enclosure 2

NPSEN-PL-BP

16 MAY 1974

Howard Miller, Chairman
Board of Skagit County Commissioners
Skagit County Courthouse
Mount Vernon, Washington 98273

Dear Mr. Miller:

The investigation of flooding problems at Lake Cavanaugh, requested in your letter of 4 May 1971, has been accomplished under authority of Section 205 of the 1948 Flood Control Act. The initial phase of our Section 205 studies is a reconnaissance effort in which we determine whether a Federal improvement project is economically feasible and whether Federal funds should be expended to make detailed studies. The following is based on findings from our reconnaissance studies:

We prepared a reconnaissance report on Lake Cavanaugh and submitted this to our higher authority in February 1972. In that report we discussed a lake outlet improvement proposal involving construction of a concrete weir and Lake Creek channel modification. However, as the entire matter of Federal interest in lake level regulation was under review at that time, some delay was introduced into our normal study process due to the need to resolve this question. The report was returned to our office last fall for further study. Since then our staff has worked closely with your county engineer, Mr. Lloyd Johnson, and Mr. Floyd E. Boone, President, Lake Cavanaugh Improvement Association, to obtain additional information necessary for completion of our investigation.

Based on additional data developed during field reconnaissances this past winter by members of my staff, supplemented by data supplied by the Skagit County Engineer, a structural solution, which would provide protection against a 100-year flood event and prevent the lowering of the lake during late summer and early fall below its current normal level, is found not to be economically feasible. We will be recommending to our Division Engineer in Portland, Oregon, that no further

Encl 1

efforts be undertaken by the Corps of Engineers to resolve Lake Cavanaugh flood problems under Section 205 authority.

To alleviate the flooding around Lake Cavanaugh, we considered a proposal which included improving the lake's outlet capacity by widening and deepening the Lake Creek channel downstream approximately 3,500 feet. A channel bottom width of 50 feet would be required to pass flows of up to 950 cubic feet per second (c.f.s.). A reinforced concrete ungated weir was also part of this proposal. The weir would be needed to maintain the lake at or above the normal summer level, as requested by lakeshore property owners.

Average annual flood damage prevention benefits were found to be less than the average annual costs associated with construction of the concrete weir and improving the channel. Improvement of Lake Cavanaugh's outlet would be expected to result in slightly higher flood stages in Lake Creek below the project and in Pilchuck Creek below its confluence with Lake Creek than now experienced. This is because Lake Cavanaugh acts as a natural reservoir, and with improvement of its outlet a reduction in flood control storage would occur.

As the concrete weir would be constructed entirely for low lake level control, its cost, as well as costs of project lands and rights-of-way, would have to be borne by the local project sponsor. We estimate that the control structure and acquisition of necessary lands and rights-of-way for construction of the project would cost approximately $70,000 including engineering. The weir would keep the lake from rising more than 2 feet above the current normal summer level.

We are cognizant of the concerns of lake property owners for damages that have and continue to occur along the shoreline when the lake rises as a result of intense storms and snow melt. We did consider as an alternative the removal of a massive log jam located in the Lake Creek channel about 1,400 feet downstream of the lake outlet. This could be done at an estimated cost of approximately $60,000. However, construction of a bypass channel around the log jam to effect the same channel carrying capability as would be the case with the log jam removal, may be possible at less cost than removing the log jam. Preliminary studies conducted by our office indicate that removal of the log jam would be expected to reduce lake stages, during flood periods, from between 1 and 2 feet below those now experienced. A maximum lake stage of about 4 feet, as measured by the gage on Mr. Boone's dock located on the north shore of the lake about one-quarter mile upstream from the outlet, would be expected for the 100-year flood event under this proposal.

NPSEN-PL-BP
Howard Miller, Chairman

An existing wooden check dam constructed by residents and property owners of Lake Cavanaugh prevents the lake from dropping below its normal level (zero reading on Mr. Boone's gage). The top of this check dam, located approximately 2,600 feet below the lake outlet, is approximately at the same elevation as the normal lake level. Removal of both the check dam and the log jam would be expected to accomplish a further reduction in lake rise for the less severe and more frequent floods. However, for major floods (100-year), little or no difference in lake level rises would be expected with the check dam and log jam both removed over the case of only the log jam removed. Also, removal of the check dam would have the effect of causing the lake to drop below the normal summer levels, adversely affecting recreation activities on the lake.

A review of the flood control benefits associated with removal of the log jam indicates that it may be economically justified to undertake this proposal. This project possibly could be done under authority provided us by Section 208 of the 1954 Flood Control Act. However, our responsibility under this authority would be limited to removing the log jam or alternately constructing a bypass channel, if less cost will result to the Federal Government. An environmental impact statement would have to be prepared and filed with the Council on Environmental Quality. The existing check dam may or may not be affected by the removal of the log jam. We could provide technical advice, but could not design the check dam if a new structure is found to be required. We suggest that you investigate the suitability of the existing structure or have the local property owners retain a private consultant to make the necessary studies and prepare design drawings, if a new structure is found to be needed.

If you wish us to further consider flood control improvement at Lake Cavanaugh under our Section 208 authority, please advise us accordingly and express your intent to act as a local sponsor. A local sponsor must furnish assurances that it will:

a. Provide necessary lands and rights-of-way.

b. Hold and save the United States free from damage due to the project.

c. Maintain and operate the project after its completion.

As flood insurance is available for all unincorporated areas of Skagit County, we suggest that you inform the various owners of Lake Cavanaugh shoreline property of the availability of the program and encourage their purchasing of the Federally subsidized flood insurance.

Ochs
File
Lake Cavanaugh

Urabeck/hg/5006
13 May 74

NPSEN-PL-BP
Howard Miller, Chairman

Please feel free to contact Mr. Frank J. Urabeck, Study Manager, phone: 442-5006, if you have any questions on our Lake Cavanaugh study. He would be pleased to meet with you and discuss the results of our investigations and provide you with additional guidance should you seek to have us pursue this matter further under our Section 208 authority.

Sincerely yours,

FREDERICK W. MUELLER, JR.
Lt. Colonel, Corps of Engineers
Acting District Engineer

Copy Furnished:
Floyd E. Boone, President
Lake Cavanaugh Improvement Association
4222 Second Avenue
Seattle, Washington 98105

cc:
Urabeck
Spurlock
Knutson/McKinley
Dice/McNeely
Basin Pl Sec File

SKRINDE
MacDONALD
HARNISCH
SELLEVOLD
KNUTSON
DERRICK
STEINBORN
OFC OF COU
EXEC OFC /
MAILROOM
ED-PL FILE

MFR: Discussed applicability of Section 208 with Mike Redfield, Office of Counsel. Mr. Redfield said it qualified as Lake Creek is tributary to Pilchuck Creek, which is tributary to Stillaguamish River, which is declared navigable to rivermile 8.

460-74

NPSEN-PL-BP (29 Feb 72) 4th Ind
SUBJECT: Lake Cavanaugh Near Mount Vernon, Washington, Section 205 Reconnaissance Report

DA, Seattle District, Corps of Engineers, 1519 Alaskan Way South, Seattle, Washington 98134

21 MAY 1974

TO: Division Engineer, North Pacific

1. Subject report has been reevaluated in response to comments contained in 2nd and 3rd Indorsements. Also, additional field data provided by Skagit County in March and April 1974 have resulted in substantial modification of the original project proposal and increase in construction cost estimate.

2. Based on the additional field data and office studies we have determined that a flood control project involving an outlet control structure and downstream channel improvement under Section 205 authority is no longer economically feasible. At 6-7/8 percent and 5-5/8 percent the benefit-cost ratios are 0.52 and 0.62, respectively for a project estimated to cost $353,000, which would provide protection against the 100-year flood event. A project limited to just the channel improvement was found to lack economic feasibility. Skagit County and the Lake Cavanaugh Improvement Club have been informed of the results of the Section 205 study.

3. Preliminary studies indicate that removal of an extensive log jam, located in the outlet channel (Lake Creek), while not providing the same level of protection as the Section 205 proposal, would significantly reduce lake level rises during a flood event. About 1 to 2 foot reduction in rise could be obtained for an 8-year event, such as was experienced in January when Lake Cavanaugh rose to a stage of 4 feet (measured by private gage on Floyd E. Boone's dock). Zero damage stage is about 2 feet. Removal of the log jam appears to be economically feasible and could possibly be accomplished under authority of Section 208 of the 1954 Flood Control Act. Recreation benefits may also accrue from this proposal as kayaking and canoeing opportunities will be enhanced by making an additional 1,300 feet of the Lake Creek channel continuously navigable from Lake Cavanaugh. An existing wooden check dam, located about 900 feet downstream of the jam, would not be expected to be affected by this project. However, should modification of the check dam be required, this would be entirely a local responsibility.

4. We have advised Skagit County that we would consider a reduced scope flood control project under Section 208 authority, provided they formally request our assistance and agree to the standard items of local cooperation.

NPSEN-PL-BP
SUBJECT: Lake Cavanaugh Near Mount Vernon, Washington, Section 205 Reconnaissance Report

5. In view of the foregoing we request approval be given to discontinuation of Lake Cavanaugh flood control studies under Section 205 authority.

Raymond Eineigl

RAYMOND J. EINEIGL
Colonel, Corps of Engineers
District Engineer

1 Incl
nc

From: Joe Geivett
To: PDS comments
Cc: Joe Geivett
Subject: SMP Update - Lake Cavanaugh
Date: Tuesday, March 22, 2016 7:18:57 AM

Dear Skagit County Leadership-

I write to provide additional comments regarding the pending SMP Update. I have testified at the Planning Commission meeting, met with Betsy Stevenson, commented previously at the email address, and attended a community meeting at Lake Cavanaugh (with Betsy and 71 concerned locals from the lake community).

In an effort to make sure you have background on Lake Cavanaugh, I provide the following facts about the lake:
Background Of Lake Cavanaugh:

1. Platted in 1940's. Approximately 500 lots are present on the lake.
2. Approximately 90% developed with homes and cabins as of 2016.
3. Average setback from the lake for buildings is 50 ft
4. Most existing properties have docks 25 – 110 ft long
5. Lake is generally oriented West-East and docks are generally North-South.
6. Lake level varies approximately 4 feet throughout the year:
    a. High level in January & November – 1013 approx
    b. Low level May – Oct – 1009.4 approx
    c. Average water level from Jun – Oct is 1010.5
    d. Ordinary High water is around 1011.
7. Fish stocked on lake by WSDFW include:
    a. Kokanee (September)
    b. Cut Throat Trout (June)
    c. Other species found include Rainbow Trout, Bass and Sculpin.
    d. No fish migrate to Lake Cavanaugh from the Pilchuck river. A fish blockage was installed in the early 1970's by WDFW to prevent eels and other invasive species from reaching the lake.
8. No Stores, marinas, or public beaches are present on the lake. WSDFW maintains a boat launch at the east end of the lake.
9. Lake temperatures range from surface freezing in winter months (Dec – Feb) to approximately 80 degrees in summer months. Lake is about 80 feet deep at deepest.
10. Lake is approximate 3 miles long by 1 mile at its widest.
11. Water quality is exceptional with about 1/3 of property owners drawing water from the lake for drinking water.
    a. Oxygen content:
        i. 10 ft: 9.3 ppm (110% saturation);
        ii. 55 ft: 5.0 ppm (47% saturation)

b. Acidity:
    i. 10 ft – 7.0
    ii. 55 ft -6.5
c. Visibility: 28 ft approx..
d. Fecal Coliform: 0 colonies (occasionally measure minor amounts)

12. Surrounding land uses are DNR and private working forests.
13. Weather patterns are unusual with shear winds coming from the east when winter weather is traveling from the west. Winds often exceed 100 mph. Winters are particularly violent as the lake level is high and winds are exceptional. Damage occurs every year to docks and building roofs. Due to weather, boats and boat lift covers, and floats are removed by October until mid-May. Little activity occurs on the lake from October to May.
14. Geology around the lake varies from steep cliffs to wide flat areas. Rock is present at surface in some areas and other areas require pile foundations of 42 feet to reach firm bedding.

I believe that docks can meet the following objectives identified in the DOE manual at this location:

1. Locate to avoid prop wash of lake bottom
2. Address structural requirements unique to the environment at the lake
3. Allow for use of docks for recreation including access to lake for swimming, boating (average boat at the lake is 20-25 ft).
4. Avoid placement of toxic products, tires, and exposed floats (Styrofoam) in water.
5. Allow for boat lifts to remove boats from lake during moorage (covers to allow light through). Lifts to be minimum 9 ft waterside of summer shoreline (summer shoreline)
6. Avoid Skirting on docks
7. Avoid new Boat Houses and covered moorage
8. Encourage floating docks
9. Introduce sunlight thru decking to allow safe use of docks for recreation. Surface to allow for children, boaters, and dogs to safely use surface. Products with 30%-40% daylight would allow cost-effective solution.

To this end, I would recommend the following criteria for docks at Lake Cavanaugh:

1. Docks, piers and mooring buoys should avoid locations where they will adversely impact shorelines ecological functions or processes and minimize impacts to navigation of adjacent properties.
2. Dock lengths established as maximum of 50 ft or longer if necessary due to shallow water depth for boat mooring, or longer if equal to the average of docks within 300 ft of subject property.
3. Dock widths shall be a maximum of 12 ft wide. Widths may be increased by up to 50% with an administrative variance if conditions require additional width for stabilization and individual environmental conditions. Such additional width will be granted if placement of pilings are decreased and light-permitting grating on dock surface is

increased.

4. Create Incentive for shared docks by allowing 25% increase in length and width if located on a property line and shared with at least 2 property owners.
5. Establish docks to provide at least 4-5 feet of water depth for June water elevations (when lake is at 1010). This may require dock lengths in excess of the existing average within 300 ft. Administrative variance may be used to extend dock by up to 50% with notification and comments by adjacent property owners.
6. Over water portion of docks to provide at least 40% daylight on at least 50% of the dock surface. Outer 25 ft of dock is encouraged to be floating with grated surface as described above. Intent is to provide daylight thru structure to water where feasible (open grating to solid floats beneath decking is of little value and to be avoided).
7. In locations where grasses are present near shoreline, active portions of docks (where boats moor) shall be placed a minimum of 25 ft from shoreline (this leaves a 25 ft minimum zone for grasses while the dock still has 25 ft for boat mooring). Docks to be limited in width to 6 ft for first 25 ft from shore in these locations. Full width is allowed for remaining portion.
8. No artificial lighting is allowed on docks other than navigational markers and minimum amount needed to locate dock at night. Focus lighting on deck surface to minimize illumination of surrounding area. Minimize glare and incorporate cut-off shields, as appropriate. Reflectors are encouraged.
9. No toxic treated wood to be utilized for portions of dock in the water. No tires or exposed Styrofoam to be utilized in dock construction (encapsulated foams may be utilized).
10. No skirting is allowed on docks below 1 ft from the decking surface.
11. Pilings shall be installed at maximum spacing practical for the specific location.
12. Floating or suspended watercraft lifts should be located a minimum of 9 feet from the summer shoreline.
13. No dock shall be used for a residence.
14. Trampolines and other anchored floatables shall only be allowed from May 15 – October 15. Floatables will be removed for remainder of year. Note that trampolines are up to about 20 ft in diameter.

FOR MAINTENANCE/REMODEL:

1. During maintenance, repairs shall be made without the use of toxic materials. If more than 50% of decking is replaced, decking shall be updated to current requirements. Repairs may be made with in-kind materials as existing with exception that toxic materials and un-encapsulated foam floats described above shall not be utilized.

BUILDING SETBACKS FROM LAKE:

I support revised proposed language which allows for up to 50% reduction of setback with an administrative variance.

In general, conditions vary around the lake. It may make sense to have fewer strict requirements for the docks and have more functional criteria. Either way, I think the overall plan should be to match what is already at the lake.

Thank you for your efforts on this matter. Please call or email if you need more information.

Joe Geivett
Emerald Bay Equity
joe@ebequity.com
(206) 910-3825

Skagit County Planning Commission
Mount Vernon, Wa. 98273

March 14, 2016

RE: Comments on 2016 Shoreline Master Plan (SMP). update

Pages 37, 38, 39 & 74. 6E-1.7 (a-e) and (h and i) (6F-1.4) Draft language is based on UGA Open Concept Plan. The Skagit Countywide UGA Open Space Concept Plan is only a concept plan with no legal binding merit. The concept plan language is used 5 times on page 37, 2 times on page 38, on page 39 and page 74. **Language from a non-legal, ~~binding~~ concept plan must not be used in this SMP.** non-binding

Page 74

SCC 14.26.370 Public Access- (3) (c) This Section needs enforcement language. Absolutely no language to address enforcement in this plan. Once these public access areas are not maintained, and they will, they become public nuisances with crime related activities as we have witnessed on the Cascade and Centennial Trails. How can we expect the Sheriff's Dept. to ensure public safety of all these small public access areas. As it is now the Sheriff has no process to report and keep record of complaints and incidents on trails and public access with no legal address. **Suggest adding policy - County and cities must create legal markers and addresses on all non-motorized and recreational trails and public access areas to allow Sheriff Deputies and first responders an address to respond to and to file and keep record of complaints and incidents.**

Randy Good
Aileen Good

Randy and Aileen Good
35482 SR 20
Sedro Woolley Wa. 98284
360-856-1199

We find it morally and unconstitutionally wrong that authors of this plan can impose public access through private property by regulation. Yet, do not even address the compensation, enforcement, and safety issues this will cause.

From: Gary Hagland
To: PDS comments
Subject: Shoreline Master Program Update
Date: Monday, April 04, 2016 2:42:16 PM

As this iteration of the Shoreline Master Plan review and update/revision process may be in its final stages pending approval by the BOCC and then the Department of Ecology, and because the State of Washington has dramatically expanded SMP jurisdiction by adding fresh water streams, rivers, and lakes along with designated wetlands and floodplain areas, I request that the Planning Commissioners consider the following factors during their deliberations and final recommendation. I encourage the County Commissioners to consider the same before making their decision to adopt or return the SMP draft to the Department of Ecology for further negotiation.

1. The SMP limits an individual property owner's freedom to use his or her property as he or she sees fit. Property rights are treated as sacrosanct by the U.S. and Washington State Constitutions. Please be very careful when restrictions are placed on those properties as right of property is as important to our freedom as the rights specified in the First Amendment. And onerous restrictions can rightfully be considered "takings," prohibited under the Fifth Amendment without due process.

2. Supposedly, this expanded version of the SMP is being done for the greater good as shorelines are considered "fragile" and especially susceptible to the depredations caused by human presence. What exactly those depredations are and how impactful they can be is highly subjective. Plus, my experience has been that nature is much hardier than what certain special interests claim it to be. If otherwise, many present day plants and critters should now be extinct rather than extant.

