

# SPAC Comments on Initial SMP Chapter 1 and 3 Proposed Language

*Comments requested as follow-up to 12/14/06 SPAC meeting discussion*

The following comments were submitted by four SPAC members:

## SMP Chapter 1 Introduction

### Jerry Gorsline:

- Some thoughts on defining NNL concept in county SMP update: Perhaps we could introduce in Chapter 1 some version of the following concepts found in the June 2004 Ecology report "What Does No Net Loss Mean in the 2003 SMA Guidelines?"

[MLM Note: This document is found online at <http://www.ecy.wa.gov/pubs/0406020.pdf> ]:

*Uses and development must be carried out in a manner that does not degrade the environmental resources of shorelines. Identification of ecological functions, and proper means to address their preservation over time must be addressed at two levels: the plan level and the project level*

- *environment designations with appropriate use and development standards;*
- *standards that protect critical areas within the shoreline;*
- *mitigation for impacts of uses and development*

*The inventory and characterization phases of SMP development are critical to understanding the shoreline resources of a particular jurisdiction and to establish the base from which compliance with the standard of "no net loss" is to be measured; under this scenario, no net loss can be measured concurrent with permit application.*

*[In addition, evaluate the aggregate effect of future development which includes both the individual impact of each development and the cumulative impact of all of the development that is likely to occur in future*

### John Cambalik:

- Page 1, Lines 13-15 B. Recommend adding specific reference to the protection of shoreline ecological functions, values and/or processes within this statement. For example: "*To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development, ~~and~~ use and the protection of shoreline ecological functions, values, and/or processes of Jefferson County shorelines; and...*". Neither the WAC nor SMP Guidelines were referenced here, so it appears that there is some flexibility for adding to this text.

## SMP Chapter 3 Master Program Elements

### Sarah Krueger:

#### **Chapter [3.]1 – Economic Development**

- p. 1, lines 24-28: Replace "water-oriented" with "water-dependent" to avoid confusion and to be consistent with language in the Shoreline Management Act.

#### **Chapter [3.]2 - Public Access**

- p.2, line 7: There was considerable debate about the reference to the Public Trust Doctrine. However, WAC-173-26-221 (4)(d)(i) states that master programs should implement standards such as public rights under the Public Trust Doctrine.

- p.2, line 12: The policy reads that public access will be *considered* in review of development projects. WAC-173-26-221 (4)(b)(iv) states that “design, construction, and operation of permitted uses” should be *regulated* to “minimize... interference with the public’s use of the water.” WAC-173-26-221(4)(d)(iii) states that the master program should “*provide standards* for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels.”  
Overall, this policy could be more explicit in recommending that regulations or standards include public access provisions for certain types development permits. Of particular concern are developments on private uplands that abut public tidelands.
- p. 2, line 21: Ensure that *all* structures on the shoreline, not just public access amenities minimize visual impacts on the shoreline. Also missing is language referring to WAC-173-26-221 (4)(d)(iv) that asks that the county to adopt provisions to “minimize the impacts to existing views” via height limits, setbacks, view corridors, etc. I would urge that the county not only adopt policies that protect the view of the water from the land, but also the view of the shore from the water.
- p.2, line 23: This statement seems to repeat the essence of line 18-20.
- p.2, line 24: I would argue that the “Shoreline Public Access Plan” is *not* optional, but rather required under WAC-173-26-221(4)(c). That is, unless activities conducted during the Charrette fulfill the public planning process requirement. The language of SMP Guidelines suggests that public access provisions in the master program should be a product of this planning process.

### Chapter [3.]3 – Recreation

- Support the development and improvement of new and existing shoreline trails and water trails, in accordance with Jefferson County’s Non-Motorized Transportation and Recreational Trails Plan. (I specifically mention *trails* because many of the trail systems referenced in the Non-Motorized Plan are not directly linked to the park system).

### Chapter [3.]4 – Circulation

- p.4, line 6: I suggest coordination/integration with Jefferson County’s Non-Motorized Transportation and Recreational Trails Plan to address some alternative modes of transportation.

