

Merrill, Hannah

From: Merrill, Hannah
Sent: Wednesday, October 03, 2012 4:47 PM
To: zSMP
Subject: FW: Draft Clallam SMP

-----Original Message-----

From: Bob Vreeland [REDACTED]
Sent: Tuesday, October 02, 2012 11:11 AM
To: Lear, Cathy
Subject: Draft Clallam SMP

Cathy,

Below are my comments about on the Chapter 2 Definitions in the Draft Clallam County Shoreline Master Plan. I have not sent this on to CMRC members. Perhaps they should see what I'm doing "in their name." If you think that is appropriate, would you forward my comments to them.

Def. 1 Abandon:

It appears to me there are 2 different time periods for what seems to be the same uses. ["Land uses that have been discontinued for eighteen (18) or more consecutive months are considered abandoned and no longer vested under this Program" and "Except for ongoing agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized implemented or performed for a period of two years from the dated of cessation/termination or vacation."] Is there a reason for this?

Def. 11 Adverse impact:

I think there may be problems with different wording for this definition "...or materially reduces ecological functions or values," and definition # 358 Substantially degrade and # 362 Threshold determination ("will have a probable significant adverse impact"). A "probable significant adverse impact" is not defined, nor is "materially reduces ecological functions or values." Substantially degrade does seem to be well defined. Why not have # 11 state "substantially degrade ecological functions or values." and # 362 state "will substantially degrade an element of the environment."

Def. 14 Agricultural activities:

I think there may need to be a connection in this definition to definition 1 (Abandon) so that someone can't claim that their agricultural land has been dormant for over 5 continuous years (time frame for abandon agricultural land) because of "market conditions" or someone claim that agricultural land is abandon after 5 continuous years even though it is enrolled in a local, state, or federal conservation program, or is subject to a conservation easement.

Def. 16 & 17

Both definitions use the date April 28, 2003. What is the reason for this date? Could that reason be include in a short phrase in brackets?

Def. 22 Anadromous:

This is a poor definition because of the phrase "most of their life in saltwater." It excludes at least searun cutthroat and jack coho, spring chinook and steelhead all of which may spend more time in freshwater than in saltwater, but are clearly anadromous. A better definition is from the dictionary, "migrating from salt water to spawn in fresh water, as in salmon."

Def. 27 Aquaculture:

Is it possible the phrase "...in freshwater or saltwater areas'" might be confusing. I suspect "Aquaculture" refers to both land based and in the aquatic environment. How about replacing the word "areas" with something like "either on land or in the aquatic environment."

Def. 39 Beach restoration and enhancement:

I would replace the last word of the definition "restoration" with "re-creation" because the word "restoration" is part of what is being defined.

Def. 50 Boating facilities:

The definition implies that all "boathouses" are upland (dry) storage structures. This may not always be the case. How about something like: "For the purpose of this Program, upland (dry) boathouses, boat repair shops, and other boat storage structures on dry land are not considered boating facilities."

Def. 51 Boathouse:

Does the phrase "upland or in-water" need to be added after "an enclosed structure"?

Def. 54 Bottom culture:

Is there a reason for the specific height ("...do not extend higher than six feet from the bottom...") in this definition? It seems to me there is some overlap with this definition and # 139 Floating aquiculture ("...that extends more than 3 feet from the bottom into the water column."). Is that overlap intended?

Def. 56 Buffer zone, strip, or area:

Would it be better to use the phrase "abutting a shoreline" rather than "area adjacent to a shoreline" to avoid any confusion that a buffer zone, strip, or area could be something "near" to the shoreline?

Def. 65 Chemicals:

It seems to me the definition leaves out industrial chemicals used in processing and manufacturing. I believe they need to be added to this definition since water dependent

business are likely to use "chemicals" (eg. anti fouling paints, fiberglass, cleaners, etc.) in their business.

Def. 83 Contaminant:

This definition seems to me to leave out potential contaminants that occur naturally that have been artificially increased by human activity such as arsenic, lead, copper, etc.

Def. 85 Covered moorage:

Could this leave an opening for an interpretation that a frame with a plastic or canvas tarp is not a covered moorage? Perhaps after the word "roof" add wood, fiberglass, plastic, canvas, etc. in brackets to avoid any possible misinterpretation.