In decades past, shoreline habitat wasn't the major concern and the citizens of this state were more interested in the well being of their families and general prosperity. Public health and safety rather than environmental considerations were the reasons that restrictions were imposed. There were more farms and more livestock and less thought given to what went into the river. My understanding is wildlife was still abundant. For example, I'm told that salmon runs didn't begin to diminish until the early 70's. Was impaired habitat the reason for that? I doubt it.

3. Buffers negatively impact the value of property. The Skagit County Assessor estimates the total market value of shoreline properties just for Fidalgo Island as over a $1 billion. Taxable value is estimated to be $962 million and property tax from that is $9.6 million. Imposing buffers, especially wildly excessive ones in the 150 – 200 foot range, will financially damage individual owners and further increase the burden on non-shoreline residents who are already having to make up for the loss of taxes from 6000 devalued properties in the wake of the 2013 *Swinomish v. Ecology* decision and the fall out from the loss of taxes from Shelter Bay because of the Great Wolf Lodge ruling.

Cost to a property owner doesn't end with the devaluation of his or her property. If the owner wants to improve or build a structure beyond its "footprint" or in any way modify the area encapsulated within the buffer, he or she is now facing the additional expense of permitting and paying for mandated studies before anything can be done.

4. A, if not the, major goal of the Department of Ecology's guidelines for revisions of individual county SMP's is NO NET LOSS OF ECOLOGICAL FUNCTIONS. Who will determine a net loss based on individual or cumulative factors? What criteria will be used? Who can even define the term? Several members of the public have requested definitions over the years. None have been forthcoming. And even the county's project manager admits that.

> ". . . they have a new goal of no net loss of shoreline ecological functions. So, we've spent a whole lot of time trying to figure out what that means, how we're supposed to do that, and I have a little better idea, but still not really sure, and I'm not sure we're really going to know until we get through the process and start doing some of this, as we track and monitor some of the work."
>
> -- Betsy Stevenson, SMP Hearing, March 1, 2016

An ill defined goal, or in this case, an undefined goal, provides opportunities for mischief in that those making determinations may take great latitude in how ordinances and policies are applied. At the very least, it creates confusion, especially among those who are affected by those ordinances and policies.

Rules and policies, such as this revised SMP, should be reasonable, clear and concise, not in conflict with other rules and policies, and actually accomplish a legitimate public purpose. Many components of the present labyrinth of rules we operate under do not meet this four part test. Please make sure our new SMP does.

Finally, please remember that the needs of the citizens of Skagit County should be served here and not the desires of the bureaucrats in Lacy.

Gary Hagland
Skagit CAPR Chapter, President
2211 37th Court
Anacortes, WA 98221

Tel. (360) 899-5656 (H)
(360) 202-3750 (C)
Email. haglandg@toriitraining.com
Website. www.capr.us/SKAGIT

From: Daryl Hamburg
To: PDS comments
Subject: SMP Update
Date: Thursday, March 24, 2016 2:50:59 PM

March 24, 2016

Comments on the Skagit Shoreline Master Program Update
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon Washington
98273

I am writing SMP comment on behalf of Skagit County Dike District 17. We believe there are important considerations the County SMP must take into account in reference to levee systems and flood control as it pertains to Skagit County.

As it is known, the lower valley of Skagit County is flood risk managed by a series of public and private levees. These levees serve an important purpose of reducing flood risk for life, property and critical infrastructure. The County itself is a sponsor of levees. Dike Districts along with the County have been and are working on ways to better serve the tax paying community with plans to reduce their individual risk. We feel the SMP has the potential to help or hinder in the maintenance, repair and fortifying these levee systems.

The SMP must have verbiage to insure continued success of flood management. Exemptions to flood risk structure will be vital within the SMP in so that our public is not unnecessarily put in harms way do to unwarranted policy and bureaucratic process. Language in the SMP explaining that existing flood management infrastructure is indeed conforming and not subject to shorelines jurisdiction, would substantiate state laws protecting Dike Districts. The insurances that existing of WACs and RCWs will protect dike districts and levees from cumbersome permitting for maintenance and repairs are critical in this process.

Examples below:

Title 85 RCW Dike and Drainage Districts

WAC 173-27-040

Developments exempt from substantial development permit requirement.

(d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an

emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

(k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

We are concerned with the list of public access requirements. We find no written protection of private property rights. Much of the levee system in Skagit County is on private land. The Dike Districts do have a condemned easement on these private properties. The easements are single purpose easements for flood risk management only. The Districts have no claims for public access. This needs to be clearly conveyed in the SMP.

We as a district are driven to provide the best know Flood Management practices in order to serve our public. Recognition of the rights we have to continue without interruption and added expense is imperative.

It would be the recommendation of Dike District 17 that the draft and final SMP protects the citizens of Skagit County by advocating the rights of public and private levee owners and sponsors as well as the private land owners. We suggest a comprehensive review of the SMP in regards to flood control structures. We must insure and continue to pursue the highest level of flood risk management in Skagit County.

Daryl Hamburg
Director of Operation
Skagit County Dike District 17

From:	Daryl Hamburg
To:	PDS comments
Subject:	Skagit County Shorelines Master Program Update
Date:	Monday, April 04, 2016 3:54:24 PM

Comment Skagit County Shorelines Master Program Update

By: Skagit County Diking District 31, 13, #17 Diking and Drainage District # 22

Shorelines Master Program Update

Comments

Diking Districts #1, #3, #17
Diking and Drainage District #22

P.O. Box 2926
Mount Vernon Washington
98273

360-708-7670

April 4, 2016

Proposal Name: **Skagit County Shorelines Master Program Update**

Lead Agency: **Skagit County Planning and Development**

Contact Person: **Betsy Stevenson**

April 4, 2016

Comments on the Skagit Shoreline Master Program Update
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon Washington
98273

The Skagit County Diking District #1, #3, #17 and Diking and Drainage District #22 are submitting comment on the revised Skagit Shorelines Master Program. We would like first to recognize and support the comments submitted by Daryl Hamburg on behalf of Skagit County Dike District 17.

Comment Dike District 17:

As it is known, the lower valley of Skagit County is flood risk managed by a series of public and private levees. These levees serve an important purpose of reducing flood risk for life, property and critical infrastructure. The County itself is a sponsor of levees. Dike Districts along with the County have been and are working on ways to better serve the tax paying community with plans to reduce their individual risk. We feel the SMP has the potential to help or hinder in the maintenance, repair and fortifying these levee systems.

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It would be the recommendation of Dike District 17 that the draft and final SMP protects the citizens of Skagit County by advocating the rights of public and private levee owners and sponsors as well as the private land owners. We suggest a comprehensive review of the SMP in regards to flood control structures. We must insure and continue to pursue the highest level of flood risk management in Skagit County.

Daryl Hamburg
Director of Operation
Skagit County Dike District 17

The Partnership is concerned over the County's interpretation of the "Ordinary High Water Mark". It is our understanding, County Planning staff has interpreted this mark as the inside top of levee crown, or simply "Top of Levee". In section (C) of RCW 90.85.030 the State clearly defines the ordinary high water mark. Nowhere in the definition are there references to levees or the use there in to determine that point of reference.

http://apps.leg.wa.gov/rcw/default.aspx?cite=90.58.030

(b) "Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(c) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(d) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from

such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(i) Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet there from.

Corps regulations define the term "ordinary high water mark" for purposes of the CWA lateral jurisdiction at 33 CFR 328.3(e), which states:

"The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas."

Levees are man made flood control structures. The intent and purpose of a levee structure is to mitigate for flood events in order to minimize damages. The levees on the Skagit River do not function as an "Ordinary High Water Mark". We find that neither State nor Federal definitions of the Ordinary High Water Mark mention or reference levees or dikes. Levees are designed with a single purpose, to manage extra ordinary flood events when waters exceed bank height.

The updated Skagit County SPM does not meet the State and federal definition when referring to the "Ordinary High Water Mark". The County has arbitrarily defined this term in the SMP and needs to change the definition to comply with State and Federal law.

Skagit County Dike and Drainage District Partnership does not and will not support the County definition of the "Ordinary High Water Mark" and set backs administered based on the definition therein.

Jeff Kaptein (Commissioner)
Skagit County Diking District #17
Jason Vander Kooy (Commissioner)
Skagit County Diking District #1
Dave Olsen (Commissioner)
Skagit County Diking District #3
John Wolden (Commissioner)
Skagit County Diking and Drainage District #22

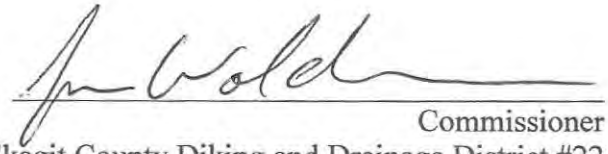
P.O. Box 2926
Mount Vernon Washington
98273

Commissioner
Skagit County Diking District #1

David J Olson

Commissioner
Skagit County Diking District #3

Commissioner
Skagit County Diking District #17



Commissioner
Skagit County Diking and Drainage District #22

From: Dyvon Havens
To: PDS comments
Subject: Skagit County Shoreline Master Program Update
Date: Monday, April 04, 2016 11:02:28 AM

Skagit County Shoreline Master Program Update:

I support all comments and recommendations by the Guemes Island Planning and Advisory Committee in their letter dated March 15, 2016,
to Skagit County Planning and Development Services, regarding: Comments on Skagit County Shoreline Master Program Update.

Dyvon Marie Havens
4709 South Shore Drive
Anacortes, WA 98221

Skagit River System Cooperative
11426 Moorage Way • P.O. Box 368 LaConner, WA 98257-0368
Phone: 360-466-7228 • Fax: 360-466-4047 •
www.skagitcoop.org

April 4th 2016

Ms. Betsy Stevenson
Shoreline Administrator
Skagit County Planning and Development Services
1800 Continental Place
Mt. Vernon, WA 98273

Mr. Bob Fritzen
Washington Department of Ecology
Northwest Regional Office, NWRO
3190 160th Avenue SE
Bellevue, WA 98008

Reference: Skagit County Shoreline Master Program update

Dear Betsy and Bob,

As representatives of the Swinomish Indian Tribal Community and the Sauk-Suiattle Indian Tribe, we at the Skagit River System Cooperative (SRSC) take a keen interest in laws and regulations that have potential effects on fish and shellfish in the Skagit basin and beyond. As a member of the Skagit shoreline citizen's advisory committee I have been closely involved with reviewing the proposed regulations in the Shoreline Master Program (SMP) update. While many aspects of the SMP update are clear improvements, there are still several shortcomings that need to be amended if the SMP is to achieve the goal of no-net-loss of shoreline functions. This letter is intended to identify some of the strengths and weaknesses we see in the proposed Skagit shoreline master program (SMP) regulations so that it can be improved to better protect the Skagit shoreline environment and meet the State shoreline goals and guidelines. Many of the comments we made on the Draft Shoreline Master Program (letter dated May 13th 2013) are still relevant, and that letter is included in this submission. The comments below loosely follow the structure of the draft Skagit SMP document.

One strength in the proposed Skagit SMP is the new designation for the Skagit Floodway. Although little different from the Rural Conservancy designation, the Skagit Floodway

designation is meant to protect shorelines consistent with the state Shoreline Management Act, the findings of the NMFS biological opinion on the National Flood Insurance Program (FEMA BiOp), and the recently revised Skagit floodplain code (SCC 14.34). The floodway designation does not place any new restrictions on agriculture, but it does clarify regulation by making the SMP consistent with other state, county, and federal rules. However, the Rural Conservancy – Skagit Floodway designation does not cover all the floodplain areas where these various rules apply. We support the use of the Skagit Floodway designation, but for clarity would recommend extending the designation upstream on the Sauk River and on the upper Skagit River to Marblemount, to the limit of the FEMA floodway.

An overall weakness of the Skagit SMP is the many exemptions that originate in the State Shoreline Management Act (RCW 90.58) and by necessity have been adopted into the Skagit SMP. These include exemptions for agricultural activities and farming, single family residences, bulkheads for single family residences, residential docks, irrigation systems, agricultural drainage (even if in fish-bearing waters), and other more minor activities and uses. Combined, these exemptions comprise the vast majority of shoreline permits where impacts to shoreline ecology are most prevalent. Because of the exemption from obtaining a substantial development permit, these activities go on unmonitored, and in many cases unnoticed, by tribes, the Department of Ecology (WDOE), and others concerned about protecting the environment. The statutory exemption for agricultural activities on agricultural lands (RCW 90.58.065), by itself, could prevent the Skagit SMP from achieving the no-net-loss of ecological function that is the cornerstone of SMP planning. SRSC will be preparing a separate analysis on this topic, but initial indications are that a full 39% of the Skagit SMP acres fall under the agricultural activities exemption by virtue of zoning alone. This is not an exemption from obtaining a substantial development permit, this is an exemption from all shoreline *review* (see proposed SMP Section 14.26.410). Because of this and the exemptions for shoreline residences it is no exaggeration to assert that the Skagit SMP will not be able to assure no-net-loss of ecological functions required for successful adoption. We will elaborate on this concept as the Skagit SMP continues through the review and adoption process.

Part III. General Regulations

Sea level rise

One of the gravest shortcomings in the draft Skagit SMP is the absence of regulations that govern coastal development and how to avoid the hazards of sea level rise (SLR). The Swinomish Tribe has been actively involved in regional and national SLR discussions, and the tribe suggested regulations that would have required development to consider the future impacts of SLR. Those suggestions were rebuffed, and were substituted in the last SMP draft with SLR policies that would have had scant effect. Now even those policies appear to have been struck, so the current SMP draft has no discussion of sea level rise at all. The climate change and sea level rise issue is an

important one, and is the subject of a separate Swinomish letter devoted primarily to the topic. That letter (dated 3/29/2016) is incorporated here by reference.

Mitigation standards

Mitigation sequencing is an important (and required) component in any shoreline plan, since it is the foundation to Ecology's policy of no-net-loss of ecological functions and values (WAC 173-26-201(2)(e)). It should come as no surprise that in practice many mitigation plans and projects fall far short of the no-net-loss standard. The draft Skagit SMP update had a mitigation section (14.26.310) that followed Ecology guidance, but omitted several important aspects of mitigation planning. During the SMP advisory meetings SRSC submitted written suggestions for ways to improve the draft mitigation rules. In our last letter on the SMP draft we pointed out several omissions and shortcomings in the mitigation section, only to find that the entire section has now been deleted (although remnant references to Section 14.26.310 are still found throughout the text). It is difficult to over emphasize the importance of having clear and consistent mitigation standards for the SMP, and yet we find none at all (except for specific provisions relating to docks). The WDOE guidelines require that master programs shall include measures to mitigate environmental impacts (WAC 173-26-201(2)(e)). This omission must be addressed for the SMP to be valid. We offer our cooperation and assistance to the County in developing appropriate mitigation standards for the Skagit SMP.

General Provisions for Working Waterward of the OHWM

The general provisions for working waterward of the ordinary high water mark (Section 14.26.330) could be much stronger. Protection for bank vegetation is particularly weak, and would benefit from a clear rule that the Vegetation Conservation measures (Section 14.26.380) apply. Maintaining natural features such as large in-water wood (logjams) and stumps has important implications for aquatic ecology and fish habitat, and should be maintained at all costs. Where public safety considerations are paramount, removal of natural features should occur only if fully mitigated. Mitigating for removing natural features should apply to aquaculture facilities as well as other development, when the natural features are known to provide important habitat features.

Flood Hazard Reduction

The development standards in the flood hazard reduction section (14.26.350) provide rules that place clear restrictions on new development that will prevent unnecessary floodplain subdivisions and other development that is not only environmentally harmful, but is unwise from a public safety standpoint as well. We welcome strong provisions that limit land divisions that create a path for residential developments in floodplains, floodways, and along narrow beaches or marine bluffs, or anywhere that will lead to future needs for shoreline stabilization. New structural flood hazard reduction measures

(e.g. levees) should not only be located out of the shoreline zone, they should be located outside of the channel migration zone wherever possible.

Vegetation Conservation

The new section on Vegetation Conservation (Section 14.26.380) is a welcome and much-needed addition to the Skagit SMP, and will go a long way toward protecting shoreline environments where exemptions and other regulations allow development to occur. The specific inclusion (by reference) of the Skagit Flood Damage Prevention Ordinance makes clear that habitat impacts are not allowed without clear and full mitigation. The Vegetation Conservation section, although very welcome, would better achieve riparian protection with a few simple inclusions.

One improvement would be to define what constitutes a "significant tree" for regulatory purposes. In state regulations for protecting aquatic habitats the standard for effective wood in streams and riparian zones is generally 4 inches diameter (taken at breast height on the tree). The Skagit SMP definition may need to be variable to accommodate for varying shoreline conditions, but a definition would help alleviate the current ambiguity.

Also, in replacing trees (14.26.380 (3)(d)(v)) it would be better to replicate the vegetation "naturally" found at the site instead of that "historically" found at the site.

More attention needs to be paid to providing shade to water bodies, both in freshwater and marine environments. In the specifics for site tree retention and tree replacement and restoration, emphasis should be placed on protecting and enhancing riparian vegetation that is closest to the water, which will provide more shade and more wood contribution to aquatic environments, as well as providing a better buffer to allowed development.

In calculating tree loss, restoration, and mitigation, a multiplier should be applied to compensate for the time it takes for planted saplings to replace the functions of the large trees that are removed. A 1:1 replacement ratio, either by area or number of trees, does not compensate for the lost function while the planted trees mature.

Part IV: Shoreline Uses and Modifications

Agricultural Activities

As discussed elsewhere in this letter, the dual shoreline exemptions for agriculture are in stark contradiction with the goal of no-net-loss in both the State and Skagit County regulations. At the very least, maintaining, repairing, and replacing agricultural facilities in the shoreline zone should be limited to the existing footprint (or one that does not increase the impact). Because of the overlapping jurisdictions, and the overlapping exemptions, it would help to have an explanation of exactly what is allowed or prohibited under the Skagit CAO as it is applied in shoreline zones.

Aquaculture

The aquaculture section has been one of the most difficult sections of the SMP to negotiate, due mostly to major revisions at the request of the aquaculture industry. The current Skagit SMP is appropriately restrictive of aquaculture expansion into fragile shoreline areas, whereas the proposed aquaculture regulations are far more lenient. This is not to say that SRSC or our member tribes are opposed to existing aquaculture, or to aquaculture expansion in appropriate areas. We do however think that expansion into native eelgrass and other fragile ecosystems should fall under full SMP review, and should be mitigated accordingly, as any other shoreline development would be.

