

Shoreline Master Program
SAG Meeting September 26, 2007

Caucus Representatives

Jerry Barnes – Agriculture
Raleigh Chinn – Business/recreation
Lee Bernheisel – Environment / Conservation
Jon Wyss – Natural Resources
Absent Wendy Witt – Homeowners / Property Owners
Chris Johnson – City of Okanogan
George Brady – Town of Pateros
Chris Branch – Cities of Tonasket and Oroville
Dolores Castillo – Colville Confederated Tribes
Vicky Welch – Methow Watershed Council
Absent – Town of Winthrop
Absent - City of Omak
Absent – Town of Brewster
Absent – Town of Twisp

Member reports

Jerry Barnes brought copies of an article from the Wenatchee World regarding a shoreline ruling in Chelan County; and described a situation at Spectacle Lake in which state regulations conflicted with the terms of a federal contract regarding treatment of the shoreline. It was unclear which should prevail. The landowner eventually complied with the State's requirements.

Jon reported on a recent decision by the State Supreme Court upholding a growth management hearings board ruling regarding riparian buffers. Existing agricultural uses cannot be required to establish riparian buffers in areas that have already been disturbed.

SMP Introduction (Chapter 1)

Kurt Danison gave a brief overview of the Introduction. Questions were addressed during the presentation.

Shorelines of the State

There was some discussion of what water bodies are to be considered shorelines of the state. Clynda said that according to new WAC 173-22-050 the county must come up with the 20 CFS points. Chris asked how that is to be done. Kurt said using best available science.

Lee asked about the timeline. Kurt said the inventory and analysis should be done by the end of this year or the first of next.

Shorelines of Statewide Significance

Development in areas designated as Shorelines of Statewide Significance is subject to a higher level of scrutiny than that in other Shorelines of the State. Local government is required to give preference to uses based on an order of preference established in RCW 90.58. The order of preference is listed in the Introduction, along with guidelines related to each preference statement (p. 3).

Guideline 3.c, “Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas”: Chris J. suggested that the focus on aesthetics seemed short-sighted.

Guideline 4.c, “Public access to natural areas should be based on the ability of the area to support the use.”: George Brady asked whether the guideline could be interpreted in such a way as to close off existing access to Washington Department of Fish & Wildlife land for hunters and fishermen?

Kurt said that the guideline is intended to ensure that uses are aligned with biophysical characteristics of a given shoreline area.

There was some discussion of the term “natural area” used in guideline 4C. The SMP will distinguish between natural shoreline areas and man-made ones such as those in Pateros. Shoreline environment designations will enable natural shorelines to be regulated differently than non-natural or modified ones. “Dikes” will be defined.

Chris asked whether the guideline referred to new public access? They can’t take away existing access points. Kurt said that this only applies to new development.

Chris asked whether improvement of an existing shoreline street end would be considered a new or existing use?

Jeremy Pratt asked how the guidelines associated with the order of preference relate to the goals. Kurt said that they were derived from the 1994 Shoreline Administrators’ Handbook.

Lee said that many of the guidelines came as a result of court decisions. Clynda said that Ecology is developing a new handbook, which will give up-to-date guidance and will reflect case law. We can contact her for guidance.

Shorelines designated as shorelines of the state will be listed in an appendix. Lee suggested that shorelines of statewide significance be listed in the Introduction, since there are few of them.

Chris J. questioned preference 6, regarding increase of recreational opportunities, relative to establishment of water dependent uses. Cities need to be able to plan for urban uses and to pre-designate in UGAs.

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Jerry said that stock watering is an important beneficial use; it will be added.

Chris Johnson asked whether, in commercial areas, there may be provisions for increased density to offset larger setbacks that may be required by the SMP.

Applicability

The group discussed the statement that “All of the general goals, policies and regulations herein are applicable to the entire County and are *at least the minimum* required for compliance with the Shoreline Management Act.” The text will be changed to state that the SMP is intended to meet the minimum requirements of the SMA and the State’s SMP guidelines. That language will provide for the flexibility to address site-specific conditions without undue restriction.

Chris J suggested that the introduction state that “these regulations apply to new development or changes in use.”

Users’ Guide

Brief discussion of restoration plan. At this stage, there is a placeholder in the Introduction, but no text. Kurt said we have to have a restoration plan. Clynda said that the restoration plan does not have to be implemented.