### Dick Broders:

- Leave out any mention of "the public trust doctrine" or leave it in and include an exact definition of it, one Jefferson County would be willing to stand behind. That is to say, if the County believes "the public trust doctrine" gives everyone the right to be on any and all private tidelands then so state that in the SMP. (Note that capitalizing " the public trust doctrine" is grammatically incorrect as it is not the title of any document.)  
[MLM Note: Ecology information on the Public Trust Doctrine: [http://www.ecy.wa.gov/programs/sea/sma/laws\\_rules/public\\_trust.html](http://www.ecy.wa.gov/programs/sea/sma/laws_rules/public_trust.html)]
- Leave out analysis of every project for public access possibilities. Instead suggest that projects could mitigate with public access opportunities. The concepts of nexus and rough proportionality should definitely be included here also.

### John Cambalik:

#### [3.1] Economic Development

##### Goal

- Page 1, Lines 15 – 18, Do you think the word “minimize” is consistent with “no-net-loss” within this statement? Recommend adding specific reference to “no-net-loss” within this goal statement. “*To promote viable, orderly economic growth by encouraging economic activities that will be an asset to the local economy and minimize disruption or degradation of the shoreline and surrounding environment.*”

##### Policies

- Page 1, Lines 19-23, Recommend adding specific reference to “immediate and cumulative impacts”, “avoidance”, low impact development, and “values” to this statement. For example: “*Promote current economic activities (e.g., shipping, marinas, aquaculture, agriculture, etc.) that have limited immediate and cumulative impacts upon shoreline ecological functions, values, and processes, avoid high valued habitat for future growth, and provide for environmentally sensitive new development using low impact principles and practices.*” Also, do you think the phrase “limited impacts” is consistent with “no-net-loss”?

### [3.2] Public Access

#### Goal

- Page 2, Lines 5-7, Do you think it’s important to add specific reference to “no-net-loss” somewhere within this statement or is reference to the “Act” sufficient? If not sufficient, recommend adding specific reference to “no-net-loss” within this goal statement. “*To protect and enhance shoreline visual and physical access consistent with the Act and the Public Trust Doctrine.*”

#### Policies

- New Policy – Recommend adding a new policy that specifically encourages education of the public on the ecological functions, values, and processes associated with shorelines.
- Page 2, Line 23, Recommend adding specific reference to “immediate and cumulative impacts” and “ecological functions, values and processes” to this statement. For example, “Manage ~~Minimize~~ the immediate and cumulative impact to shoreline ecological functions, values, and processes by limiting public access to areas easily damaged by human presence.” This seems to be a reasonable addition if we’re to achieve “no-net-loss”.

### [3.3] Recreation

#### Goal

- Page 3, Lines 2-4, Recommend adding the word “processes” to this statement: “*To encourage diverse water-oriented recreational opportunities in shoreline areas that can support such uses without adversely impacting the ecological functions, ~~and~~ values, and processes of the shoreline.*” Do you think the phrase “adversely impacting” is consistent with “no-net-loss”? Recommend adding specific reference to “no-net-loss” within this goal statement.

#### Policies

- Page 3, Lines 14-15, Recommend adding specific reference to “immediate and cumulative impacts” to this statement. For example, “*Prohibit recreational facilities and activities, including managing for immediate and cumulative impacts, that adversely affect the integrity and character of the shoreline, or which threaten fragile shoreline ecosystems.*” This seems to be a reasonable addition if we’re to achieve “no-net-loss”.

### [3.4] Circulation

#### Goal

- Page 3, Lines 28 – 32, Recommend adding the words “values” and “processes” within this statement: “*To develop efficient and economical transportation systems and other essential public facilities in a manner that assures the safe movement of people without adverse effects on existing shoreline use, ~~and~~ development, ~~or~~ and shoreline ecological functions, values, and/or processes.*” Recommend adding specific reference to “no-net-loss” within this goal statement.

