

CLALLAM COUNTY SHORELINE MASTER PROGRAM**DRAFT SHORELINE ENVIRONMENTAL DESIGNATIONS (SEDs)**

The Lower Elwha Klallam Tribe has reviewed the DRAFT Shoreline Environmental Designations and associated policies proposed in the ESA Memo to the SMP Advisory Committee (Oct. 18, 2011) Shoreline Committee Meeting #5 Powerpoint presentation (Nov. 15, 2011). We believe that the SEDs developed by ESA Consulting are an improvement over the current county regulations in that they provide a more logical means of classifying SEDs and emphasizes the need to plan development activity in a manner that will protect property and preserve ecosystem function more effectively than the current SMP. Clallam County, as one of the more rural counties in the state, has the rare opportunity to use Smart growth planning opportunities to avoid the property losses and ecological damages that have already occurred elsewhere in Puget Sound. The Tribe offers the following comments/ recommendations:

- 1) **Re-evaluate Marine Bluff SEDs.** The Elwha River drift cell has been adversely impacted by the loss of sediment from multiple sources over the last 100 years. The presence of the two hydroelectric dams has resulted in a loss of approximately 40% of the fine sediment that once nourished the beaches and Ediz Hook to the east of the Elwha River. Most of the remaining fine sediment in this drift cell has been locked up within the armored feeder bluffs that extend from the Port Angeles landfill east into Port Angeles Harbor. It is critical that the few remaining segments of feeder bluffs within this system be protected from all forms of future armoring. As such, it is essential that all future development be set back significantly from existing bluff faces to recognize the rapid rate at which bluff recession occurs. Some shoreline segments of the Draft SED have been mischaracterized as “High Bank” that are actually known to be “Feeder Bluffs”. This is particularly true in the case of the shorelines along Freshwater Bay. We recommend that the central 1/3 of the Freshwater Bay shoreline (approx. $\frac{3}{4}$ mile) be designated as “Feeder Bluffs” (pers. Commun., Jim Johannessen) to maintain an uninterrupted segment of natural shoreline and important feeder bluffs that stretches from 150 feet west of the mouth of Colville Creek to the current easternmost extent of the “High Bank” Shoreline Environmental Designation.
- 2) **Life of the Structure.** One of the most short-sighted and poorly conceived phrases often associated with Shoreline Master Planning is related to the protection of residential property for “life of the structure”. This perpetuates the unfortunate practice of land use planning on a human lifetime scale and completely disregards longer term geologic processes that will eventually affect habitability and likely necessitate armoring. We strongly recommend that when we begin to discuss setbacks and buffers, Clallam County avoid using this type of terminology and short sighted planning in favor of a more realistic long-term, science based approach to shoreline development planning. As a relatively sparsely populated county we have the rare opportunity to learn from the mistakes of other Puget Sound communities and manage shoreline development in a manner that minimizes residential property risks while protecting existing natural shoreline processes that benefit all of Puget Sound.

3) Setbacks & Buffers.

- a. Clallam County, one of the most rural counties in the state, has a rare opportunity to learn from the costly mistakes of other counties in Puget Sound. Significant setbacks and vegetation buffers should be established for all feeder bluff and high bank zones.
- b. Allowances for “site specific variances” for setbacks should only be permitted when the following conditions are met:
 - i. Geotechnical analyses include a robust erosion rate study;
 - ii. Geotechnical assessments consider long-term impacts over 200 years or more, rather than those that may occur during the “life of the structure” (See comment #2);
 - iii. Geotechnical reports are completed by Licensed Geologists or Coastal Engineers with extensive experience with coastal zone geomorphology*.

*There should be greater accountability by geotechnical professionals (as discussed by the Committee on 11/15/11).