Much of our disagreement over aquaculture expansion would be solved with a simple definition of what constitutes "existing" aquaculture. During the last round of Skagit SMP review the debate centered on what was "ongoing" aquaculture. With the concurrent Army Corps of Engineers permitting effort the issue is over "fallow" aquaculture and whether aquaculture operations that have been out of production for decades, or perhaps never farmed at all, would be permitted to expand into eelgrass with the same considerations that current operations enjoy. Regardless of what it's called, SRSC and our member tribes maintain that current operations, and those acres that can be shown to have been recently fallowed due to market or environmental conditions, should be allowed to continue operating regardless of the growth or expansion of native eelgrass, but that expansion of current operations into native eelgrass should be treated the same as new aquaculture. Without a simple definition-- with a reasonable timeframe for what constitutes "existing" operations—the expansion of aquaculture in Samish Bay and elsewhere could result in more than a hundred acres of lost eelgrass habitat. We find that loss unacceptable for a shoreline plan that purports to allow no-net-loss of ecosystem function.

SRSC strongly recommends adopting WDOE guidance on aquaculture regulations, including the provision that "aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses." (WAC 173-26-241(2)(b)(i)(c).

Beyond that, the current draft of the Skagit SMP should also clarify (in Section 14.26.415(2)(b)(ii)) that changing culture techniques to geoduck requires a conditional use permit, consistent with the State shoreline regulations (WAC 173-26-241(b)) and the remainder of the Skagit SMP, particularly in regards to geoduck (Section 14.26.415(8)).

Docks

As a reflection of newer and more protective regulations from the Washington Department of Ecology (WDOE), the Washington Department of Fish and Wildlife

(WDFW), and the US Army Corps of Engineers (ACOE), the Skagit SMP regulations for docks and overwater structures are a big improvement over current regulations. The new requirements for light permeable docks and piers, and the size and placement limits for docks, should help reduce nearshore impacts in the future. One caveat to this is that the standards in Table 14.26.420-1 may not be enforceable if not linked to the other regulations. A simple mention in the Development Standards (Section 14.26.420(4)), that adherence to the size limits in Table 14.26.420-1 is required, should suffice.

Also missing from the Development Standards for docks is any mention of shading dock lighting so as not to attract fish. Docks are already prone to harbor predatory fish, and become feeding stations at night when lights attract plankton, plankton attract small fish (e.g. juvenile salmon and forage fish) and small fish attract larger predatory fish. To avoid the dock from becoming an unnatural feeding station, with a disproportionate effect on protected species, overwater lights should be hooded or screened.

The requirements for mooring buoys could benefit from a few more specifics. For one thing, mooring buoys should be labeled with the SMP permit number so that derelict and unpermitted buoys can be inventoried and eventually removed. Second, requirements for buoy placement should specify the proper type of anchor (helical screw) and require mid-water floats, to avoid scouring the marine or lake bed of aquatic vegetation. Third, a maximum density of mooring buoys should be established in protected bays to avoid impacts from over use. This is a particular concern near shellfish growing areas, and in bays with already poor water quality. In some jurisdictions (e.g. King County) a mooring buoy for a waterfront landowner gets an SDP exemption, whereas for a non-owner it is a conditional use. Some reasonable method of assuring that mooring buoy density does not reach impact levels needs to be devised and implemented. SRSC stands ready to collaborate on assembling the best available science on the subject at the County's invitation. Lastly, there should be a stipulation that no mooring buoys should be placed where they will interfere with navigation or fishing, particularly in areas fished by Native American tribes.

As briefly mentioned before, the mitigation for docks and other overwater structures (14.26.420(5)) needs revision to prevent encroachment and ineffective mitigation. Specifically, Section 14.26.420(5)(c)(3) allows planting riparian vegetation to compensate for overwater structures. This is a clear contradiction of the principal of in-kind mitigation. Riparian planting is a worthy activity, but in this case it should be conditioned to only compensate for a riparian disturbance. No amount of riparian planting will directly alleviate the impacts caused by a dock. This section should be struck, or else modified to be consistent with no-net-loss principles. Better yet, mitigation principles should be specified in a stand-alone mitigation section elsewhere in the SMP.

Dredging

The section on Dredging and Dredge Material Disposal conflates and to some degree confuses at least four very different types of dredging: 1) on large channels and shorelines for navigation, 2) for sand and gravel extraction for use as a construction aggregate, 3) for small farm ditches and tributaries to alleviate local flooding, and 4) to restore channels to natural conditions. The four have very different impacts, are necessary to different degrees depending on local conditions, and should be treated differently in the regulations.

The maintenance of ditches for agricultural purposes (Section 14.26.435(2)(c)(iii)) should distinguish clearly between man-made ditches created for drainage, and natural fish-bearing tributaries that have been cleaned and straightened to accelerate flow. The former can be dredged using the proper best management practices and result in low impacts to aquatic resources. The latter is adversely affected by dredging due to habitat simplification, and should be prohibited outright or allowed only in cases where impacts can be fully mitigated. Such a prohibition is available in Section 14.26.435(2)(e)(iv)) with a slight modification. We suggest striking part of that sub-section to indicate that dredging is prohibited: "In ~~officially designated~~ fish, shellfish, and wildlife spawning, nesting, harvesting, and concentration areas." Because there are so few "officially designated" spawning areas, striking that phrase would allow for a more deliberate, thoughtful, and flexible application of the rule.

Forest Practices

We understand that the Skagit SMP is subordinate to the state Forest Practices Act (RCW 76.09) in most respects, when forest practices are being conducted under the review and authority of the Washington Department of Natural Resources (DNR). However, for conversions of forest lands to non-forest uses the County has a vested interest and statutory authority to regulate development (RCW 76.09.050-060 and 76.09.240). Because some forest conversions may be in the Skagit floodway or channel migration zone, and restrictions there go beyond those in the Skagit Critical Areas Ordinance (SCC 14.24 and Part V of the SMP) we suggest language be included that requires forest conversions also comply with all aspects of the Skagit County Code 14.34 for Flood Damage Prevention.

Mining

The mining chapter is sufficiently protective but for a few small changes. First of all, it is difficult to explain (or understand) why mining is prohibited for marine lake shorelines but not for rivers. Section 14.26.460(2)(b) should be modified accordingly. Section 14.26.435 Dredging and Dredge Material Disposal should also be modified to reflect these prohibitions (since dredging is often used for mining sand and gravel).

Reclamation of floodplain mining sites (also a common source of sand and gravel) should include requirements that all floodplain pits be filled or leveled so that they do not

become riverside or floodplain ponds. Elsewhere in the state (Yakima is a prime example) floodplain ponds harbor warm-water piscivorous fish species that prey on native salmon and trout. The floodplain ponds sometimes connect with adjacent rivers during floods, resulting in a mixing of species and adverse impacts to native fish. In other cases the water quality in mining ponds is often poor or even toxic. The SMP mining regulations could easily avoid these problems by prohibiting floodplain mining practices that will create off-channel ponds or any connection with state waters.

Residential Development

Given that single family residences are a preferred use of the shoreline (WAC 173-26-241(3)(j)) and are in many cases exempt by state law from obtaining substantial development permits (RCW 90.58.030(3)(e)(vi)), the Skagit SMP has very limited latitude to prevent impacts of residential shoreline development. Coupled with the exemption for single family residence bulkheads (RCW 90.58.030(3)(e)(ii)), it seems impossible to claim that the Skagit SMP, or any SMP in the state for that matter, will be able to prevent cumulative impacts from residential development.

Having said that, the specific inclusion of the Vegetation Conservation measures (Section 14.26.380) in the Residential Development rules will go a long way toward protecting beaches and other shoreline environments from the impacts of residential development, as long as these measures are carefully monitored and rigorously implemented. We also welcome the other Development Standards (Section 14.26.470(4)) as helpful in minimizing the effects of residential development on shorelines.

Obviously, with the prevalence of residential development on Skagit shorelines, and the exemptions for it, SRSC feels that more development regulations are necessary to limit the impacts of development. As an indication, the Skagit SMP regulations for residential development are a scant one page long, whereas the Mining regulations span more than five pages, yet there are few mining operations in Skagit County that actually intrude into the 200 foot shoreline buffer, but shoreline residences are ubiquitous.

The definition for "appurtenance" to a residential structure should be changed to specifically exclude beach stairs and tramways. Beach stairs are not appurtenant in the same way as septic tanks, garages, decks, driveways, fences, and other structures that are associated with non-waterfront residences. Beach stairs and tramways are appurtenant to beaches, not residences. Beach stairs and tramways typically replace the vegetation on bluffs, have the potential to destabilize feeder bluffs, require footings at the top and bottom of bluffs, and typically create adverse impacts by their very nature. These should not be exempt from substantial development permits in any case, and should in many cases be a conditional use. SRSC would support a provision that requires *all* appurtenant structures (excepting decks) to be a conditional use if not located landward of the principal structure.

Shoreline Enhancement Projects

The state Shoreline Management Act has clear provisions intended to make shoreline restoration projects exempt from obtaining a substantial development permit (RCW 90.58.147), as long as the project is "substantially consistent" with the local SMP. While welcome, this exemption must not be taken lightly. Consistency with the goals and intentions of the SMP is absolutely essential, since some individuals and organizations have attempted to circumvent permitting restrictions by disguising harmful projects, such as stream dredging, as restoration. Conversely, useful and beneficial restoration projects have been held up, and funding jeopardized, based on minor details of restoration plans that bore a resemblance (use of rock) to bank stabilization.

SRSC, as one of the more active restoration practitioners in the Skagit basin, has a strong vested interest in obtaining substantial development permit (SDP) exemptions, as the expense and delays associated with obtaining shoreline permits can threaten the implementation of restoration projects that have already obtained support, funding, and permits from a variety of environmental concerns and agencies. We strongly recommend, in addition to the restoration approval criteria in RCW 77.55.181, that projects approved locally by the Skagit Watershed Council for funding by the state Salmon Recovery Funding Board (SRFB) also be granted an SDP exemption. The exemption criteria in RCW 90.58.147 and RCW 77.55.181 were all written before the SRFB became the pre-eminent state agency for approval and funding restoration projects. In addition, Skagit County government supports and is represented on the Skagit Watershed Council, which approves and ranks local projects for SRFB funding. An SMP provision that recognizes the rigorous local approval process at the Skagit Watershed Council, and grants an SDP exemption (as it does for less-rigorous programs identified in RCW 77.55.181), is perfectly consistent with state shoreline regulations and recommendations, and will help alleviate expenses and delays in these vital projects to improve habitat and carry out SMP goals.

While long-term maintenance and monitoring are worthy goals, and SRSC makes a point of continued monitoring and maintenance of all our projects, the cost of monitoring is a difficult issue with many grant-funded restoration projects. Many funding agencies, in particular the state SRFB, have a long history of *not* funding the monitoring of individual restoration projects. Under the proposed rule in Section 14.26.475(4)(b) many worthwhile projects would thus be prohibited under the SMP. Maintenance and monitoring are a different issue when considering mitigation, where the project proponent is responsible for assuring no-net-loss. In that case monitoring should be required (but apparently isn't). But for restoration the monitoring requirement is punitive toward projects that are trying to increase the quality and quantity of habitat, and this section could prevent those projects from going forward. The requirement for three years of monitoring and maintenance should be lifted from restoration projects, and applied to mitigation projects instead.

Structural Shoreline Stabilization

The proposed new regulations on shore stabilization are in some ways stronger than the existing Skagit SMP regulations, in some ways weaker, and in any case follow the state guidelines on shoreline plans (WAC 173-26-231). The proposed regs make a strong case against new shoreline structures that are not necessary or could be better constructed using bioengineering techniques. If these two concepts were better extended to shoreline repairs and replacements, the Skagit SMP would indeed be well on the way to achieving no-net-loss of shoreline ecological functions.

In Section 14.26.480(1) on applicability, the "hard" shoreline materials include concrete, and the soft-shore techniques include vegetation and large wood. We suggest moving "boulders" from a soft-shore technique to a hard-shore technique. Otherwise it will be difficult to distinguish between the two, and developments that exploit the ambiguity will likely result in adverse shoreline impacts.

The requirements (in 14.26.480(3), and elsewhere) for demonstrating that shore stabilization is necessary is welcome and long overdue. This will go a long way toward avoiding harmful bulkheads that are built unnecessarily and at an overzealous scale. The waiver of this requirement (in 14.26.480(3)(b)(i)) when an applicant uses soft-shore techniques gives a positive incentive toward restoring shoreline ecological features. However, due to this waiver, it is all the more important to classify boulders and rip rap as hard shore materials instead of soft shore.

We recommend a provision that requires compliance with the Skagit flood damage prevention ordinance, since some marine areas are flood prone, have valuable habitat, fall under FEMA jurisdiction, and the flood ordinance requires a habitat assessment that concludes no adverse effect on endangered species.

In Section 14.26.480(4)(vi) new and expanded bulkheads must be mitigated. Unfortunately the standards and practices for mitigation have not been defined or outlined elsewhere in the SMP. Without any mitigation standards, the requirement to mitigate is meaningless.

Utilities

For the most part, like the section on Transportation, Section 14.26.490 governing Utilities seems to strike the right balance between protecting shorelines from new impacts and allowing existing infrastructure to be maintained. However, we have a couple of recommendations concerning underground water crossings.

Where underground utility lines (such as pipelines and electrical cables) cross river corridors (Section 14.26.490(4)(c)), we suggest they be completely buried *well below the river scour depth*. Troublesome pipeline crossings appear when river channels shift

laterally (across the floodplain) or longitudinally (up and down within the same channel). An exposed pipeline or cable in this case creates an emergency that could be avoided by burying the utility correctly in the first place. In the case of directional drilling, it is imperative that the drill go deep enough under the channel that the drilling mud lubricant does not "frac out" and enter the wetted channel, creating a water quality violation. It is also important for the directional drill to allow a wide enough corridor for the wetted channel to migrate (up to expected limits) across the floodplain. Directional drilling is the preferred method of crossing rivers, but it must be done correctly (deep enough and wide enough) to avoid immediate and future catastrophes.

As in other sections, the specific inclusion of the Vegetation Conservation measures in utility maintenance will go a long way to protecting river corridors from unnecessary impacts. We recommend a direct reference in the Utilities Section 14.26.490(4)(j) to the Vegetation Conservation Section (14.26.380).

Critical Areas

Because of the complexity, it would help if the rules were clarified (further) to fully explain the overlap, or lack thereof, between the shoreline regulations (SCC 14.26) and the Skagit critical areas ordinance (SCC 14.24). The proposed SMP has an extensive list of policy prescriptions governing shoreline critical areas (Section 6H-2). The shoreline jurisdiction outlined in Section 14.26.140 specifies that "Shoreline jurisdiction also extends to buffers necessary to protect critical areas that are located wholly within shoreline jurisdiction, with the exception of forest practices described in RCW 90.58.030(2)(d)(ii)." and that "All local development regulations including, but not limited to, zoning and subdivision rules apply in addition to this SMP, except that regulation of critical areas is accomplished exclusively by this SMP; see SCC 14.26.500 Application of Critical Areas Ordinance." If Skagit County intends to incorporate the CAO by reference, or by inclusion, a clearer articulation of that intent, and how that inclusion will work in practice, would be helpful.

Administration and Permit Procedures

Although arcane to most Skagit County residents, the proposed changes to the shoreline administrative procedures could provide important improvements that will both streamline the permit application process and make shoreline permitting more transparent. Listing shoreline substantial development permits, SDP exemptions, variances, and permit revisions all as Level I applications will avoid burdening applicants, County staff, and the hearing examiner with unnecessary procedures and delays. As long as an appeal of these shoreline permits goes to the Hearing Examiner, we have no objection to this type of streamlining.

More importantly, including SDPs and exemptions as a Level I action that triggers a Notice of Development Application will vastly improve the public notice for shoreline

permits. This is an aspect of the Skagit SMP that has been sorely lacking, in that SRSC and other concerned residents have not had the ability to see what shoreline permits were being issued where, unless they were variances or conditional uses or other permits that exceeded the thresholds in the State Environmental Policy Act (SEPA) that required public notice. A full legal notice in the paper of record is not necessary, but posting substantial development permits and exemptions with the other county development notices on the county website would provide notice to those that seek it. To that end, and to clarify the Skagit SMP, it would be helpful to *specifically* include substantial development permits and SDP exemptions, as well as variances and conditional uses, listed in SCC 14.06.150 as triggering a Notice of Development Application, or something to that effect, so that individuals and organizations concerned with shoreline development can be aware of permit activity authorized under the Skagit SMP.

Finally, and this does not come up often, but shoreline variances should expire if the project is not built within an acceptable timeframe. Shoreline permits may expire, building permits expire, but a variance to the SMP (or the CAO) currently does not. Once granted the variance is valid in perpetuity, regardless of whether the permit is granted or the project built, and regardless of whether newer, stricter SMP regulations are in effect. This oversight could lead to unintended consequences and would be relatively simple to remedy during this SMP update.

In summary, while we at SRSC and our member tribes recognize the many improvements in the new Skagit SMP regulations, we have a few outstanding concerns. Sea level rise is an important issue that is not even mentioned in the most recent SMP draft. Another major concern is the lack of discussion or clarity in mitigation options. The aquaculture section is still lacking a crucial definition and provisions. Despite improvements, the rules for residential development, bank stabilization, and stream dredging all suffer from the same weakness, in that most of these activities are exempt at the state level. That can be more emphatically said for agriculture, which in many cases is exempt from any shoreline review at all. These exemptions will jeopardize any claim that the Skagit SMP will result in no-net-loss of ecological functions. The new Skagit Floodway shoreline designation draws some useful and important distinctions not otherwise served by the standard SMP designations, and should be expanded upriver on the Skagit and Sauk rivers to the extent of the FEMA floodway. Exemptions for restoration projects should include consideration of local priorities as drawn by the Skagit Watershed Council and funded by the SRFB. Shoreline substantial development permits, and SDP exemptions, should be accessible to public review, as are variances and conditional uses. Listing these specifically in the Permit Procedures (SCC 14.06) would assure that SRSC and public entities could independently review shoreline development and assure protection of our shared natural resources.

SRSC appreciates the opportunity to comment on these changes to the Skagit County shoreline regulations, and we look forward to collaborating with the County on these and other matters. If you have any questions about our comments, or if there is anything more

we can provide, please don't hesitate to contact me at (360) 391-4194 or thyatt@skagitcoop.org

Sincerely,

Tim Hyatt
Skagit River System Cooperative

cc:	Larry Wasserman	Swinomish
	Scott Andrews	Swinomish
	Jason Joseph	Sauk-Suiattle
	Scott Morris	Sauk-Suiattle

Skagit River System Cooperative
11426 Moorage Way • P.O. Box 368 LaConner, WA 98257-0368
Phone: 360-466-7228 • Fax: 360-466-4047 •
www.skagitcoop.org

May 13th 2013

Mr. Bob Fritzen
Washington Department of Ecology
Northwest Regional Office, NWRO
3190 160th Avenue SE
Bellevue, WA 98008

(sent via electronic correspondence)

Reference: Draft Skagit County SMP update

Dear Bob,

As you know, the Skagit River System Cooperative (SRSC) represents the fisheries and natural resource interests of the Swinomish Indian Tribal Community and the Sauk-Suiattle Indian Tribe. As such we take a keen interest in laws and regulations that have potential effects on fish and shellfish in the Skagit basin and beyond. As a member of the Skagit shoreline citizen's advisory committee I have been closely involved with reviewing the proposed regulations that are currently under Ecology review. This letter is intended to help with that review, by identifying some of the strengths and weaknesses we see in the proposed Skagit shoreline master program (SMP) regulations.