Def. 89 Culvert:

Is the word "short" really needed in this definition? How short is short? How long does a culvert have to be before it is no longer a culvert?

Def. 91 Current deflector:

I believe it would be better to replace the word "control" with "alter" so the last part of the definition states: "or to alter downstream current alignment."

Def. 95 Deepwater habitats:

This is not a very satisfying definition, particularly since "shallow water habitat" is not defined. Would it be better to pick a average or minimum depth, say 20 feet, below which would be considered deep water habitat?

Def. 96 Degrade:

This definition seems to apply only to a piece of property or structure. It doesn't seem to me to include habitat for plants and animals, and I believe it should. Also the words "desirability" and "salability" are subjective terms. Some may consider buffers on shoreline property to "scale down desirability or salability" of those properties. Not sure how to "fix" this.

Def. 98 Density:

I believe that density should also apply to the number of plants and animals in a given unit area.

Def. 99 Development:

I think the phrase "a use consisting of the" could be removed from the beginning of this definition and perhaps make it more clear. It took me several readings to understand that it applies to "development" on shorelands and not just in the water.

Def. 100 Developed shorelines:

This definitions seems to me to include "Natural" and "Conservancy" designations since "existing uses" does not exclude these two designations.

Def. 101 Dike:

Are dikes really only at stream mouths and deltas and only hold back sea water? Couldn't dikes also be along streams and hold back fresh water?

Def. 104 Dock:

Could the phrase "FIXED platform structure" allow someone to claim they don't have a dock because it is floating and removed every year so isn't "FIXED" in place? Does the work "fixed" really need to be in this definition?

Def. 106 Dredge material disposal:

I'm not fond of this definition since it uses 2 words from the term being defined to define the phrase. How about replacing "dredged materials" in the definition with "bottom materials (or sediment) removed from water bodies and deposited...".

Def. 107 Dredging:

What is "de minimis" removal in the second sentence of this definition? Is this a typo?

Def. 108 Drift cell, drift sector, or littoral cell:

Isn't there a more understandable, simpler definition for drift cell than this? How about something like: a particular reach of marine shoreline in which sediment moves without interruption and is deposited along a shoreline, building shore forms such as beaches, spits, etc.?

Def. 109 Driveway:

What is the significance of the 1 or 2 lots? Does a driveway become a road if it provides access to 3 or more lots? How about: a private access for vehicles leading from a street or other thoroughfare to buildings, houses, garages, etc.?

Def. 111 Dwelling unit:

Is the phrase "one or more rooms" really needed? How about just: structures designed for occupancy by and individual or family for living and sleeping?

Def. 113 Ecologically intact shorelines:

Could this definition allow someone to argue that they could armor their shoreline property because a "majority" of the adjacent shoreline is natural? Why not take out the words "majority" and "largely"?

Def. 116 Emergency activities:

Does the 2nd and last sentence contradict the definition of this term? What non-seasonal events could require immediate action, landslide, tsunami, hurricane? This definition may need to be more clear to remove any possible confusion.

Def. 118 Enhancement:

Shouldn't the word "natural" be inserted before "functions or values" in the second line? Otherwise, someone might claim that building a house or other structure is an "Enhancement."

Def. 121 Essential public facilities:

The last sentence of this definition seems to me to be duplicative of the first part of the definition. Is this last sentence really needed?

Def. 132 Feasible alternative:

In part d & e, the word "reasonable" seems to me to be too subjective. Who will determine what is "reasonable?" Some have argued that the removal of the Elwha dams would not meet this definition of "feasible alternative" because of the cost and time. I don't have an alternative for this one, but it seems to me that this may need some work.

Under f, is the "decision-making body" the County? If so, why not say so?

Def. 133 Feeder bluff or erosional bluff:

In line 3, neither "driftway" or "accretion shoreform" are defined; however, drift cell and drift sector are, so why not use either of these terms? Also, I believe "accretion shoreform" should be defined. Doesn't it also include beaches, not just spits, bars, hooks, since they can be built or enhanced by sediment deposits?