- c. The Tribe generally supports the buffer widths proposed by the County’s consultant as an improvement over the current regulatory requirements. However, we believe that the use of the OHWM will likely undermine the effectiveness of these setbacks, if it results in top of slope setbacks that are less than 100 feet. Based on the historic rate of bluff erosion in the Strait of Juan de Fuca it would be unwise to maintain top of slope setbacks less than 100 feet and 75 feet for Feeder Bluffs and High Bank zones, respectively. We do not see any scenarios that would justify allowing development within 20 feet of the top of a Feeder or High Bank Bluff, as is described in the proposal.
 - d. The Lower Elwha Klallam Tribe has, and continues to lead by example in protecting critical nearshore processes. In 2003, the Tribe purchased an 87-acre parcel of land on the bluffs to the east of the Elwha River valley for the purpose of taking building pressure off of the floodplain. The Tribe approved a land use plan that established 200 foot setbacks from the bluffs and the protection of critical habitat. View lots were specifically prohibited to prevent accelerated bluff erosion and protect bald eagle habitat in favor of a 35-acre residential housing parcel in the south-central core of this parcel.
- 4) **Consider establishing a Mitigation Fund.** A Mitigation Fund Policy could be established by the County that requires purchasers of land or property that is within a certain proximity of a Hazard Zone (i.e. 200 feet of bluff face or CMZ) to contribute a one-time fee that may be based on a small percentage of the assessed value (or purchase price) of the property. This fund

would serve multiple purposes: 1) discourage development in close proximity to hazard zones; 2) provide a mitigation fund that may be used to help homeowners to defray the cost of relocating homes, if necessary, in the future; 3) educate property owners about the risk to property and ecological resources when developing in close proximity to hazard zones. This should be considered to be part of the cost of developing in these zones and would help reduce the future burden on public financial resources.

- 5) **Geologically Hazardous Areas** – It is important to recognize that although there are 3 types of geologically hazardous areas (Landslide, Erosion, and Seismic) they are not necessarily mutually exclusive. One area can be vulnerable to more than one of these hazards.
- 6) **Shoreline Armoring** – One of the Key Management Practices that is repeated throughout the SED working draft is that “New development *should* be designed to avoid the need for structural armoring”. We strongly support this philosophy and recognize that this requires a long-term vision rather than a structural time scale. We recommend substituting the term *will* or *shall* in place of *should*.

The Tribe supports the proposal to prohibit shoreline armoring in FW Natural, FW Resource, Feeder Bluffs, High Bank, and Lowland Estuary SEDs. We agree that Conditional Use permits should be required for armoring shorelines to protect existing primary residences, but only after all other measures (e.g. relocating/ elevating structures) are deemed infeasible and a Geotechnical Report and a Biological Assessment indicates that armoring is necessary and will not adversely affect ecosystem function.

- 7) **Bay Management Policies (Allowed/ Encouraged Uses)** – Recommend revising “Water oriented commercial and industrial development” to “Water-dependent commercial and industrial development if compatible with the character of the area and adjacent uses. The use of shared community docks is an excellent proposal.
- 8) **High bank (Allowed/ Encouraged Uses, typo)**– “compromised” rather than “comprised”.
- 9) **Aquaculture Policy** – In response to the questions posed by ESA in the Powerpoint presentation on November 15, 2011 we offer the following comments. The Tribe recognizes the merits and challenges of establishing and maintaining commercial aquaculture operations. However, commercial aquaculture operations that propagate nonnative fish and shellfish species should be discouraged unless these operations are conducted in upland systems, fully self-contained aquatic systems, or have been shown to present no risk of escapement, disease transmission, or waste related environmental impacts. They should not result in a net loss of ecosystem functions or adversely impact adjacent uses.
- 10) **Building in Hazardous Areas** – Part II FW Shorelines. The Tribe supports the consultant’s proposed language “no new development within the channel migration zone except where the CMZ is ‘disconnected’ (behind a levee)”. However, we recommend adding the word “existing” prior to the word “levee”. It is also important to differentiate between engineered and certified

levees and those that are not and discourage development where there may be opportunities for future restoration.

We are unsure what is meant by the phrase “or when the proposal meets the criteria for a reasonable use exception”, and therefore cannot support this language as proposed.

[Note: while the Tribe does have an existing flood control levee, it is set back from the river’s existing CMZ. The tribe also returned over 390 acres of floodplain lands on the west and south sides of this levee to the river for “natural floodplain processes”. This represents almost half of the existing reservation property owned by the tribe.]

Additional comments, data, and recommendations were previously submitted to the county’s consultants regarding the reach by reach descriptions in the draft SMP. This includes the reach summaries, physical conditions, ecology, and human environment and land use.