One of the gravest shortcomings in the draft Skagit SMP is the absence of any regulations that govern coastal development and how to avoid the hazards of sea level rise (SLR). The Swinomish Tribe has been actively involved in regional and national SLR discussions, and the tribe suggested regulations that would have required development to *consider* the future impacts of SLR, without actually imposing limits on location or design. These suggestions were rebuffed, and were substituted with SLR policies that will have scant effect. The climate change and sea level rise issue is an important one, and will be the subject of a separate Swinomish letter devoted entirely to the topic.

Mitigation sequencing is an important (and required) component in any shoreline plan, since it is the foundation to Ecology's policy of no-net-loss of ecological functions and values. I'm sure it comes as no surprise to you that in practice many mitigation plans fall far short of the no-net-loss standard. The Skagit SMP mitigation section (14.26.310) follows Ecology guidance closely, but omits several important aspects of mitigation planning. For instance, the Skagit mitigation section does not discuss out-of-kind or off-site mitigation. It does not insist on greater than 1:1 compensation to make up for temporal impacts when mitigation is delayed. It does not discuss, much less resolve, the many difficult issues around in-lieu fees. Likewise, it is silent on mitigation banking and advance mitigation. It does not mention bonding for mitigation projects that carry a high risk of failure. It needs stronger provisions that mitigation will be carried out with in-kind projects, such as removing unneeded structures when new structures are constructed, and that mitigation will benefit the same species adversely affected by a project. Elsewhere, in the section on mitigation specifically for boating facilities (14.26.420(20)) the Skagit rules allow minor actions, such as riparian planting, to mitigate for new overwater structures, and allow those actions to substitute for structures at a ratio only slightly greater than 1:1 by area. Riparian plantings are not adequate compensation for overwater structures. Clearly, the Skagit mitigation rules need more stringent standards if the SMP is going to come close to the no-net-loss goal.

The aquaculture section was the last to be delivered to you because the version introduced by the shellfish growers was far more permissive than the existing shoreline regulations, and SRSC could not agree to standards that could adversely affect such a substantial acreage of Samish Bay eelgrass. The aquaculture section that was ultimately delivered to you was vastly improved over earlier versions, but needs improvement in several provisions and still contains a fatal flaw. That flaw is over the definition of "ongoing aquaculture" as it is used in section 14.26.415(1), but which is undefined in the Skagit SMP. The term determines whether or not a permit is required. If ongoing aquaculture is interpreted to mean areas "currently under cultivation" then the SMP provisions are mostly acceptable as written. But if, as the shellfish industry claims, "ongoing aquaculture" follows the U.S. Army Corps of Engineers (ACOE) definition, then the Skagit SMP, as written, will allow expansion into hundreds, if not thousands, of acres of native eelgrass beds. The ACOE interpretation of ongoing aquaculture includes areas under any existing lease or permit, treaty, "or any other easement, lease,

deed, or contract which establishes an enforceable property interest for the operator." Most of Samish Bay was deeded under the Bush & Callow Acts in the late 1800s to promote aquaculture, and deeds exist for thousands of acres of nearshore habitat that have never been cultivated for shellfish. Much of that nearshore acreage, according to DNR maps, is native eelgrass. If Skagit County and the shellfish growers stick to the ACOE definition of ongoing aquaculture, or are silent on the definition and leave it to later interpretation, then those several hundred acres of eelgrass are subject to shellfish cultivation without a shoreline permit. The Skagit SMP needs a specific definition of what exactly constitutes "ongoing aquaculture."

The provisions for residential development (14.26.475) are so far incomplete without a table listing the widths of shoreline buffers, but we understand from the County that such a table has been compiled and is forthcoming. The existing Skagit CAO section on fish and wildlife conservation areas (SCC 14.24.530) applies buffers relevant to shorelines. These buffers range from 200 feet to 140 feet, depending on the shoreline designation. We support keeping the buffer widths equal or better than the current standards, as Skagit County has indicated. We also support requiring accessory and appurtenant structures landward of the principle residence. The residential development regulations would be improved by adding restrictions for on-site sewage treatment, specifically by keeping septic drainfields a specified minimum distance from the OHWM. The septic rules also come into consideration in the water quality section (14.26.350(6).

Despite a couple of caveats, two of the greatest strengths of the proposed Skagit regulations are for overwater structures and bank stabilization. The updated Ecology guidelines for shoreline plans (Chapter 173-26 WAC) have had a remarkable effect on local plans in this respect. The requirement to examine and evaluate the effectiveness of soft shore bank stabilization, and the requirement to demonstrate that bank stabilization is actually needed, should greatly reduce the amount of unnecessary bulkheading that we're seeing in the Skagit and Whidbey basins. Likewise, the new requirements for light permeable docks and piers, and the size and placement limits for docks, should help reduce nearshore impacts in the future. Except, as mentioned before, the mitigation for docks and other overwater structures (14.26.420(20)) still needs revision to prevent encroachment and ineffective mitigation. Also, the allowance for maintenance and repair of bank stabilization (14.26.485(3)(c))should be revised. Projects that replace everything above the footing or bottom layer of a bulkhead go beyond routine maintenance, and should be

treated instead as a replacement. We would also suggest striking sections 14.26.485(6)(l) and 14.26.485(8)(a).

Another of the strengths in the proposed Skagit SMP is the new designation for the Skagit Floodway. The new designation is meant to protect shorelines consistent with the state Shoreline Management Act, the findings of the NMFS biological opinion on the National Flood Insurance Program (FEMA BiOp), and the recently revised Skagit floodplain code (SCC 14.34). Although locally controversial, the floodway designation does not place any new restrictions on agriculture, but it does simplify regulation by making the SMP consistent with other state, county, and federal rules. We support the use of the Skagit Floodway designation, and would support extending the designation upstream on the Sauk River and on the upper Skagit River to Marblemount.

It would help if the rules were clarified to fully explain the overlap, or lack thereof, between the shoreline regulations (SCC 14.26) and the Skagit critical areas ordinance (SCC 14.24). The shoreline jurisdiction outlined in Section 14.26.200 specifies that "Critical areas wholly or partially within jurisdiction of this SMP are regulated by the critical areas provisions in this SMP, not independently by SCC 14.24, Critical Areas." Elsewhere, in Section 14.24.500 "shoreline activities must comply with SCC Chapter 14.24. Critical Areas, as in effect on the date of adoption of this SMP." Apparently the County is attempting to incorporate by reference the CAO in effect at the time of SMP passage, but the language cited above seems contradictory. Other jurisdictions (e.g. San Juan County) have simply repeated the text of the CAO in the SMP. If Skagit County intends to incorporate the CAO by reference, a clearer articulation of that intent would be helpful.

Finally, and this does not come up often, but shoreline variances should expire if the project is not built within an acceptable timeframe. Shoreline permits may expire, building permits expire, but a variance to the SMP (or the CAO) currently does not. Once granted the variance is valid in perpetuity, regardless of whether the permit is granted or the project built, and regardless of whether newer, stricter SMP regulations are in effect. This oversight could lead to unintended consequences and would be relatively simple to remedy during this SMP update.

In summary, while we at SRSC and our member tribes recognize the many improvements in the new Skagit SMP regulations, we have a few outstanding concerns. Sea level rise is a concern, as is the lack of discussion or clarity in mitigation options. The aquaculture section is

lacking a crucial definition. Despite improvements the rules for residential development, bank stabilization, and overwater structures still need some revisions. The new Skagit Floodway shoreline designation draws some useful and important distinctions not otherwise served by the standard SMP designations. We have yet to see the full section on shoreline buffers, but we expect they will be equal to or better than existing CAO buffers for shorelines, which we support.

SRSC appreciates the opportunity to comment on these changes to the Skagit County shoreline regulations, and we look forward to collaborating with the WDOE and the County on these and other matters. If you have any questions about our comments, or if there is anything more we can provide, please don't hesitate to contact me at (360) 466-7308 or thyatt@skagitcoop.org

Sincerely,

Tim Hyatt
Skagit River System Cooperative

cc:

Josh Baldi	Ecology
Larry Wasserman	Swinomish
Scott Andrews	Swinomish
Jason Joseph	Sauk-Suiattle
Betsy Stevenson	Skagit County

From: dennis.katte@frontier.com
To: Betsy D. Stevenson; PDS comments
Cc: dennis katte
Subject: Comments on SMP
Date: Tuesday, March 15, 2016 12:19:32 PM

I've left a voicemail requesting an address for you but am sending this without waiting for your reply since I'm assuming you're preparing for the meeting. Hope my comments pertinent. Thanks

Comments on the proposed SMP

This letter is written with my comments on the proposed SMP and is purposed to address concerns which I have. It is sent with the intent that you view them constructively as I think they address some real issues, some of which are unique at this lake. I am a property owner at Lake Cavanaugh and have been since 1993. I will thank you in advance for considering them in the final version of the SMP.

Lake Cavanaugh is currently zoned as Rural Village Residential. The SMP assigns it a *shoreline residential environment* category and establishes new dimensional standards which conflict with the RVR. What does the County plan to do in this regard? Change designation with a hearing? Lake properties (Back) refer to the waterfront side of the home, and the RVR setback is 25'. This should be addressed.

14.16.310 Rural Village Residential (RVR).

(5) Dimensional Standards. (a) Setbacks. (i) Front: 35 feet, 25 feet on minor access and dead-end streets. (ii) Side: 8 feet on interior lot, 20 feet on street right-of-way. (iii) Rear: 25 feet. (iv) Accessory. (A) Front: 35 feet. (B) Side: 8 feet, however, a 3-foot setback is permitted for nonresidential structures when the accessory building is a minimum of 75 feet from the front property line or when there is an alley along the rear property line; providing, that the structure is less than 1,000 square feet in size and 16 feet or less in height. (C) Rear: 25 feet, however, a 3-foot setback is permitted for nonresidential structures when the accessory building is a minimum of 75 feet from the front property line or when there is an alley along the rear property line; providing, that the structure is less than 1,000 square feet in size and 16 feet or less in height

6C-11.5 Floating and over the water residential uses should be prohibited. There are developed existing structures which extend out over the lake. How will the SMP affect them or does it relate specifically to houseboats? Please clarify.

4.26.420 Boating Facilities and Related Structures and Uses (4) (B) (ii) requiring the bottom of piers to be 1.5' minimum above the OHWM conflicts with *Table 14.26.420-1. Standards for docks.* maximum height requirement of 3' and makes virtually all stationary piers on the lake nonconforming. The lake fluctuates in height up to 4 to 5 feet summer low to winter high. This situation needs exception.

This standard also requires *light permeable fabric* for boat lift covers defeating their very purpose of protection from rain, dirtying or UV rays. Covers are generally not much larger than the protected boat underneath which is certainly not light permeable.

It allows 8' wide floating sections whereas limits a stationary pier to only 6' wide. Change this to allow up to 8' end sections of the pier as well. Do not penalize stationary pier owners.

14.26.470 Residential Development. (4) Development Standards requires underground utilities (in our case, electricity) which seems to be an expensive and unfair construction requirement as all distribution lines are currently overhead.

Table 14.26.310-1 Dimensional Standards. Precludes building in the required buffer zone 100' from the OHWM landward and then only 25' high. This precludes building on most lots around the lake and/or requires variances costly for owners building. Is this a conflict? Is building in the buffer allowed with a variance? Can the height also be challenged in the variance submitted?

14.26.670 Abandonment. This section seems to unfairly remove a previously allowed right of a property owner to use or develop a parcel purchased prior to the SMP adoption such as a property purchased in anticipation of building/using. This seems to conflict with other grandfathered rights. How does the County intend to notify these people of their expiring rights?

From:	Brenda LaSorella
To:	PDS comments
Cc:	Jeff LaSorella
Subject:	Planning commission Lake Cavanaugh
Date:	Sunday, March 13, 2016 9:54:39 AM
Attachments:	Unknown.png

Dear Members of Skagit County Planning Commission

I have owned a cabin/house at Lake Cavanaugh for over 15 years. I am writing you to comment on the proposed Shoreline Master Program Update that you are pursuing.

The proposed building setbacks and very restrictive dock sizes do not seem to fit within the natural constraints of this lake community. Lake Cavanaugh is a recreational lake used for fishing, float planes, water skiing, wakeboarding, Jet-skiing and recreational pleasure boating. Housing on the lake is changing with about 5 houses being built each year. Old cabins are being torn down and modern homes are being built to allow families a place to retreat. To this end, substantial investment is being made to justify the $300k land cost, with many new houses valued at $800K-$1+Million. For Skagit county, this is a very high value for residences.

A million dollar home should meet certain expectations. A 24 ft recreation boat is not unreasonable to have with a waterfront home. Most new properties will need to access lake depth of at least 5 feet in the summer (lake fluctuates 4 ft from summer to winter so these docks often are floating structures). Therefore, the docks will need to be substantial enough to accommodate walkways and be capable of parking a boat. The proposed 8'x8' dock is simply impractical for the needs of residents on this lake. Likewise, it is not practical to lay out in the sun on a mesh deck surface.

In my experience at Lake Cavanaugh, it does not appear that the lake is adversely impacted by the docks that are 10 ft wide and at least 30 ft long. Please take this into consideration as you create new guidelines/requirements for development on shorelines.

Thank you for your work on this matter. Please let me know if you have further questions.

Brenda LaSorella
34343 South Shore Drive
Mt Vernon
206-295-0465

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website: http://www.finishingconsultants.com

SPRAY SYSTEMS, PUMPS, BOOTHS, OVENS AND DUST COLLECTION

From: jeff lasorella
To: PDS comments
Subject: SMP Update
Date: Wednesday, March 16, 2016 2:44:42 PM

Dear Skagit Panning Commission and Staff:

Thank you for this opportunity to voice my concerns about certain potential restrictions of your Shoreline Management Plan that is being considered for approval.

As a 15 year property owner at Lake Cavanaugh, I would like to go on record requesting that you consider making modifications to the plan to address the unique conditions of our lake environment and community. Lake Cavanaugh has become a lake community with many full time residents, many weekend residents, and all there to enjoy the waterskiing, sailing, wake boarding, swimming and other water-related activities. Because there is so many lake-related activities, I have concerns regarding dock size and building setbacks.

Docks are used for boat access, as well as just sitting on the end of the dock to be as close to the water as possible. The views of the lake and surrounding mountains available at Lake Cavanaugh are majestic. Limiting a dock size to 8' x 8' is extremely restrictive to having any amount of people on the dock, comfortably or from a safety factory, as it does not allow for enough area to sit or lay on the dock and have enough personal space. Lake Cavanaugh lake depths vary greatly depending on location, so limiting a dock to a maximum length of 25' would not provide enough lake depth in many locations to allow boating activities from a dock. My dock is over 50' in length and I still had to address adjusting our boat lift mid-summer to allow enough depth to be able to dock my 20' boat. Because of these conditions, please consider revising the proposed dock regulations in total area allowed and overall length of docks

A building setback of 100' is very restrictive and will make the majority of existing structures non-conforming. Understanding that the setback's purpose is to protect the lake environment, the intention is honorable, but the reality is different. Most properties do not have the room to have a 100' setback and have a house that would be located far enough from the busy road to have a peaceful environment, and having a structure 100' from the lake may mean that there is no view of the lake to enjoy. I feel a more workable and fair setback should be an average of the existing properties already in place.

Please know that all of the residents, full and part time, that I know personally, are good custodians and strong proponents in support of keeping Lake Cavanaugh clean and environmentally healthy for wildlife as well as recreation.

Please take my comments into consideration when drafting your final Shoreline Management Plan.

Best regards,

Jeffrey P LaSorella
34343 South Shore Drive
Lake Cavanaugh

From: Brian Lipscomb
To: PDS comments
Subject: Skagit County Shoreline Master Program Update
Date: Monday, April 04, 2016 2:44:08 PM

Dear PDS,
Please add the attached PDF to the comments regarding the SMP.

Thank you,
Brian Lipscomb
27765 West Gilligan Creek
Sedro-Woolley WA 98284

April 4th, 2016

Brian Lipscomb
27765 W Gilligan Creek
Sedro-Woolley WA 98284

Skagit County Planning and Development Services
1800 Continental Pl.
Mount Vernon, WA 98273

Subject: Skagit County Shoreline Master Program Update

Dear County Commissioners, Planning Commission Members, and PDS Staff,

I would like to thank you for the experience of participating in the Shoreline Advisory Committee SMP update process. It was educational and gives me a far better understanding of how these sometimes onerous regulations are developed, implemented, and adjudicated. Although my initial opinions were likely influenced by interactions with the previous PDS leadership I now have a much clearer understanding of the process and drivers. Along with that came a new respect and empathy for the PDS employees who must adhere to the dictates from an out of control Department of Ecology and friends, and the Planning Commission members who must read, absorb, and deliberate the hundreds of pages of documents in their spare time.

I understand the value of planning and subscribe to the “people don't plan to fail, they fail to plan” philosophy. One apparent difference between professional project and program management and the DOE sponsored SMP process was using policies rather then actual metrics to determine the success of the plans outcome. A fundamental concept in project management is “if you can't measure it, you can't manage it”. This important concept regarding metrics seems to be lost with the chosen consultant and DOE.

If this SMP will produce measurable ecological improvements, increase the fish population, treat rural property owners equitably, allow waterfront properties to have reasonable size docks and decks, gives credence to property owners, relies on site specific conditions, gives credit to those who enhance habitat without being forced to, and reflects the values of Skagit County citizens,
Then -- I am all for it.

But, If this SMP produces hundreds of pages of regulations in an attempt to proclaim fairness with one size fits all policies, claims local community involvement in creating regulations while Olympia dictates what they must be, requires expensive studies and mitigation plans to meet policy objectives rather than measurable goals, disregards site conditions in favor of outdated maps or rules, ensures the State and everyone except the actual property owner benefits, misuses tools meant to determine financial risk for determining ecological functions, is funded by a grant from DOE providing a favored consultant to ensure all dissension was suppressed in the name of 'facilitating', attempts to fix non-existent problems, forces property owners to prove a negative, and is done just because there was a grant,

Then -- I hope that the Planning Commission and County Commissioners would delay approval of the SMP while they push back on the DOE bureaucrats and require the DOE and their friends to honestly address the concerns of Skagit County citizens by using facts, data, and empirical sources rather than ideology.