Def. 136 Filling:

Is the word "transporting" really needed? Isn't "placing by manual or mechanical means..." sufficient? Is it clear that "on any soil surface" also includes in-water fill? How about something like: placing by manual or mechanical means material in water or on land, including temporary stockpiling of material.

Def. 137 Fish habitat:

Letter e includes the words "in this Article," but it isn't clear to me what that means. Is it the SMP? Including letter f in this definition seems to me to exclude fish habitat above any impassible barrier, which implies there was no fish habitat above the Elwha dams prior to their removal! It also implies there is no fish habitat or fish above impassible natural falls. There may be no anadromous fish above impassible barriers (natural or human created),

but that does not mean there is no fish habitat or fish up-stream of the barriers. I believe letter f should be removed from this definition.

Def. 139 Floating aquiculture:

The phrase "...that extend more than 3 feet from the bottom into the water column" seems awkward to me. Do you mean "that extends from the surface to within 3 feet or more from the bottom?" Is there a specific reason for the 3 feet (see comment on # 54)?

Def. 143 Floodplain:

Is "reasonable method" really needed here? Doesn't the inclusion of "reasonable" introduce unneeded subjectivity to this definition? Wouldn't any method that meets the objectives of the SMA be reasonable?

Def. 150 Frequently flooded:

A 1% chance of flooding doesn't seem very "frequent" to me. A 50% or greater chance does seem frequent to me. Doesn't including the 1% chance of flooding create some conflict/confusion with # 116 Emergency activities given the phrase "flooding or other seasonal events...are not an emergency" in that definition?

Def. 153 Game fish:

Aren't game fish those that are recreationally harvested and not intended for sale? If so, then why not say so and include the WDFW WAC reference?

Def. 189 Intensification of nonconforming use:

This definition is very confusing. There must be a better way to say this. The phrase "parcels within the vicinity" is unclear. What does "within the vicinity" mean? Doesn't this mean parcels under the jurisdiction of the SPA and SMP?

Def. 190 Intensive:

How are the Clallam Co. standards and environment determined and by whom? Does this definition create too much subjectivity in determining what is intensive?

Def. 200 Landslide Hazard Areas:

Is consolidated rock of 65% to 79% subject to rockfall during seismic shaking (letter e)? The way letter g is written, it appears the answer is no. Is this correct? Maybe it depends on the intensity of the seismic shaking?

Given the criteria listed prior to letter i, it could mean that a 9 foot, 11 inch "ravine" is not a landslide hazard area unless the slope is greater than 80% and thus subject to rockfall during seismic shaking. This makes me wonder if Ravines need to be defined under Landslide Hazard Areas. Are all possible ravines covered by letters a through g?

Def. 220 Minor new development:

Part a,i: Is it possible to have over 500 cubic yards of excavation, say for a basement, and still meet all the other conditions for a minor development? If this is possible, how could one qualify for a permit for a minor development, with a variance?

Def. 221 Mitigation:

Part a: What does the "not taking" in this line mean? Dose it mean not building, constructing, completing, or proposing part or all of a project?

Def. 227 Multifamily dwelling:

Why is a duplex not a "multifamily dwelling" since multiple families would be living in separate dwelling units?

Def. 238 Off-premise sign:

This definition doesn't seem clear to me. Do you mean: "a sign situated on a premise that does not directly relate to activities conducted on that premise?" It would seem like an off-premise sign is a sign not at the location of the activity relating to the sign message, like a billboard.

Def. 242 On-premise sign:

It would seem more clear to me if the definition were: "a sign situated on the premise which relates directly to the activities conducted on that premise."

Def 277 Project area:

Since the definition states "ALL areas at and around a proposed shoreline development that would be affected directly or indirectly by the proposal..." it would seem to me the project area for a co-generation wood wasted power plant would include the area over which the smoke from the plant drifted. Since the Planning Director has the "final" authority to define the project area, the project area for any project would depend on the decision of a particular Director. I suppose that decision could be appealed. Does this definition set up potential problems?

Def. 229 Recharge:

Is this definition complete? Doesn't saturated soil provide ground water recharge? Am I not understanding what is meant by "from the unsaturated zone?"

Def. 301 Resource lands:

How long is "long-term" in this definition "long-term commercial significance?" Is it 5, 10, 15, 20 years, or what? Who makes the determination? Does long-term need to be defined in this definition to avoid problems later?