#### Policies

- Page 3, Lines 34-38, Recommend adding the following text somewhere within this policy: Whether constructed outside or within the shoreline jurisdiction, design these facilities so that they protect shoreline ecological functions, values and/or processes from immediate and cumulative impacts. Also, this policy doesn’t appear to be written very clearly. You might want consider rewording it. “*Site non-water-dependent transportation, parking, and essential public facilities outside the shoreline unless not other feasible alternatives do not exist and locate facilities as far upland from the land-water interface*”

*as feasible to reduce interference with both the shoreline ecology as well as other more appropriate shoreline uses.”*

### **[3.5] Shoreline Use**

#### **Goal**

- Page 4, Lines 18-20, Recommend adding the word “processes” and “avoidance” to this statement. For example: *“To promote shoreline use patterns that are compatible with the ecological functions, ~~and~~ values, and processes, including avoidance of high valued habitat, of the shoreline environment and are consistent with the requirements of the Act and the GMA.”* Do you think it’s important to add specific reference to “no-net-loss” somewhere within this statement or is reference to the “Act” sufficient? If not sufficient, recommend adding specific reference to “no-net-loss” within this goal statement.

#### **Policies**

- New Policy - Recommend adding a new policy that specifically supports avoidance of high-valued habitat as areas for future growth. If already platted for growth, this new policy should also specifically encourage low impact development and other measures to reduce impacts to achieve no-net-loss.
- Page 4, Lines 22-23, Recommend adding the word “values” to this statement. For example: *“Give preference to water-dependent and single family residential uses that are consistent with preservation of shoreline ecological functions, values, and processes.”*
- Page 4, Lines 36-38, Recommend adding specific reference to “immediate and cumulative impacts” to this statement. For example: *“5. Ensure that uses allowed on upland areas adjacent to shorelands are designed to avoid adverse immediate and cumulative impacts to shoreline resources and to be consistent with, and supportive of, shoreline uses.”*
- Page 5, Lines 1-3, Recommend adding the word “processes” to this statement. For example: *“6. Encourage the restoration of shoreline areas that have been degraded or diminished in ecological value, ~~and/or~~ function, and processes as a result of past activities or catastrophic events.”*

### **[3.6] Conservation**

#### **Policies**

- Page 5, Lines 18-21, Recommend adding the word “fish” and “values” to this statement. For example: *“1. Manage shoreline development and use to ensure a sustained yield of renewable shoreline resources, while preserving, enhancing and restoring unique and non-renewable shoreline resources and their functions and values (i.e., wetlands and fish and wildlife habitats).”*
- Page 6, Lines 4-7, Policy 7, Recommend adding the word “values” and “processes” to this statement. For example: *“Ensure that forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to non-forest uses, do not cause a net loss of shoreline ecological functions, values, and processes and maintain the ecological quality of the watershed’s hydrologic system.”*

### **[3.8] Restoration and Enhancement**

#### **Goals**

- Page 7, Lines 10-12, Recommend adding the word “values” to this statement. *“To improve shoreline functions, values, and processes over time through voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Management Program Restoration Plans and other approved restoration plans.”* Also, what constitutes an “approved restoration plan”? Who approves it? Will one restoration plan have precedence over another? This all needs to be defined somewhere, perhaps within the SMP Restoration Plan.

#### **Policies**

- Page 7, Lines 22-24, Recommend adding specific reference to the recovery plan for Puget Sound chinook, in addition to summer chum, within this statement. Also, for future reference, please be aware that Hood Canal summer chum is incorrect. The correct terminology is Hood Canal / Eastern Strait of Juan de Fuca summer chum. *“4. Restoration should be consistent with, and where practicable*

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*prioritized based on the biological recovery goals for Hood Canal summer chum populations and other species and/or populations for which a recovery plan is available.”*

- Page 7, Lines 25-26, Recommend adding specific reference to “shellfish response plans” and “water cleanup plans” to this statement. For example: “5. Restoration should be integrated with other parallel natural resource efforts such as the WRIA Watershed Management Plans, shellfish response plans, and water cleanup plans.”