The DOE's Bob “I will offer that we must find joy in the hunt, and that the crafty old bucks are the most satisfying to harvest” Penhale does not need any more weapons to help him and his friends hunt citizens.

Respectfully,
Brian Lipscomb, Skagit Co. citizen and shoreline property owner

From: Bob McCullough
To: PDS comments
Subject: SMP Update
Date: Wednesday, March 16, 2016 2:56:32 PM

Dear Skagit County Planning Commission, et al:

I am a property owner at Lake Cavanaugh in Skagit County and am writing to comment on your proposed Shoreline Master Plan. Although I have concerns about new dock sizes, I am compelled to comment on the proposed building setbacks.

Most of the lots on the lake are 60 feet wide and vary in depth from 25 feet to about 300 feet. The average setback of houses from the lake is less than 50 feet (ranges from 0 feet to 50 feet for 90% of the existing structures). The cabin on my lot is one of those that is about 40-50 feet and is "in-line" with neighbors on either side of my property for a considerable distance.

If I were compelled to construct a house with a 100 foot setback (as my neighbor to the west would be…his lot is vacant presently) then I would be building a house with a view, not of the lake, but the street side of my neighbor's houses. Instead of seeing mountains and water, I would be aligned with garages and garbage cans with a maybe a Peek-a-boo view of the lake (recall that we are also being asked to not cut down trees within 50 feet of the waterfront).

I believe that a more practical solution would be to establish setbacks that are equal to the average of the properties on either side (say within 120 feet either side). This would create development consistent with the vicinity the lot is in.

Please let me know if you have additional questions. I thank you for your work and look forward to seeing the county adjust their guidelines to fit our unique community.

Sincerely,
Robert McCullough

Thanks,

Bob McCullough
Meridian Builders Inc.
2014 Built Green Hammer Award Winner
7911 5th Ave NE
Seattle, WA 98115
206-686-4880
206-686-4770 fax
206-255-5119 cell
www.meridianbi.com

From: Roger Mitchell
To: PDS comments
Subject: Comments on the Skagit County Shoreline Master Program Update
Date: Monday, April 04, 2016 4:25:01 PM

Written Opinions and Comments by Roger Mitchell, Bow, WA
on the
Skagit County Shoreline Master Program dated February 2016

The following are my written opinions and comments to be included in the record verbatim and are not to be edited or summarized in any way without my expressed written consent.

Few believe that Skagit County would have a Shoreline Master Program ("SMP") were it not foisted upon us by the Washington State Department of Ecology ("DoE"). We also would not have pursued this ideological boondoggle were it not for yet another state grant. The enormous waste of resources for limited, if any, beneficial gain is a travesty.

Primary Detriments of the Draft SMP.

<!--[if !supportLists]-->· <!--[endif]-->Supposedly, our County SMP is intended to balance concerns for the natural environment with concerns for the human environment. Instead, the draft SMP attempts to enhance the natural environment *at the expense* of shoreline property owners.

<!--[if !supportLists]-->· <!--[endif]-->The Shoreline Management Act was intended to enhance ordered, advantageous, and environmentally sound development; it was *not* intended to prohibit it. The draft SMP *effectively* prohibits development through arbitrary buffers, setbacks, restrictions and demands on property owners that make private ownership of shoreline property untenable.

<!--[if !supportLists]-->· <!--[endif]-->The draft SMP is more concerned with fish and aquatic plants – at the expense of shoreline private property owners.

<!--[if !supportLists]-->· <!--[endif]-->Shoreline restrictions are oppressive and are a *de facto* prohibition of private property owners' use of their land.

<!--[if !supportLists]-->· <!--[endif]-->The draft SMP is *not* "best available science" based as required by law.

Process. The County has been working on SMP for about three years. The actual SMP submittal deadline is long past. Now that we're scrambling to meet an *artificial deadline* we have finally asked what the public thinks. Now that citizens are indicating they do not agree with the draft SMP, the County is surprised. Now that affected citizens are alerting the County to some proposed measures in the SMP that are functionally, practically, and literally unworkable, the County is surprised. In fact, even the information available on the County website has changed, both additions and

deletions, since the draft SMP was noticed to the public for comment. Depending on when a given citizen accessed the SMP page on the County website, the available information may have been different, therefore everyone is not on a level playing field. That fact, alone, should require re-noticing this project and scheduling of another public hearing.

Insufficient Notifications. The SMP update, if approved and implemented, has the potential to adversely affect many, many Skagit property owners and citizens. Failure of the County to directly and positively notify *all* potentially affected property owners if not a statutory failure is a moral and ethical failure. I find it unconscionable. It's a matter of governmental transparency and of respect for Skagit citizens. If politicians haven't noticed, citizens all over the country are angry and this is precisely the kind of government behavior that causes it.

What's Missing ? There are numerous items missing from the documentation behind the draft SMP and the process used to generate it. Just a few examples:

- **Economic analysis** required by state law (RCW43.21H.010):

  "…it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government."

- **Map(s)** of the potentially affected parcels (and, of course, a list of those parcels by Parcel Number)

- **Data.** Where are the data that show that there are *actual* problems, not *perceived* ones and that any development has not been, or will not be, "environmentally sound" (whatever that means) ?

- **Definition of "No Net Loss**". To determine "net" loss we would have to know to the "before" condition. We don't have that information. There are no baseline data to which a comparison can be made. "Net" cannot be determined. "No Net Loss" is a meaningless and impractical term.

- **Unsupported and Unvetted "Data".** The draft SMP relies on data from unapproved, unsupported, and unvetted reports. No formal public participation process, especially no public hearing, ever vetted these information sources.

  - **Envision 2060.** Thankfully, this was never approved by the County and should *never* be used as a reference *for anything*. All references to, reliance on, and "data" from this unapproved document ***must*** be removed from the draft SMP.
  - **Skagit Watershed Council**. This Non-Governmental Organization in no way represents the citizens of Skagit

County. Furthermore, there are significant, potential conflicts of interest from this organization's members with the implementation of the draft SMP. All references to, reliance on, and "data" from this approximately 1,000-page, unapproved source ***must*** be removed from the draft SMP.

<!--[if !supportLists]-->o <!--[endif]--> ***"Final Best Available Science Report".*** This 2007 report prepared by The Watershed Company has never been vetted by any Skagit County public participation process. Furthermore, it is not available on the County website on the SMP page.

<!--[if !supportLists]-->· <!--[endif]--> ***Coastal Erosion Management Studies of 1994***. Surely there must have been something of value in this 12-volume study by DoE. Why is it not referenced ?

Required Access. The draft SMP requires certain property owners, in certain situations, to provide public access. That is untenable. That requirement significantly alters the private property owners' enjoyment of their private lands. It also creates a significant loss of use for the private property owner due to government regulation for which the property owner is not being compensated. It is a regulatory taking.

Governmental Regulatory Takings. Restrictions to private property use that result from government regulatory actions, and thereby reduce the valuation, result in a governmental regulatory taking for which the property owner is not compensated.

Gobbledygook or Meaningful Language ? The draft SMP is riddled with vague language, ill-defined terms, un-defined terms, unclear terms and language, subjective statements unsupported by facts and data, no metrics, inconsistencies, conflicts with itself, and missing information. It is far more a DoE ideological manifesto than useful, fact-based document.

Economic Harm. No economic analysis accompanies the draft SMP. We have no idea what the projected, realistic economic costs vs. benefits are. We certainly have no idea what the unintended consequences may be.

Increased restrictions and regulations, increased permitting hurdles, creation of non-conforming uses and structures, etc. will undoubtedly adversely affect property values. Insurance rates will increase, financing and refinancing will be difficult or impossible, expenses to comply will increase, and other adverse effects will lower property values on a targeted group of property owners. County property tax revenue – from affected properties – will decrease and the difference will be made up by sharing the burden over a smaller group of property owners who have no stake in this matter.

Legal Liability for the County. Federal Environmental Protection Agency Clean Water Act "Waters of the U.S." legal challenges have not gone well for the EPA. A number of courts have ruled against the EPA for overreaching their authority. I believe SMP is a highly analogous situation. An unelected, overreaching bureaucracy (DoE) promulgates rules, regulations, and restrictions that cause harm to private citizens and their property. It is not a matter of "if" citizens will sue the state, the DoE,

and Skagit County, it is a matter of “when”.

SUMMARY

Most people who know anything about the draft SMP feel that it is a *fait accompli*. That should never be the case. I would hope that the BoCC will step in, decouple the artificial deadline connected with the Comprehensive Plan, and consider much of what is wrong with the draft SMP, what is missing, and require that every potentially affected property owner be directly, positively (with proof of receipt) notified. Then, and only then, an initial public hearing should be held, with an extended written comment period. Planning Commission deliberations and recommendations, any redrafting required due to public participation and input, may require additional notice and public hearing(s) if material changes are made. A final Planning Commission hearing should then be held and recommendation made to the BoCC.

Thank you for your time and consideration.

Roger Mitchell
Bow, WA

From: Boshie Morris
To: PDS comments
Subject: I support the draft SMP
Date: Friday, April 01, 2016 1:49:56 PM

Dear Skagit County Planning Commission

With hundreds of miles of shoreline, this is our opportunity to help protect and restore the health of Puget Sound. Skagit County is instep and consistent with other Puget Sound communities and jurisdictions who have updated their Shoreline Master Program (SMP) with strong environmental safeguards for their shorelines. I like to express my support for the SMP update that incorporates strong safeguards for our vital shoreline and is based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property.

Thank you for your good work on this important issue.

Boshie Morris
1618 7th St
ANACORTES, WA 98221

From:	Joan Palmer
To:	PDS comments
Cc:	Nancy Fox
Subject:	Skagit County Shoreline Master Program
Date:	Friday, March 11, 2016 7:56:17 PM

To: Skagit County Planning Commission

I have carefully studied the written testimony and comments from the GIPAC committee and I hereby submit my requests to you. Further, as an island resident for more than 40 years, I have kept abreast of the hard work accomplished by the current and past GIPAC committee, and have participated in many of the island meetings to keep us all informed of the development of the sub-area plan. Following are my requests related to the SMP:

(a) Incorporate the island-specific materials of the Rapid Shoreline Inventory into the background materials

(b) Incorporate fully the "Guemes Plan" site-specific recommendations for the nine areas of discrepancy, and study the highlighted areas on the submitted map

(c) clarify GIPAC's question re the ferry dock (map issue #7)

(d) do not allow the 50% "new variance" reduction for building setbacks by shorelines

(e) increase integrity relating to giving public notice for variance requests to appropriate recipients especially to enable GIPAC to carry out their responsibilities for monitoring development activity

(f) clarify that accessory structures be placed landward of principal structures on shorelines

(g) fix the gap re protection of native vegetation along shorelines

(h) strengthen the tree cutting and clearing ordinance along shorelines

(i) add prohibition against private docks along shorelines

(j) delete any provision that would allow mining and associated activities

on the shoreline

(k) delete any provision that would allow commercial aquaculture on the shoreline

In summary, in the final Shoreline Master Program plan, I ask that you implement **all** of the GIPAC recommendations from the Guemes Island Sub-Area Plan.

Submitted by Joan Palmer, 6132 S Shore Rd, Anacortes WA 98221
Guemes Island Resident since 1970

From:	Jim Lippert
To:	PDS comments
Subject:	SMA/SCC up-date
Date:	Thursday, March 31, 2016 7:45:26 AM

Skagit County Planning Commission pdscomments@co.skagit.wa.us
March 30, 2016
1800 Continental Place,

Mount Vernon, WA 98273

Re: SMA/SCC up-date:

Dear Planning Commissioners/staff:

Am a waterfront property-owner on east shore of Padilla Bay, (Sec 30, Twp 35N, R3E), to a meander line. Thus, we hold fee-simple to the now beach/tide flats; which was historically upland, though, *currently "mud flats"*.

Point: Nature has moved the OHW mark landward; reducing our usable waterfront upland area. In fact, some of our waterfront area has eroded to "zero", and the toe of the coastal bluff is being undermined by attrition.

FWIW: Most our waterfront land is "an ecological buffer", (i.e. a geologic hazardous costal bluff), that underlies county Bay View-Edison Road, and private Seabird Lane, which serves us/others.

Our usable waterfront upland is constricted by geology/topography, a private road, and it need not be further constricted by unfounded administrative regulations; except prudence.

Am confounded by the proposed Shoreline Management up-date: *If it ain't broke; why fix it?*

It appears County is attempting to "re-write the code", and believes each waterfront parcel situation is the same; when in reality each parcel is different: Thus, a "One size fits all" shoreline situation; *which ain't so!*

That said: Understand the definition of "shoreline" is the water's edge; *wherever it be, at a given time!* However, the OHW mark is generally considered the shoreline.

Point: Why would/does a "shoreline code" concern itself with a 100-foot set-back requirement inbound of the OHW, and even consider increasing it to 200-feet, *when it is not germane?*

Doesn't Shoreline Management deal with shore land out-bound of the OHW. Therefore, the shoreline code should have nothing to do with land inbound from the OHW mark?

Further, isn't a setback an "administrative taking" of property *rights and usage,* <u>without due process/eminent domain</u> and <u>just compensation</u>?

That said: Understand, land use zoning is predicated on "police powers"; *i.e. public health, safety, and general welfare*; *i.e. of society, (a group)*. However, one need recall that in the U.S. individuals hold unalienable rights. Accordingly, Article I, Section I, Washington State Constitution reads:

"All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights".

Understand State Constitutions are superior to U.S. Constitution, and individual rights superior to group rights.

That said: What's the basis for an inbound setback from OHW, in any code; *particularly in a shoreline code*, and what's the basis for making any changes is the shoreline code, *in the first instance*?

Isn't Skagit County obliged to honor basic Civics/Washington State Constitution, and "common sense"?

Suggest Skagit County review the code, but not change it; *except for removing the 100-foot setback*!

Roger E. Pederson

P.O. Box 245

Mount Vernon, WA 98273-0245

Thank you,

Jim Lippert

???A hundred years from now it will not matter what my bank account was,
the type of house I lived in, or the kind of car I drove...
but the world may be different because I was important in the life of a child."

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From: Howard Pellett
To: PDS comments
Subject: Comments on the Proposed Comprehensive Plan 2016 Update
Date: Saturday, April 02, 2016 11:55:17 AM

Dear Skagit County:

Carol and I have been Guemes Island property owners since 1979 and residents and voters since 1995. I am President of the Guemes Island Property Owners Association and Carol is Board President of the Guemes Island Library. I am past head of the Green Party of Skagit County and President of Living Democracy-Skagit and have been involved in the effort to adopt a sub-area plan for Guemes Island for almost twenty years.

The Guemes Island Sub-Area Plan is the culmination of many years and many efforts to have the ongoing wishes of Guemes Islanders ratified and, in fact, was adopted by Skagit County over 5 years ago. It is long overdue for completion in order to keep faith with the community.

I support the recommendations of the Guemes Island Planning and Advisory Committee, specifically the proposed Guemes Island Zoning Overlay and codification of the Seawater Intrusion Policy. These thoughtful and fully discussed recommendations are needed to protect the island's rural character and avoid developments out of scale with existing homes.

It is also critically important that Guemes Island's sole-source aquifer be protected before excessive development precludes required protections. These requirements are an important first step although additional work must be done to protect the aquifer.

It will be wonderful to see the Guemes Islander's hard work fulfilled.

Regards,

Howard & Carol Pellett
5293 Guemes Island Road
Anacortes, WA 98221

360-293-8128

From: Timothy Manns
To: PDS comments
Subject: Skagit Audubon comments on Feb 4 2016 Public Comment Draft of the Skagit County Shoreline Master Program
Date: Monday, April 04, 2016 2:17:45 PM

Dear Director Pernula and Ms. Stevenson,

Please find below comments from Skagit Audubon Society on the Feb 4 2016 Public Comment Draft of the Skagit County Shoreline Master Program.

Thank you

Tim Manns
Conservation Chair
Skagit Audubon Society

April 4, 2016

Skagit Audubon Society

PO Box 1101

Mount Vernon, WA

98274

Comments re Skagit County Shoreline Master Program Update

Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Dear Director Pernula and Ms. Stevenson:
We are writing on behalf of Skagit Audubon Society to offer our comments on the February 4, 2016, Public Comment Draft of the Skagit County Shoreline Master Program (SMP).
Skagit Audubon Society is the National Audubon chapter centered in Skagit County, Washington. Our 220 member families reside in or near this county and share a common interest in Audubon's mission: to conserve and restore natural ecosystems, focusing on birds, other wildlife and their habitats for the benefit of humanity and the earth's biological diversity. The importance of lakes, rivers, and marine waters to many species of birds and other wildlife particularly motivates our interest in the implementation of Washington's Shoreline Management Act.
We appreciate the emphasis throughout the draft Shoreline Master Program on no net loss of shoreline ecological functions and the encouragement for restoration of these important habitats. We enthusiastically support the purposes of the SMP as listed in the draft at 14.26.120 (p.52), especially "(c) Natural systems are preserved, restored, or enhanced and (d) Ecological functions of the shoreline are maintained and improved over time…" Although the definition of "ecological function" in the program's glossary (p.172) does not cite examples, we take the definition's reference to "ecological processes" to include those which

support bird populations dependent on shoreline habitats and resources. Examples of such support would be the substrate conditions needed for forage fish spawning, the regulation of aquacultural practices to avoid detrimental effects on birds, and more.

Overall, we believe your office has done a good and a thorough job in preparing this program. We offer the following comments reflecting our group's particular interests.

We support the comments from Futurewise on minimum lot widths, adaptation to sea level rise, and mining

We have had the opportunity to read the comments on the Shoreline Master Program submitted March 14, 2016, by Tim Trohimovich, Director of Planning & Law for Futurewise, and we support those comments. To reiterate particular points:

- We support requiring minimum lot widths with sufficient undeveloped space to allow wildlife passage between shoreline and uplands.

- Reference to sea level rise and its consequences are conspicuous by their absence in the SMP. We do not mention this as criticism, realizing the very vocal opposition with which you have had to deal in preparing this program. Nonetheless, in recognition of predicted sea level rise we join Futurewise in supporting addition of the following new regulations to Section 14.26.350(4) on page 69.

  (f) New lots shall be designed and located so that the buildable area is outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands will likely migrate during that time.

  (g) Where lots are large enough, new structures and buildings shall be located so that they are outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands will likely migrate during that time.

- We support the suggested changes to the regulations regarding mining, so that gravel removal, for example, would not be permitted in channel migration zones, and standards and regulations would ensure that resource extraction will in fact not adversely affect the natural action of streams and rivers under the jurisdiction of the SMP.

Shoreline Environment Designations and Map

Reading the descriptions of the "Natural" and the "Rural Conservancy" designations, there seems to be less distinction than is warranted. For example, in areas designated "Natural", we see that it is not precluded to build residences, to farm, or to carry out commercial harvesting of timber.