Goals (Chapter 6)

John Umberger asked why we were addressing salmon recovery. Kurt explained the relationship between salmon recovery planning and shoreline management. Chris B noted that revisions to GMA specify that critical areas regulations must address salmonids

General Policies (Chapter 7)

Note: Chapter 7 will address general policies and regulations. Regulations have not yet been drafted; the review draft presented this evening includes policies only.

Lee said he would prefer that the policies call for “no net loss” rather than minimization of impacts.

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1. Overall Development Policies

Kurt wanted to make sure we touched on policies D, E, and F; they are new and relate back to the discussion of applicability in the Introduction.

“J. Any use or activity that cannot be designed and managed to prevent a net loss of shoreline ecological resources and to protect the integrity of the shoreline environment should be prohibited. Exceptions may be made for projects specifically designed to enhance or protect fish, wildlife, or their habitat.” George found the exception for enhancement and protection projects confusing. Kurt explained that the intent is to allow for development of projects such as weirs that are intended to benefit fish but may cause some disruption of existing habitat.

“L. Development standards, including densities and minimum frontage standards, should be established to ensure that all new development results in no net loss of shoreline ecological functions.” John asked about the meaning of “minimum frontage.” Kurt responded that it meant lot width on (fronting) the shoreline. Chris J is interested in the issue of maximum frontage requirements. He wants to ensure that they are appropriate to the scale of development—i.e., not too wide to allow reasonable use in cities.

3. Critical Areas

Flood hazard areas (p. 5), policy “i.”: Sandra noted that the policy is new and the policy is significant—it calls for inclusion of Channel Migration Zones in SMP jurisdiction. Chris Johnson asked about the relationship with federal flood hazard management regulations. Could the policy and regulations stemming from it affect communities’ flood insurance ratings? Kurt and Sandra explained that the provision relates to flood hazard areas in the context of critical areas planning. The distinction will be clarified in the definitions (Chapter 2).

George asked what the CMZ was based on. Kurt said it was from the work that Golder had done.

2. Archaeological, Cultural, Educational, Historic, and Scientific Resources (p.3)

Clynda wondered whether it would be prudent to more clearly define the “vicinity” of known archaeological and historic resources, perhaps by specifying a distance. Such a provision might improve certainty for project proponents.

In the statement “Where feasible, sites containing archaeological and historic resources should be permanently preserved for scientific study and public observation”, Clynda suggested specifying “significant”...resources.

George asked why the SMP addresses tangential issues such as archeology. Clynda said that because people have historically located along shorelines, there tend to be artifacts and sites of cultural importance in those areas. In regulating shoreline development, it is the State’s intent to protect those resources along with others.

5. Environmental Impacts and Water Quality (p. 7)

Sandra noted that Policy C is a variation on the one that was presented earlier, which specified compliance with the *Eastern Washington Stormwater Management Manual*. Chris J suggested retaining the policy as it is written, with the requirement for on-site treatment, and adding “or comply with the *Eastern Washington Stormwater Management Manual*.” Clynda said that runoff treatment is required to be consistent with the eastern Washington storm water treatment manual.

7. Public Access (p. 7)

Policy A is new, developed in response to Clynda’s comment about the requirement for public access planning. Intent is to defer to local comp plans rather than adding another component to the SMP public involvement process. Chris B. noted that the proposed approach gives local jurisdictions flexibility to make changes and plan for, e.g., uses in expanded UGAs, without requiring amendment of the SMP.

Chris J asked how development can be accomplished with no net loss; Kurt said mitigation of impacts would be required.

Next Steps

- Please send any comments on the Goals or General Policies to Char within 10 days (due date: October 8th)
- SAG will meet on October 24th to talk about inventory
- No SAG meetings in November or December

Summary of Major Topics During 9-26-07 Meeting

- Distinguish between natural and man-made shorelines
- Some of the material presented was drawn from an outdated handbook. Ecology is developing new guidance, which incorporates recent case law as well as other updates
- “The SMP is intended to meet the minimum requirements of the SMA and the State’s SMP guidelines.” That language will provide for the flexibility to address site-specific conditions without undue restriction.
- The introduction will clearly state that the SMP applies to new development or changes in use.
- Some of the policies presented were not in the policy discussion paper discussed during previous meetings. Those were highlighted during the evening’s discussion.
- Definitions will be amended to ensure that important terms are defined clearly
- It is not yet clear how the separate needs of cities and the county will be addressed. The finished SMP will need to provide for both sets of needs, including cities’ needs related to UGAs