Def. 304 Restoration:

Does this definition preclude restoration to "pre-European settlement conditions?" Is there no minimal standard for restoration? It seems like this definition could allow someone to plant one tree and call it an upgrade. Perhaps stating that the ecological shoreline processes or functions have to be returned to a pre-development state so there is not net loss, would set what I would consider a minimum standard for restoration.

Def. 307 Rip-rap:

Would large rounded boulders or dense, hard, angular rock with cracks not be rip-rap? Is it possible, with this definition, that someone could legally claim they didn't install rip-rap because the rock they put in was rounded rather than angular or the angular rock they put in has cracks in it?

Def. 310 Road:

Does this definition allow an opening for a land owner or group of land owners to claim they don't have a road to their property because it's not "improved or maintained?" Would it be a road if they just drive over a unmowed grass area to access their property but do have a "provision for public utilities" but just don't have the utilities in place or never intend to have them put in place?

Def. 311 Runoff:

I believe this definition would be better stated as: "a portion of rainfall or other precipitation that becomes surface flow and interflow that enters drainage facilities, rivers, stream, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

Def. 312 Rural lands:

Do all lands outside incorporated lands qualify as rural? Could unincorporated lands be non-rural?

Def. 316 Scientific and educational facilities:

What does the phrase "unique insight" mean in this definition? Would L. Ron Hubbard "school" of Scientology or Creationism qualify as "Scientific and educational facilities" because they provide "unique" insight?"

Def. 318 Seaward:

Is "seaward" ever used in this document in reference to the Strait of Juan de Fuca? If so, some might not consider that "seaward" but rather toward salt water.

Def. 342 Significant vegetation removal:

My concern here is if someone removes an area of invasive or noxious weeds that does "cause significant adverse impact on shade, slope stability, habitat, water quality or other

ecological functions, they would claim it wasn't a "significant vegetation removal" and thus no mitigation is required.

Def. 345 Small-scale:

This definition uses the phrase "minimal impacts" which is not defined. Who determines "minimal?" Should "minimal impact" be defined as something that does not cause a net loss?

Def. 349 Solid waste disposal:

This doesn't seem like a good definition to me. It seems like solid waste disposal would be more that getting rid of unwanted rubbish or garbage base on the definition of what qualifies as solid wasted in definition 347.

Def. 358 Substantially degrade:

It seems to me the phrase "affect other related functions" in a, "may cause damage or harm" in b and "may contribute to damage or harm" in c are arbitrary and open to interpretation. Could "substantially degrade" somehow be tied back into the no net loss?

Def. 362 Threshold determination:

The phrase "significant adverse impact" is not defined. How does the threshold determination relate to substantially degrade (# 358) and adverse impact (# 11)? Again it seems to me that this definition needs to relate to no net loss.

#s 369, 370, 371, 372:

Is something missing here? What are the terms that are being defined?

Def. 385 Waste disposal:

Does this include disposal of chemicals as defined in # 65 (with the inclusion of industrial chemicals)? Is it really necessary to have solid waste (# 347), solid waste disposal (# 349) and waste disposal all defined in this document? Couldn't you define "waste" as everything under # 347 (which includes liquid and semi-solid materials) and then just define waste disposal as the discarding of unwanted waste?

Def. 386 Water-dependent use:

This definition uses the phrase "preferred use" in the last full line, but preferred use is not defined in this chapter. It seems to me this phrase should be defined.

Def. 387 Water-enjoyment use:

This definition uses the phrase "substantial number of people" in the 3rd line. It seems to me this phrase is too vague and open to interpretation. It's unclear who would determine what is a "substantial number of people." Why couldn't this definition say "...or a use that

provides for recreational use or aesthetic enjoyment of the shoreline for the public as a general characteristic..."

Def. 388 Water-oriented use:

The definition uses the phrase "priority uses" in the 2nd line but the phrase is not defined in this chapter. It seems to me this phrase should be defined. What is the difference between "preferred use" in # 386 and "priority uses" here?

Def. 393 Weir:

Weirs are also used to direct fish to locations where they can be identified, examined, counted, tagged, etc. Does this need to be added to this definition.