We have not studied in complete detail the designations shown on the Environment Designation maps but noticed several which we question. Examples include:

- The shoreline around Secret Harbor on Cypress Island is designated Rural Conservancy rather than Natural. On the south shore of Secret Harbor several privately owned parcels with minor development extend to the shore, and the Washington Department of Natural Resources (DNR) has a storage shed and dock in that area, but the remainder of the Secret Harbor shoreline with a minor exception is in natural condition. In recent years DNR has implemented a project to remove a dike and restore salt marsh at the head of the harbor. We believe the Secret Harbor shoreline, where a Natural Resource Conservation Area meets one of the state's few Aquatic Reserves, should be designated "Natural".
- Most of Barney Lake and vicinity at the eastern edge of Mount Vernon is either in Skagit Land Trust ownership (Barney Lake Conservation Area) or is part of the Skagit Environmental Bank, sponsored by Clear Valley Environmental Farm, LLC. It would seem that, given the purposes of these properties, at least the lake and Nookachamps

Creek shoreline owned by the Land Trust should be designated "Natural" and perhaps also the creek shoreline owned by the mitigation bank.

- The Washington Department of Fish & Wildlife's Johnson DeBay Swan Reserve off Francis Road should be designated Natural rather than Rural Conservancy given its dedicated purpose as a reserve for trumpeter and tundra swans, the only such reserve in the U.S.

Relying on the Forest Practice Rules to protect shoreline ecological functions

In Section 6C (Shoreline Uses and Modifications), at 6C-7.2 is the statement that, "Skagit County should rely on the Forest Practices Act and implementing rules for management of commercial forest uses within shoreline jurisdiction (WAC173-26-241(3)(e)." Although we realize the county is perhaps not in a position to address the problem, the Forest Practice Rules no longer reflect best available science in relation to wetlands and, as such, are unlikely to meet the goal of preserving shoreline ecological functions when timber harvest takes place in areas under SMP jurisdiction. The inadequacy of the Forest Practice Rules was made dramatically evident in summer 2015 when a loophole in the Forest Practices Act allowed overriding Mount Vernon's Comprehensive Plan and harvesting a large clear-cut adjacent to Little Mountain Park. The buffers permitted under the Forest Practice Rules were minimal despite the clear-cut's location at the headwaters of 2 salmon-bearing creeks, and the rules permitted destruction of many smaller wetlands despite concerns about the hydrology of the Carpenter Creek basin. We look for future improvements in the Shoreline Management Act and the Forest Practices Act to better align their purposes and goals.

Washington Department of Natural Resources (DNR) jurisdiction over publicly owned aquatic lands

We were struck by the lack of reference to the relationship between the SMP and the DNR's responsibility for managing state-owned aquatic lands. The SMP, for example, addresses the building and maintaining of docks. We know that DNR faces an enormous backlog in managing the thousands of private recreational docks on state-owned aquatic lands. We also understand that the agency has, unfortunately, stopped work on its Aquatic Lands Habitat Conservation Plan (HCP), possibly due to public reaction to its efforts to come to grips with these docks as well as other issues. The draft HCP also addressed other issues overlapping the SMP, such as bank armoring and protection of forage fish spawning habitat. Skagit County's SMP should reference DNR's responsibilities related to shorelines.

Public Access

As residents of Skagit County and citizen-owners of the public lands and waters of the state, we appreciate having access to shorelines. We enjoy these areas, and being able to reach them is important to activities we pursue, such as birding. The SMP includes numerous references to property rights, which is fine; many of our members are property owners. But we also appreciate the inclusion of reference to public rights under the Public Trust Doctrine (p.36) and appreciate the determination to protect the public's rights which this SMP represents.

We appreciate the inclusion by reference of the Skagit County Urban Growth Area Open Space Plan (at 6E -1.7, p.37 and elsewhere, stating that, "Skagit County should strive to: a. Provide a network of pedestrian, biking, and horse trails that access interpretive and scenic resources …") and also the inclusion of the county's 2012 Comprehensive Parks and Recreation Plan. We note that together these two constitute the Shoreline Public Access Plan. We support their prompt and thorough implementation.

Regulation of Aquaculture

We recognize the economic importance and the influence of aquaculture in Skagit County. We

appreciate the SMP's restriction on aquacultural practices which could adversely affect native species (p.91: "(h) Predator control measures used in aquaculture may not include those intended to kill or injure wildlife.) No specific wildlife species are mentioned, but we take these to include such birds as scoters, which shellfish growers do not favor but are acknowledged by the Puget Sound Partnership to be in precipitous decline in Puget Sound. The wintering population of surf scoters, half or fewer than the number of a few decades past, serves as one of the Partnership's benchmarks for the restoration of the sound.

In some parts of Washington, aquaculturalists have used powerfully lethal chemicals to sterilize the substrate on which they intend to grow shellfish, wiping out native invertebrates and removing important foods of shorebirds and waterfowl. We therefore appreciate the prohibition on p.90: "(g) Chemicals used in aquaculture operations must be used in accordance with state and federal regulations, as determined by applicable state and federal agencies.") Skagit and Padilla Bays are designated Important Bird Areas under an international program administered in the U.S. by the Audubon Society, recognizing their importance to a variety of species of migratory birds, which would be jeopardized by inappropriate practices. Skagit Bay's designation as a Western Hemisphere Shorebird Reserve site further recognizes its importance as a migratory stop-over and wintering location for dwindling shorebird populations. Likewise, we appreciate the restriction stated in 6E-1.7: "(b) Mechanical disturbance of bottom materials for shellfish harvest is prohibited on Shorelines of Statewide Significance, except the traditional mechanical (drag) dredge shellfish harvest method may be allowed as a conditional use. …" We urge the complete banning of practices which reduce or degrade the foraging habitat which shorebirds require.

In October 2015 the Washington State Audubon Conservation Committee, representing the state's 25 Audubon chapters and their over 20,000 members, passed a resolution titled "Best Management Practices for Geoduck Aquaculture in Washington State." The white paper outlining these practices includes many useful suggestions for how the negative environmental impacts of shellfish growing, not only of geoducks, can be reduced or mitigated. This paper was prepared for Tahoma Audubon Society by Leslie Ann Rose, and we would be happy to provide it to you.

Structural Shoreline Stabilization

The SMP has welcome and repeated language encouraging the removal of hard armoring along shorelines and restricting the installation of new hard armoring. If we understand the draft correctly, there appears to be a significant loophole at 14.26.480 1 C (ii) (page 133), where it is stated that new or enlarged stabilization structures are permitted for "new non-water-dependent development, including single-family residences, when all the following conditions below apply . . . (C)The damage must be caused by natural processes such as current or waves." We understand the necessity of exempting existing structures, particularly residences, from the restrictions concerning shoreline hard armoring, but to exempt any type of new construction further delays the much needed reduction in armoring around Puget Sound. Currents and wave action maintain the drift cells that replenish spawning habitat for forage fish including sand lance and Pacific smelt. Hard armoring cuts off the source of sand and gravel that supply these drift cells. The decline in forage fish, which are near the base of the Salish Sea food chain, correlates with the decline in many other species from salmon to seabirds. It is essential that the lax regulations of the past related to shoreline armoring be further modified to allow shoreline ecological functions to operate.

Thank you for your long and hard work on this complex project and for both informing us and providing the opportunity for comment. If there are questions about our comments, we can be reached at conservation@skagitaudubon.org, at 360/336-8753, or c/o Skagit Audubon Society, P.O. Box 1101, Mount Vernon, WA 98274.

Sincerely,

/s/ Irene Perry

Irene Perry
President
Skagit Audubon Society

/s/ Timothy Manns

Timothy Manns
Conservation Chair
Skagit Audubon Society

Skagit Audubon Society
PO Box 1101
Mount Vernon, WA 98274

From:	Dan Pugerude
To:	PDS comments; Betsy D. Stevenson
Cc:	ckane@kanelaw.net; duvallg@comcast.net; eustis@aramburu-eustis.com; joe@emeraldbayequity.com; cccranch@hotmail.com
Subject:	Skagit County Shoreline Master Program Update: from Dan Pugerude, President, LCIA
Date:	Tuesday, March 15, 2016 1:23:34 PM

Attention: Commission Members:
As the current President of the Lake Cavanaugh Improvement Association (LCIA), I submit the following as a public comment to the Skagit County Shoreline Master Program Update. This represents the 2014 unanimous resolution of the LCIA sent to Skagit County in 2014. Please consider this document as a starting point for other comments and suggestions that are submitted by our Counsel, Jeff Eustis, and other residents of the Lake Cavanaugh Community. The text of this document follows below.
If you have other questions, don't hesitate to contact me by phone (360/422-5845) or at my address below.

Dr. Dan Pugerude
33734 North Shore Drive
Mount Vernon, WA 98274

RESOLUTION OF LCIA BOARD RE SKAGIT COUNTY REVISIONS TO SHORELINE MASTER PLAN

June 4, 2014

To: Skagit County Planning Commission
Annie Lohman, Chair
Robert Temples
Kevin Meenaghan
Tammy Candler
Keith Greenwood
Matt Mahaffie
Dave Hughes (absent)
Josh Axthelm

Staff: Dale Pernula, Planning Director
Betsy Stevenson, Senior Planner

From: The Lake Cavanaugh Improvement Association (LCIA) Board

We are the elected representatives of the Lake Cavanaugh Improvement Association (LCIA), a non-profit corporation representing the nearly 500 property owners of Lake Cavanaugh, Skagit County. Our paid membership in 2013 was approximately 282 of those residents. See www.lakecavanaugh.info for more information.

At general LCIA meetings open to the public on August 31, 2013 and May 24, 2014, and at several LCIA Board meetings, there was a discussion of the proposed changes to the Shoreline

Master Program. The unanimous consensus of attending residents of Lake Cavanaugh at the May 24, 2014 meeting by a show of hands, and at other meetings, is against any additional restrictions on development at the Lake. Of particular concern are any additional setback requirements and any additional size limitations on docks.

The LCIA Board formally submits this resolution opposing any additional restrictions on development of individual residential properties at Lake Cavanaugh. The reasons are as follows.

The Lake is a clear pristine habitat for fish, birds, and wildlife, and the residents fully support reasonable efforts to maintain that habitat. However, the residents also use the Lake for their homes and for recreation activity, while still maintaining the habitat. Activities that have been a part of the Lake for over century include motor boating, skiing, sailing, fishing, and swimming. There is a public boat launch maintained by the Washington Department of Fish and Wildlife for boating and fishing access..

Quarterly Lake quality studies performed by the LCIA show that the Lake has been and remains a healthy habitat, co-existing successfully with these residential and recreational activities.

In the past two decades residents have been subject to increasing restrictions on their residential and recreational use of the Lake. For example, the current setback requirements are 100 feet for most structures, but most current buildings are about 50 feet from the water. The residents are opposed to increasing the setback beyond 100 feet because: (i) those who are building or re-building at more than 100 feet from the Lake will have their view of the Lake mostly blocked; (ii) existing regulations regarding setbacks, septic fields and toxic substances are adequate to protect the Lake, as proven by quarterly Lake quality studies performed by the LCIA; (iii) most other residential lakes in Washington do not have setbacks at greater than 100 feet.

The current dock restrictions are confusing and inconsistent. Fish and other aquatic life have thrived despite a proliferation of docks, most of which are larger than current regulations would permit. The proposed new regulations are impractical, as the mandated dock size would not be large enough to support the boating, swimming, fishing, and sailing activities that are an integral part of the Lake. Existing regulations regarding docks are adequate to protect the Lake (although they should be made consistent), as proven by the thriving fishing, crayfish, and other aquatic populations.

We request that these comments be considered in connection with proposed changes to dock regulations and setbacks under consideration by Skagit County and the State of Washington.

Respectfully submitted,

_____

Lake Cavanaugh Improvement Association Board
May 28, 2014

From:	Dan Pugerude
To:	PDS comments
Cc:	joe@emeraldbayequity.com
Subject:	SMP Update: Dock Size at Lake Cavanaugh
Date:	Monday, March 21, 2016 12:05:06 PM

On Sat, 19 Mar 2016 09:25:16 -0700 Renee <rraccounting@comcast.net> writes:

> This is Renee Robison with Robison Dock Building. I was just informed of this meeting a couple of days ago and would have liked more time to address this but here we are. I would like to address the county's proposal to limit the size of the docks on any lake not just Lake Cavanaugh. We have been in business for many years and can say that the limitations you are trying to enforce are not realistic for the following reasons. Each situation on the lake differs from one another. From pile placement and water depths. You cannot use a dock in about one foot of water with the limitations you are suggesting. Just image a child wanting to running off a dock and jump in the water at one foot water depth. I am sure you can understand a scenario like this one. I think before any final decision is made you need to consider why people by lake front property is to use the lake. If the lake is shallow or deep or there are obstacles that hinder building a dock then they need to be considered. Just like building a house you cannot just build a specific size, each one is different for many reasons just like a dock. I will ask the county to put themselves in the shoes of these land owners and if it was there property or children, grand children, friend, and so on would you not want a safe environment for them to use the lake. Each dock needs to be build custom. I understand that a huge dock is not realistic but what you are proposing is not as well. So please consider this. Thank you. Renee Robison

March 15, 2016

Good evening Commissioners and members of the audience. My name is Hal Rooks and I am a member of the Guemes Island Policy Advisory Committee.

A key concern of the Guemes Sub-Area Plan was the need for **increasing building setbacks from the shore**, to provide greater protection for shoreline resources and habitat. Setbacks play an important role in meeting the State's directive of ensuring "no net loss" of shoreline functions over time.

The County's draft SMP incorporates the setbacks recommended in the Guemes Plan: 150' in the Rural Conservancy Environment and 100' in Shoreline Residential. However, the County proposal also incorporates a **new variance process** that would allow these setbacks to be reduced up to 50 percent by a simple administrative decision, with no required hearing before the Hearing Examiner nor approval by the State.

This proposed variance process is inconsistent with the Guemes Plan goal of achieving greater building setbacks to protect shoreline functions and resource values. Even worse, from our perspective, when combined with the new methodology for calculating shoreline setbacks—i.e. the average setbacks of neighboring properties will no longer be taken in to consideration—in some cases shoreline setbacks could actually be less than the present plan provides, and all through a simple administrative action. In our view, administrative discretion to reduce shoreline setbacks should be no greater than 25 percent.

Docks: On a different topic, the Guemes Sub-Area Plan notes that **piers and docks** are vulnerable to break-up by the powerful, often destructive currents and tides that move around the island. For this reason, the plan would prohibit individual private docks along its shoreline. We ask that this prohibition be added to the draft SMP, for protection of property owners as well as the environment.

Mining: The proposed SMP would allow **mining** as a Conditional Use in the Rural Conservancy Environment. We find this provision completely inconsistent with protection of fragile shoreline resources on Guemes Island and ask that mining and associated activities be prohibited in the shoreline, consistent with the adopted Guemes Sub-Area Plan.

Commercial Aquaculture: The Guemes Plan states that commercial aquaculture "shall not be permitted on the shoreline of Guemes Island because of its potential to significantly degrade ecological functions over the long term." We ask the County to include this prohibition in the draft SMP.

Thank you for your consideration.

Hal Rooks
1219 10th St.
Anacortes, WA. 98221

From: Patty Rose
To: PDS comments
Subject: Comments on the Skagit County Shoreline Master Program Update
Date: Tuesday, March 15, 2016 12:10:20 PM

My name is Patty Rose. I am a member of the Guemes Island Planning Advisory Committee and my husband, John, and I are waterfront property owners on Guemes Island. We write in

favor of retaining the largest possible setbacks from our bluffs and beaches and retention of native vegetation as specified in the Guemes Island Sub-Area Plan.

Our GIPAC proposed setbacks are based on a long process of citizen involvement and study. The proposals come from people who know Guemes Island intimately and have a deep concern for the well-being of this landscape and the people who live here. The beaches on Guemes Island are some of the most pristine in the San Juan Islands and our feeder bluffs contribute greatly to the health of surrounding waters and sea life.

When we built our island home, our architect urged us to build closer to the shore. ***It seemed a given that it was a good idea to get as close to the water as possible. I am afraid that if we hadn't had previous experience with beachfront erosion and the effects of climate change, we would have done so and time has shown that would have been a mistake.*** This winter and last, our bank, which faces north and east has eroded more than in the previous 8 years combined. During the recent storm our neighbors lost a beachfront ladder which has been in place for 30 years, and there is evidence of significant erosion from the beaches all around Guemes. I am convinced that setbacks and shoreline vegetation are as helpful to the citizens who build as they are to our shoreline and waters.

Furthermore, I urge Skagit County to notify neighbors and allow for comment and review if property owners request a variance to the shoreline setback. I urge that your decision respect a community process which has been built over many years.

Thank you for your time, attention and hard work on the Shoreline Master Program

John and Patty Rose

4829 Guemes Island Road
Anacortes, WA 98221

From: Valerie Rose
To: PDS comments
Subject: Please support the draft Shoreline Master Program
Date: Monday, April 04, 2016 2:48:02 PM

Dear Skagit County Planning Commission

I am writing to urge support for the draft Shoreline Master Program. It is essential to help protect and restore the health of Puget Sound. Skagit County is consistent with other Puget Sound communities and jurisdictions who have updated their Shoreline Master Program (SMP) with strong environmental safeguards for their shorelines. I like to express my support for the SMP update that incorporates strong safeguards for our vital shoreline and is based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property.

Thank you for your good work on this important issue.

Valerie Rose
1434 S. 12th St.
Mt. Vernon, WA 98274

From: srsracing@frontier.com
To: PDS comments
Subject: Skagit County Shoreline Master Plan Update
Date: Monday, April 04, 2016 2:43:38 PM

Name: Lori Scott Address: 3351 Old Hwy 99N Burlington WA Proposal: Shoreline Masterplan Update

As Skagit County updates the Shoreline Master Plan, please take into account the following:

1) While it is important to plan and have guidelines and consistency where possible, it is even more important to recognize that Skagit County has diverse shorelines and each must take into account the specific issues relating to each area. For example, Guemes Island and Lake Cavanaugh each have specific issues which are completely different from each other and from other shorelines in Skagit County. 2) For those areas that have sub area plans, the Shoreline Masterplan should reflect the sub area plan as much as possible. Areas with unique shorelines and already extensive development need to be addressed independently (to the extent possible) to take into account existing development and how new regulations would impact the existing homes, docks, and future growth or rebuilding. In some areas, reducing buffer areas could have a detrimental effect but in others, it may make sense to do so.

3)Once an updated plan is approved, there needs to be a methodology for special use permits to protect and maintain shoreline but allow responsible development where possible. Although Skagit County Staff has planning knowledge, it is imperative that residents nearby any newly proposed shoreline application for development be given notice so that the residents most familiar with the area have opportunity to provide input about any new development. Purely administrative approvals may not take into account specific issues that nearby residents are aware of due to their proximity and history of the areas.

Most residents of Skagit County who currently reside near or on a shoreline are good stewards of the shoreline and have extensive knowledge of both positive and negative impacts on the ecology. Their input is essential and any governmental plan or regulation which cannot be modified on a cases by case basis can cause more harm than good.

Thanks you for carefully considering the diversity, beauty and unique needs of the many shorelines in Skagit County.

From: Alger Watershed
To: PDS comments
Subject: Ed Stauffer/ Box 114, Bow, Wa 98232/"Shoreline Master Program Update"
Date: Monday, April 04, 2016 12:49:24 PM

In the mid 1960's, the Skagit County Board of County Commissioners charged Planning Department Director Kite to prepare a comprehensive growth and resource conservation plan for Skagit County. This plan, available on the County website, was created through public process during the decade of the seventies, and prevailed until 1997, when it was replaced by the Skagit County Comprehensive Plan mandated by passage by the State Legislature of the Growth Management Act on April 1, 1990. Much of the Kite Skagit plan was incorporated into this new GMA required plan.

Even though the pressure to plan was occasioned by uncontrolled growth in the central Puget Sound Urban Core, handsome grant funding was made available to even such rural jurisdictions as Skagit, to plan in conformance with the GMA guidelines. For those who wish to understand this legislative action, a review of the Secretary of State retrospective interview by Rita Robison of Speaker of the House Joe King done on August 2, 2005 is authoritative; he led the Legislature in crafting, passing, and then implementing the Growth Management Act RCW 36.70A. The interview is posted on the Secretary of State website at*www.sos.gov/legacyproject/pdf/OH811.pdf* .

The Point: Skagit County has enjoyed since 1997 a thorough, modern, legal, dynamic, state required, monitored, approved, and current land use plan based on managing growth for the protection and conservation of natural resources and land use. It is required under GMA law that the integrity of this law be maintained by strict compliance with due process rules which vet any proposal for change as consistent and congruent with the extant plan. The current proposal for adoption of a replacement Shoreline Management Plan, for inclusion as Chapter 6 of our Skagit Comprehensive Plan, while possibly having merit for stressed core urban dwellers, is inappropriate and unnecessary for Skagit County.

The citizens of unincorporated Skagit County are dependent on three elected County Commissioners and their nine appointed volunteer planning commissioners for civic representation. We have no mayors, nor elected councils to represent our interests. We have only you and an aged bureaucratic staff. You cannot function without understanding the plight and status of your constituents. To this end, I recommend that you review two documents seminal to our GMA plan development available from the Dept of Commerce (previously Community Trade and Economic Development):

Defining Rural Character and Planning for Rural Lands
Keeping the Rural Vision, Protecting Rural Character and Planning for Rural Development, written by Heather Ballash of CTED.

These are the guidelines for our current plan for the 40,000 rural residents of Skagit County, and our resource conservation plan. Our resultant unincorporated Skagit Community remains vibrant, resilient, sustainable, and healthy with no need for top down interference. There is no document in the update materials provided by staff of any locally expressed or discovered need for

modification of our 1976 Shoreline Master Plan, which was limited and focused on marine shorelines. The current proposal calls for massive overreach with no analysis of economic impact. This proposal does not meet the tests of "bottom-up" planning as required under legislative and gubernatorial guidelines for GMA planning, nor has this project been vetted for compliance and consistency with our extant Comprehensive Plan as required by statute.
The field research provided by consultants for baseline development for enforcement is inaccurate, incomplete, and unreliable.

The intended role and format for involvement of our Planning Agency Planning Commission is flawed and broken resulting in abuse and marginalization of the talents of our citizen volunteers. Despite repeated request, rarely, if ever, has the Planning Commission received materials scheduled for deliberation more than 24 hours prior to its scheduled deliberation. Indeed, a reading of the transcript of the March 1 Open House and work session, fourteen days prior to the scheduled public hearing, reveals that the record for the hearing remains seriously incomplete and unknown. In the same transcript we are informed that staff does not understand the proposal, or its stated goal, even after four and a half years of conjuring with it. The required quarterly reports of progress and finances ended in 2013.

The Citizen Advisory Committee held its final meeting (#11) on May 8, 2012. In the last paragraph of their last meeting transcript is the statement "Several members voiced , , , they still do not have a full sense of the scope of the SMP Document and are concerned."

We were advised at the March 1 Planning Commission Meeting by staff that "the legislature had written the guidelines in 2003. Do we actually know who wrote them and why? I seriously doubt that they were written by "the Legislators".

The time has come for the Planning Commission to become both ProActive and Assertive in applying its by-laws to proper function. The kicking down the road of the involvement of our elected officials to nothing more than signing off on the end result leaves the Planning Commission in a battle of wits with staff while unarmed. Again, from the March 1 transcript, we find that staff does not necessarily address the concerns expressed by Planning Commission Members during work sessions with staff.

We also witnessed at this March 1 session Chair Axthelm's concerns over inclusion of the rogue never adopted "Open Space Concept Plan". To his concerns I would add frequent references to the never adopted Alternative Futures (Envision 2060) plan, the adoption as appendix to the proposed new Ch 6 of our Comp plan of the Critical Areas Ordinance, and the adoption "by reference", of the recently added 200 page new Park plan as a unilateral unauthorized inclusion, all,,apparently, at the instigation of staff. Were these additions to "the guidelines" discussed and explained?
This one size fits all document flies in the face of the required bottom up process, and cannot even be considered without first satisfying the statutory requirement of due process submittal of comp plan amendment proposals for docketing consideration at the annual opportunity.
Senator Roach conducted a Joint Senate Committee Hearing in Sumner, Wa. a little over a year ago on the Statewide unhappiness with Ecology and its SMP activities. She stated for the record that the conduct of Ecology had been **Arbitrary and Capricious.** Humanely bury this project**,** please.

As a citizen of Skagit County, I apologize for the frustrating experience you have had; together we can, and will, make the necessary adjustments I also thank the members of the Citizen Committee for their civic participation, even though their work seems to have fallen by the wayside. Thank you all for your service. Ed Stauffer

From: jonathan stein
To: PDS comments
Subject: I support the draft SMP
Date: Saturday, April 02, 2016 12:50:27 PM

Dear Skagit County Planning Commission

With hundreds of miles of shoreline, this is our opportunity to help protect and restore the health of Puget Sound. Skagit County is instep and consistent with other Puget Sound communities and jurisdictions who have updated their Shoreline Master Program (SMP) with strong environmental safeguards for their shorelines. I like to express my support for the SMP update that incorporates strong safeguards for our vital shoreline and is based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property.

Thank you for your good work on this important issue.

jonathan stein
19617 risto rd
battle ground, WA 98604

To – Skagit River Master Program Update

From – George Theodoratus
Theo Investments LLC
37921 State Route 20
Concrete, WA 98237

I would like to comment on vesting rights for existing platted Lots or Lots of records that had variances or administrative approval on critical area setbacks or shoreline setbacks along the shorelines.

All variances or approvals should be honored and vested.

I have properties that have received critical area review and approval of critical area setbacks. I request that the existing county approvals continue to be what is used when reviewing development applications for the Lots spelled out in the following critical area and or shoreline approvals.

1. Variance from the hearing examiner #CV97-0546 for Wilderness Village Division 3
2. Variance P103-0464 for Lots 5, 6 and 11 of the plat of Skagit Sunset and Lot 1 of Short Plat 42-89

Thank you for your consideration. If you need more information please contact me at cell phone 360-390-1471 or home phone 360-825-3635.

George Theodoratus
Theo Investments LLC
37921 State Route 20
Concrete, WA 98237

To Skagit County Shoreline Master Program Update

From George Theodoratus
Theo Investments LLC
37921 State Route 20
Concrete, WA 98237

I would like to comment and object to the placement of Rocky Creek in a shoreline designation of the Master Plan Update as follows;

Rocky Creek is not designated as shoreline in the existing shoreline master program.

Theo Investments has the only privately owned land on Rocky Creek which is located south of the SR 20 Bridge. The land is platted in to lots with the property lines in the center of the creek.

Past physical measurements of the stream flow were measured at the Rocky Creek Bridge approximately ½ mile upstream from its entrance to the Skagit River.

I understand from talking with the USGS that the new way of determining the stream flow where there is very little physical evidence to meet the 20 C.F.S. requirements is to take the annual rainfall in the drainage area and the square miles of the drainage area to determine the C.F.S. of the stream. The water comes in with rainfall and goes out in the stream.

There are other factors that should be put into the equation like;

1. The amount of evaporation of water
2. The amount of water being used by trees
3. The amount of water that is surface water from the drainage area
4. The amount of water that is ground water from the drainage area

In the case of the Rocky Creek the stream has more water in it North of SR 20 bridge as it flows South about 200 feet south of the SR 20 bridge.

The stream flattens out and a portion of the water soaks into the creek bottom and turns into ground water and is no longer surface water.

I have owned most of the property for over 25 years.

I have seen the stream dry up for three different years about 1000 feet upstream of the Skagit River.

Under my ownership the lower portion of the creek has dried up every year during late summer before it flows in the Skagit River.

The 20 C.F.S should be surface water not ground water.

In the area under my ownership a good share of the water turns into ground water and during late summer the lower portions of the stream dries up, turning it into an intermittent stream.

I would appreciate your efforts to keep Rocky Creek from the new shoreline designation.

If you need more information or comments, please contact me. Cell phone is 360-391-1470 and home phone is 360-826-3635.

George Theodoratus
Theo Investments LLC
37921 State Route 20
Concrete, WA 98237

From: Tim Trohimovich
To: PDS comments
Subject: Comments on the Skagit County SMP Update
Date: Monday, March 14, 2016 8:08:51 PM
Attachments: image001.png

Dear Ms. Stevenson and Planning Commissioners:

Thank you for the opportunity to comment on the Shoreline Master Program (SMP) Update. In short, we strongly support the SMP Update. We believe that the update is excellent. It is well written, based on an excellent understanding of Skagit County's shorelines and the science behind good management of the county's shorelines, and contains many helpful protections for water quality, people, and property. To cite just one example, the "ReadMe » About this Document" section is very well done. We do have a few recommendations to protect shoreline resources and people and property below.

Futurewise is working throughout Washington State to create livable communities, protect our working farmlands, forests, and waterways, and ensure a better quality of life for present and future generations. We work with communities to implement effective land use planning and policies that prevent waste and stop sprawl, provide efficient transportation choices, create affordable housing and strong local businesses, and ensure healthy natural systems. We are creating a better quality of life in Washington State together. Futurewise has supporters across Washington State, including Skagit County.

Proposed 14.26.305(1) and (2)

We very much appreciate that proposed 14.26.130 recognizes that the SMP applies to activities. We recommend that proposed 14.26.305(1) and (2) also apply to activities in addition to "uses and developments."

Table 14.26.310-1

We strongly support the provisions in Table 14.26.310-1, especially the proposed buffers. They will help protect water quality, shoreline ecological functions, and people and property.

The Shoreline Master Program Guidelines, in WAC 173-26-211(5)(b)(ii)(D), provide that "[s]cientific studies support density or lot coverage limitation standards that assure that development will be limited to a maximum of ten percent total impervious surface area within the lot or parcel, will maintain the existing hydrologic character of the shoreline." So we recommend that the hard surface limits for the Rural Conservancy and Urban Conservancy shoreline environments be limited to ten percent.

We also recommend that Table 14.26.310-1 include minimum lot widths for lots outside urban growth areas. In shoreline areas there is a strong incentive to have narrow lots along the shoreline since waterfront lots are highly valued. This can lead to narrow lots and buildings that are built cheek-by-jowl along the water – which is the historic practice of cramming as many water-access lots in as possible – cutting the wildlife in the uplands off from the water areas and vise-versa. While modern rural lot area requirements reduce this likelihood, reasonable lot width requirements prevent long narrow lots that can meet area requirements and still place houses close together. Minimum lot widths need to allow wildlife to pass through residential areas to use upland areas and to use shorelines. A simple lot ratio of 3:1 can address this problem. Another alternative would be to establish 300' lot widths for the Conservancy and Natural shoreline environments.

14.26.340 Archaeological, Historic, and Scientific Resources

We appreciate and support the archaeological, historic, and scientific resources policies and regulations. Many historical and cultural sites are located in shoreline jurisdiction due to the availability of water, food sources, and transportation routes. The Washington State Department of Archaeology and Historic Preservation has developed an archaeological predictive model that can predict where archaeological resources are likely to be located and where the department recommends archaeological surveys should be completed before earth disturbing activities and other uses and activities that can damage archaeological sites are undertaken. Russell Holter, Washington State Department of Archaeology and Historic Preservation, *Protecting the Past Using Tools of the Future: Archaeology Predictive Modeling* p. 5 (Presentation: 10/2/2014) accessed on March 14, 2016 at: http://www.infrafunding.wa.gov/downloads/2014_Conference_Presentations/S53.pdf. The results of the predictive model are available for Skagit County to use in planning and project reviews from the Washington State Department of Archaeology and Historic Preservation's WISAARD, Washington Information System for Architectural & Archaeological Records Data, online mapping tool. You can access WISAARD here: http://www.dahp.wa.gov/learn-and-research/find-a-historic-place Many shoreline areas in Skagit County, and Washington State, are rated "survey recommended moderate risk", "survey highly advised high risk," and "survey highly advised very high risk." See the WISAARD website.

Addressing archaeological resources upfront before projects begin can save money. For example, the Jefferson County Public Utility District's (PUD) contractor building a community septic system at Becket Point in Jefferson County encountered human bones and Native American artifacts. Jeff Chew, *Jefferson PUD sticks with Beckett Point* Connections p. 8 (Washington Public Utility Districts Association [WPUDA]: Winter 2008). The contractor had to stop construction. An archaeologist was called in and conducted an investigation that allowed the project to be redesigned and to be completed. However, PUD staff "estimated the delays and additional engineering incurred because of the artifacts added about $90,000 to the project's cost." *Id.* at p. 9. That money could have been saved by an upfront archeological investigation. So to both protect archaeological resources and to forestall project stoppages, we recommend that proposed 14.26.340(3) and (5) be modified to read as follows with our additions underlined and our deletions struck through.

(3) Site inspection and evaluation. Proposals for shoreline development or use in or on areas within 200 feet of a site rated as rated "survey recommended moderate risk," "survey highly advised high risk," and "survey highly advised very high risk" by the current version of the Washington State Department of Archaeology and Historic Preservation's

archaeological predictive model or documented to contain archaeological, historic, or scientific resources require site inspection and evaluation by qualified personnel prior to any development activity in or on the site. In areas within 200 feet of a site rated as rated "survey recommended moderate risk," "survey highly advised high risk," and "survey highly advised very high risk" by the current version of the Washington State Department of Archaeology and Historic Preservation's archaeological predictive model or documented to contain archaeological resources, site inspection and evaluation must be performed by a professional archaeologist in coordination with affected Indian tribes. [SMP 7.14(2)(B)(2)(a); WAC 197-26-221(1)(c)(ii)]

(5) Adjacent and nearby development. Proposals for shoreline development or use adjacent to or nearby areas rated as rated "survey recommended moderate risk," "survey highly advised high risk," and "survey highly advised very high risk" by the current version of the Washington State Department of Archaeology and Historic Preservation's archaeological predictive model or documented to contain archaeological, historic, or scientific resources must be located, designed, and operated to not adversely affect the purpose, character, or value of such resources. [SMP 7.14(2)(B)(4)]

14.26.350 Flood Hazard Reduction.

Sea level rise is a very real problem that is happening now. Sea level is rising and floods and erosion are increasing. In 2012 the National Research Council concluded that global sea level had risen by about seven inches in the 20th Century and would likely rise by 24 inches on the Washington coast by 2100. National Research Council, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* p. 23, p. 156, p. 96, p. 102 (2012) accessed on March 14, 2016 at: http://www.nap.edu/catalog.php?record_id=13389 The general extent of the two feet of sea level rise currently projected for coast can be seen on the NOAA Coastal Services Center Sea Level Rise Viewer available at: http://coast.noaa.gov/digitalcoast/tools/slr/

Ecology writes that "[s]ea level rise and storm surge[s] will increase the frequency and severity of flooding, erosion, and seawater intrusion—thus increasing risks to vulnerable communities, infrastructure, and coastal ecosystems." State of Washington Department of Ecology, *Preparing for a Changing Climate Washington State's Integrated Climate Response Strategy* p. 90 (Publication No. 12-01-004: April 2012) accessed on March 14, 2016 at: http://www.ecy.wa.gov/climatechange/ipa_responsestrategy.htm Not only our marine shorelines will be impacted, as Ecology writes "[m]ore frequent extreme storms are likely to cause river and coastal flooding, leading to increased injuries and loss of life." Id. at p. 17.

A recent peer reviewed scientific study ranked Washington State 14th in terms of the number of people living on land less than one meter above local Mean High Water compared to the 23 contiguous coastal states and the District of Columbia. Benjamin H Strauss, Remik Ziemlinski, Jeremy L Weiss, and Jonathan T Overpeck, *Tidally adjusted estimates of topographic vulnerability to sea level rise and flooding for the contiguous United States* 7 Environ. Res. Lett. 014033, 4 (2012). Accessed on March 1, 2016 at: http://iopscience.iop.org/1748-9326/7/1/014033/article This journal is peer reviewed. Environmental Research Letters "Submission requirements" webpage accessed on March 1, 2016 at: http://iopscience.iop.org/1748-9326/page/Submission%20requirements This amounted to an estimated 18,269 people in 2010. *Id.* One meter, 3.28 feet, is within the projected sea level rise estimates of three to four feet or more for the end of this century. Washington State Department of Ecology, *Preparing for a Changing Climate: Washington State's Integrated Climate Response Strategy* p. 82 (Publication No. 12-01-004: April 2012).

Sea level rise will have an impact beyond rising seas, floods, and storm surges. The National Research Council wrote that:

> Rising sea levels and increasing wave heights will exacerbate coastal erosion and shoreline retreat in all geomorphic environments along the west coast. Projections of future cliff and bluff retreat are limited by sparse data in Oregon and Washington and by a high degree of geomorphic variability along the coast. Projections using only historic rates of cliff erosion predict 10–30 meters [33 to 98 feet] or more of retreat along the west coast by 2100. An increase in the rate of sea-level rise combined with larger waves could significantly increase these rates. Future retreat of beaches will depend on the rate of sea-level rise and, to a lesser extent, the amount of sediment input and loss.

National Research Council, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* p. 135 (2012).

A recent paper estimated that "[a]nalysis with a simple bluff erosion model suggests that predicted rates of sea-level rise have the potential to increase bluff erosion rates by up to 0.1 m/yr [meter a year] by the year 2050." George M. Kaminsky, Heather M. Baron, Amanda Hacking, Diana McCandless, David S. Parks, *Mapping and Monitoring Bluff Erosion with Boat-based LIDAR and the Development of a Sediment Budget and Erosion Model for the Elwha and Dungeness Littoral Cells, Clallam County, Washington* p. 3 accessed on March 14, 2016 at: http://www.coastalwatershedinstitute.org/Final%20Report_Clallam%20County%20Bluffs%202014_Final%20revised.pdf. This translates to four additional inches of bluff erosion each year.

Homes and other buildings constructed today are likely to be in use 2100. And new lots created today will be in use in 2100. This is why the Washington State Department of Ecology recommends "[l]imiting new development in highly vulnerable areas." State of Washington Department of Ecology, *Preparing for a Changing Climate Washington State's Integrated Climate Response Strategy* p. 90 (Publication No. 12-01-004: April 2012). So we recommend that new lots and new buildings be located outside the area of likely sea level rise. So we recommend the following new regulations be added to Section 14.26.350(4) on page 69.

(f) New lots shall be designed and located so that the buildable area is outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands will likely migrate during that time.

(g) Where lots are large enough, new structures and buildings shall be located so that they are outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands will likely migrate during that time.

14.26.460 Mining.

Gravel mining in flood plain, floodways, and channel migration zones has the potential to adversely impact rivers and streams. As the Washington State Department of Natural Resources geology staff have written:

> Seeking the lowest cost material, gravel miners commonly choose to excavate large, deep ponds adjacent to active river channels … Wherever a channel shifts into a gravel pit or multiple pits that are large relative to the scale of the flood plain and the river's sediment transport regime, natural recovery of original flood plain environment and similar channel morphology could take millennia (Collins, 1997). The time for recovery is highly dependent on the availability of sediment, particle size, gradient, and the size of excavations to be filled. Regardless of the best planning and intentions, impacts of flood-plain mining may simply be delayed until the river is captured by the gravel pit. While capture may not occur in the next 100-year flood event, it is likely to occur in the future as development and consequent flood magnitude increase. In the long term, stream capture by gravel pits is a near certainty. Because the gravel pits have a lower base elevation, there is risk of rapid channel change into the pits during high flows, a process termed avulsion. The flooded pits "capture" the stream. The effects of avulsion are similar to those of in-stream mining discussed in Evoy and Holland (1989), Collins and Dunne (1990), Netsch and others (1981), Kondolf and Graham Matthews (1993), Kondolf (1993, 1994), and Williamson and others (1995a,b). They may include:
>
> - lowering the river bed upstream and downstream of mining operations, causing river bed erosion and (or) channel incision and bank erosion and collapse,
> - eroding of footings for bridges or utility rights-of-way,
> - changing aquatic habitat,
> - unnaturally simplifying the complex natural stream system,
> - increasing suspended sediment, and
> - abandoning reaches of spawning gravels or damaging these gravels by channel erosion or deposition of silts in spawning and rearing reaches.[1]

David K. Norman, C. Jeff Cederholm, and William S. Lingley, Jr, "Flood Plains, Salmon Habitat, and Sand and Gravel Mining" *Washington Geology*, vol. 26, no. 2/3, pp. 4 – 13 (Sept. 1998) accessed on March 14, 2016 at: http://file.dnr.wa.gov/publications/ger_washington_geology_1998_v26_no2-3.pdf

Unfortunately, proposed 14.26.460(4)(c) does not contain any standards to prevent these adverse impacts on the environment and nearby property owners. If mining is going to be allowed in flood plains, floodways, and channel migration zones, which the SMP Update allows, then standards are needed. We recommend the following regulations.

First, mines should be located outside the channel migration zone so that they do not increase the rate of channel migration. Second, mines should be no deeper than the bottom of the nearby streams and rivers so when the river moves into the mine, which is a certainty, the impacts will be reduced. Third the mine reclamation plan should have a design so that when the river or stream is captured by the river or stream the mine it is not so wide that the captured sediments destabilize the river or stream or increase erosion risks on upstream properties.

Thank you for considering our comments. Again, the SMP Update is excellent. We hope these recommendations will make it even better.

Please contact me if you require additional information.

Tim Trohimovich, AICP
Futurewise ¦ Director of Planning & Law
816 Second Avenue, Suite 200 ¦ Seattle, Washington 98104
p. 206.343.0681 Ext. 118
Email: tim@futurewise.org

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[1] David K. Norman, C. Jeff Cederholm, and William S. Lingley, Jr, "Flood Plains, Salmon Habitat, and Sand and Gravel Mining" *Washington Geology*, vol. 26, no. 2/3, pp. 4 – 13 (Sept. 1998) accessed on March 1, 2016 at: http://file.dnr.wa.gov/publications/ger_washington_geology_1998_v26_no2-3.pdf

From:	PDS comments
To:	Debra L. Nicholson
Subject:	FW: Comments on the Skagit County SMP Update
Date:	Tuesday, March 15, 2016 9:54:13 AM
Attachments:	image001.png

From: Tim Trohimovich [mailto:Tim@futurewise.org]
Sent: Monday, March 14, 2016 8:39 PM
To: PDS comments
Subject: RE: Comments on the Skagit County SMP Update

Dear Ms. Stevenson and Planning Commissioners:

It just occurred to me that since I do not have a link to the *Jefferson PUD sticks with Beckett Point* article I should send you a copy. Here it is.

Thanks again for considering our recommendations.

Tim Trohimovich, AICP
Futurewise ¦ Director of Planning & Law
816 Second Avenue, Suite 200 ¦ Seattle, Washington 98104
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25 YEARS futurewise
Building Communities & Protecting the Land

Jefferson PUD sticks with Beckett Point

By Jeff Chew

A study team processes material from the site at Beckett Point where human remains were discovered. Photo: The Seattle Times

The Jefferson County PUD recently completed a $2.8 million community septic system for the residents of Beckett Point, a 70-year-old fishing and vacation community on Discovery Bay, addressing a growing concern about pollution from failing septic tanks that in many cases were nothing more than 55-gallon oil drums buried in the sandy soil.

But there was a time last spring when it looked like the PUD might be forced to walk away from the project, which involves pumping sewage away from the water's edge uphill to a community drain field.

When the contractor, Pape and Sons, unearthed some human bones and Native American artifacts, the state Department of Archaeology and Historic Preservation shut down the project. An archaeological survey later uncovered more remains and signs of ancient cooking fires.

After years of planning, and with more than $1 million already spent, it was possible that the project would have to be abandoned.

"We were looking at Port Angeles, and quite honestly, we don't have that kind of money," said Jefferson County PUD General Manager Jim Parker, recalling what happened three years ago when the state Department of Transportation was forced to abandon plans for a dry dock after spending nearly $90 million. In that case, the state eventually agreed to pay the Lower Elwha Klallam tribe $2.5 million to rebury hundreds of remains and care for artifacts uncovered during excavation.

Shortly after the bones and bone fragments were discovered at Beckett Point, the PUD and Jefferson County commissioners held a joint meeting at the county courthouse in Port Townsend. They were joined by Allyson Brooks, director of the state Department of Archaeology and Historic Preservation, state Reps. Lynn Kessler and Kevin Van De Wege, tribal representatives and a number of Beckett Point residents.

The county agreed to split any costs caused by the archaeological discovery with the PUD, and eventually secured a $50,000 grant from the state Department of Ecology grant. Seattle-based archaeologist Gary Wessen, who was joined by observers from the Jamestown S'Klallam, Port Gamble S'Klallam and Skokomish tribes, was hired to further investigate the site.

In mid-July, Wessen reported a single partially intact human grave was found along with a concentration of other disturbed bones, stone tools and shell middens, indicating the remains of ancient beach campfires. Wessen said the remains were possibly a few thousand years.

"This work has identified four areas of potentially intact shell midden deposits and five additional areas where clearly disturbed shell midden materials are present," said Wessen, whose study allowed the state's top archaeologist, Brooks, to allow PUD to resume work in September.

With Wessen's report in hand, the PUD also agreed to re-engineer some of the septic system infrastructure to avoid disturbing the shell middens, and the state agreed to let the project continue, with an archaeologist on site during the digging.

"We were lucky," Parker said. "We were afraid of the worst, but it turned out okay. Beckett Point residents really needed this project." Parker estimated the delays and additional engineering incurred because of the artifacts added about $90,000 to the project's cost.

Beckett Point, named by English explorer George Vancouver in 1792, is owned by the Beckett Point Fisherman's Club. Founded in 1939, the club leases home sites to nearly 100 families, including many that have lived there for generations.

Beckett Point, named by English explorer George Vancouver in 1792, is owned by the Beckett Point Fisherman's Club. Founded in 1939, the club leases home sites to nearly 100 families, including many that have lived there for generations.

In recent years, the county had begun cracking down on issuing building permits for residents to improve or expand their homes because of inadequate septic systems, and seven years ago the Fisherman's Club approached the PUD about installing a community drain field. The project included "grinder pumps" – like large garbage disposals – for each home, pumping stations and buried pipelines to carry sewage to the inland drain field.

"It really means the protection of our surroundings, the bay and the piece of land we have," said Patty Sahlinger, Beckett Point Fisherman's Club secretary and a full-time resident for 10 years.

Although some residents were originally reluctant to pay their share of the project, Sahlinger said that changed in recent years, despite the fact that the cost per resident is about $28,000. A notice posted to the Fisherman's Club website in March 2007 indicated the vote at a special meeting to determine whether to proceed with the project was almost unanimous.

Ed Edwards, a Fisherman's Club board member, called the Jefferson PUD "a class act" for sticking with the project.

After the Fisherman's Club approached PUD commissioners in 2000, the PUD helped the Fisherman's Club form a local utility district and arranged interim project financing through a public-private partnership. "It's a deal that had to happen," said Jefferson PUD Commissioner Wayne King. "It's fortunate we were able to assist the residents of Beckett Point and help clean up Discovery Bay."

Jeff Chew is a reporter for the Peninsula Daily News and supervises the newspaper's bureau in Port Townsend.

From:	Richard Wagner
To:	Betsy D. Stevenson
Cc:	PDS comments
Subject:	SMP Update
Date:	Sunday, March 13, 2016 8:55:53 PM

Dear Planning Commissioners,

Thank you for the opportunity to comment on the current draft of the update for our County's Shoreline Management Program.
I am a property owner on the far west shore of Lake Cavanaugh where my family has been part of the community for more than 60 years. As a further introduction, I am a fellow in the American Institute of Architects; I've practiced planning and architecture for the last 43 years; and, perhaps most relevant to your commitment, I invested 14 year in my local Planning Commission, during the early years of the Growth Management Act.

With this background, I hope you will give my comments your full consideration.

1) In the Memorandum to the Commission from staff, January 27, 2016, in the notes on Reconstruction, the memo highlights that
"if the applicant submits a complete application within 12 months (and may request a 12-month extension of that deadline), and completes reconstruction within five years."
Although this may be more generous than the existing SMP, I would suggest an amendment that would allow the applicant even further time if, in consideration of rebuilding, the applicant applies for Shorelines and/or CAO approval of an expansion of the structure, if the expansion is no more than 100% of the original structure. In such cases, the timelines should commence at the time of the CAO approval.
Many of the structures currently around the lake a very small, and it would be most egregious if the COA approval process caused the rebuild to expire prior to approval.

2) 14.26.405-1 Dimension Standards (page 90 of the SCC)
I was not able to confirm that the Shoreline Designation for Lake Cavanaugh is "Shoreline Residential", although such is shown on the DRAFT plan submitted by Watershed. The SMP update needs to include the Shoreline Designations Map.
Please note that the definition of the term "Buffer" is not to be found in the SMP. If this defaults to the definition in the Land use code, please so state, but this would be inaccurate, since the LUC definitions os so restrictive.
The inference in this chart is that there is a no-build buffer of 100 ft around the lake, but then one reads that the height limit is controlled is this area, inferring that development is allowed. It would be very helpful to note that the "buffer" as used here, is NOT a no-build, but is a zone of certain development restrictions.
However, if the proposal is to require a 100ft building setback, I would vehemently oppose this new idea. Such a setback would force new structures to have their peripheral vision cut-off and the sense of open space on a waterfront experience would be lost. Worse yet, the edges of the view would typically be obstructed by the neighbor's existing improvements located much closer to the shoreline and treed buffer along the shared property lines.

3) 14.26.420.1.b.ii.B.I Minimum Height (page 15 of the PC Memo)
(I) The bottom of any piers or the landward edge of any ramp must be the maximum practical

height from the ground, but not less than 1.5 ft above the OHWM.
Please imagine exactly how this requirement would affect us on Lake Cavanaugh during the summer months.
Our lake varies greatly from low (summer) to high (winter) water 3 to 4 ft
Clearance, as specified here, above the OHWL 1.5 ft
The 18' piling spacing would force a beam depth of approximately 1.5 ft
The dock joists and decking would add another 1.0 ft
The dock height above the summer water line would be 7 to 8 ft !!
This would be absurd… and in direct conflict with paragraph (x) on page 14 that rightly declares that improvements "do not unreasonably interfere with shoreline views".
This requirement for a 1.5 ft clearance, or any dimension, should not apply to Lake Cavanaugh, since the summer water height is so different from the OHWL.

4) 14.26.420-1 Standards for docks (page 17 of the PC Memo)
a. The proposed limit for Floating Sections is too restrictive, especially considering that much of the Section is translucent, as required in other parts of the SMP update. The proposed 8 ft x 8 ft would only allow for two lounge chairs, ...so where's the cooler go?
At a minimum, if the owner does not propose a swim float, the allowable area of the float can be combined with the Section for a total of 192sf. (12ft x 16ft). The 50% increase is much deserved considering that the piles and/or anchorages for the swim float would not be required.

b. The Maximum Length is also too restrictive. As you evaluate the 50 ft limit, its important to understand that:
The maximum length proposed 50 ft must include the floating section and the ramp to the section
8 ft float sections -8 ft
Ramp to the float sections -16 ft assuming a 2 to 1 slope from 8 ft of height (noted above)
Actual dock length 26 ft Really ?
Is this really the intention of the proposal ???
I suggest that the 50 ft limit be abandoned and that the proposal be changed to include two options that would be consistent with many other Washington State jurisdictions.
- *The length shall not exceed the distance from a line or an arc measured along the OHWL measured at the ends of the adjacent existing docks;*
- *The length may extend to a point where the low water depth is no less than 3 ft, except that the dock shall not exceed 125% of the length otherwise allowed.*

c. Lift Canopies are proposed to be limited to "light permeable fabric". This condition completely defeats the purpose of having a canopy AND does not achieve the desired environmental goals. The canopy is used to keep the vessel clean and dry, so a permeable fabric will crush the very purpose of having a canopy. If the goal is to simply discourage or ban canopies, then state so.
The science and BMP behind shoreline environmental goals is to keep the water cool by shadowing the surface and allowing natural light. Thus, I think any restriction on the fabric should be removed. If removal is not achievable, a better requirement would be for a "translucent" fabric.

Thanks for your consideration of these comments.

Rich Wagner, FAIA
Lake Property: 32787 S Shore Dr., Mt Vernon, WA.

From:	Kurt Wold
To:	PDS comments
Subject:	Shoreline Management Plan
Date:	Monday, March 14, 2016 11:16:57 AM

Team

Dear Skagit Panning Commission and Staff:

This email is sent to comment on the pending Shoreline Management Plan that is being considered for approval. As a property owner at Lake Cavanaugh, I would like to go on record requesting that you consider making modifications to the plan to address the unique conditions of our lake environment.

Here are a couple comments and thoughts -

Dock size , building setbacks and related property and run off creeks. We have all complied with various requirements on existing homes to comply for Septic, Wells, Structure set backs for streams etc. It appears that all we have done to date, will be out of compliance as we go forward with new programs.

With lake fluctuations of 4 feet or more many portions of the lake are quite shallow so it is common to see docks (approved by county etc) - that are 100 feet long to simply access 4 feet deep water. Boats on the lake are recreational in nature and are often 20-25 ft in length. I believe docks should be permitted to allow for these conditions rather than restricted to 8'x8' with a max length of 25 ft from shoreline - which will have difficulty supporting any common sized boat moored to dock during the summer.

My concerns with the 100 Foot setbacks as well as proposals for docks are reflected in the concept of 95% of lots / docks are already developed and how this ruling would impact existing homes, docks allowing for repair/ maintenance and remodel etc.

I presume and hope that this process intention is to apply some practical application and standards to lakes which align with current use.

Thanks for your attention to this matter.

Kurt Wold

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360-422-5457 Lake
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The following comments were received during the written public comment period but were improperly submitted.

Urban dwelling units – 1,415 units. Are these from the area designated as the UGA? Are all of these fee simple properties in the shorelines designation?

Page 16 – Ika Island has been designated a natural area, but is privately owned and managed for timber harvest, is not open to the public and may be more accurately considered Rural Conservancy, much like Burrows and Allan Islands. Parts of Deception Pass State Park may be more suitably designated as Natural.

Page 17 – Net pens are present off of the northwest shore of the Swinomish Reservation. The statement that Sinclair Island would provide significant residential development capacity is inaccurate as there are water availability limits and septic siting constraints on the island.

Page 18 – Management Unit 3: Swinomish Tribal Reservation. The southwest side of the Swinomish Reservation (streets off Pull & Be Damned Road) has over 200 vacant lots. The area is served by water and sewer.

Shelter Bay community was developed using Skagit County development code and building standards from 1964. 44 of the (over 900) lots are a fee simple subdivsion with the balance on leased lands.

Page 19 – Does Management Unit 5: Skagit Bay/Delta have any existing residental units that would come under SMP if replacement were needed post-flooding?

The north end of Swinomish Channel may be problematic for commercial and industrial re-development as some of these lands were created from dredge spoils by the USACE clearing the Swinomish Channel.

Page 23 – 4.3 Potential Use Conflicts. Some discussion about how the framework "allows and/or encourages" preferred uses is needed here.

Page 24 – We agree that minimizing cumulative impacts is important; however the effects of "concentrating development activity in lower functioning areas…. with incremental increases in new development and re-development…" must also be monitored and evaluated to prevent over-development.

Page 25 – We question the amount of additional development that is possible in a LAMIRD and suggest adding the original language that restricts LAMIRD footprint to structures existing since the date of decision about LAMIRDs (1990?). It may be instructive to list LAMIRDS that are in each designation and their size (in acres).

Page 27: Please explain how "prohibited and permitted uses specific to environmental designations limit potential conflicts" without enforcement.

5.2 General Regulations - For Clarification – Please add the word "future" to this sentence. "The proposed SMP requires all **future** uses and developments….".

Page 28: We understand that this is the goal; however the phrase "Significant tree retention in shoreline buffers, critical areas and critical areas must be 100 percent" needs clarification here and in the code. Even if no activity occurs in those areas there may not be 100 percent retention due to natural changes. Perhaps reword to clarify with descriptions like "no tree removal is permitted, no use of logging equipments, etc.).