

# Merrill, Hannah

---

**Subject:** RE: Comments Due

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

From: Jesse Waknitz [mailto:[jessew@portofpa.com](mailto:jessew@portofpa.com)]

Sent: Wednesday, March 27, 2013 3:34 PM

To: zSMP

Subject: RE: Comments Due

Hannah,

Attached are the Port's comments on the November 2012 Draft SMP

Thanks,

Jesse Waknitz

Port of Port Angeles

[www.portofpa.com](http://www.portofpa.com)

(t) 360-417-3452

(cell) 360-460-1364



March 27, 2013

Ms. Sheila Roark Miller  
Clallam County  
SMP Comment  
223 E. 4th St., Suite 5  
Port Angeles, WA 98362

Re: Port of Port Angeles Comments on Draft (November 2012) Clallam County Shoreline Master Program and (February 2013) Cumulative Impacts Analysis and No Net Loss Report

Dear Ms. Roark Miller:

The Port of Port Angeles appreciates the opportunity to provide comments to the County on the Draft (November 2012) Shoreline Master Program (SMP). The Port respects the amount of time and effort applied by the County Staff and all the stakeholders in preparing this document.

Within our broad vision of expanding economic opportunities to improve the quality of life for Clallam County residents, we voice caution about the seemingly required implementation of compensatory mitigation for development and redevelopment in the proposed habitat and safety buffers. Compensatory mitigation is a great tool to maintain the goal of "No Net Loss" in the many currently undeveloped shoreline areas within the County, but should not be the first option when redeveloping areas currently utilized to provide recreation and boating facilities to the residents and many visitors in this wonderful corner of the State. I know that in the actual implementation of the SMP, compensatory mitigation would not be the first action to limit impacts, but this should be better clarified by either utilizing the Port's enclosed comments or with other language developed by the SMP Committee prior to the document being presented to the County Commissioners this spring.

This letter includes attachments that provide a detailed matrix containing our suggestions for alternative language in regards to implementation of compensatory mitigation and other recommended clarifications throughout the SMP and No Net Loss Report. Thank you for the opportunity to comment. We look forward to working with the County in the future development of recreational, boating facilities and industrial properties within the County.

Sincerely,  
Port of Port Angeles

Jesse Waknitz  
Environmental Specialist

Attachment A & B – Port Comments

338 West First Street  
P.O. Box 1350  
Port Angeles, WA 98362

(360) 457-8527  
Fax: (360) 452-3959  
info@portofpa.com

**COMMISSIONERS**  
John M. Calhoun  
James D. Hallett  
Paul L. McHugh

**EXECUTIVE DIRECTOR**  
Jeffery K. Robb

Attachment A: Matrix containing suggested alternative language by section for the Nov 2012 Draft SMP

| Draft SMP Section  | SMP Draft Language   | Suggested Edit/action (Highlighted Bold Blue)  | Explanation of Suggested Edit  |
|--|--|--|--|
| <p>Chapter 3: Policies and Regulations for Specific Shoreline Uses, Development and Modifications</p> <p>Section 3.3 Commercial and Industrial Development, Subsection 3.3.3 (5)(e)</p> <p>Page 3-10</p> | <p>e. The ability of the proponent to offset unavoidable impacts through compensatory mitigation on-site or at an appropriate off-site location.</p> | <p>e. The ability of the proponent to offset unavoidable impacts through <b>compensatory the mitigation sequence. on-site or at an appropriate off-site location.</b></p>  | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768. To meet the “No Net Loss” standard, protective actions as identified in Table 1-1 of the SMP Restoration Plan may be all that is required.</p>   |
| <p>Chapter 3: Policies and Regulations for Specific Shoreline Uses, Development and Modifications</p> <p>Section 3.6 Parking, Subsection 3.6.3 Regulations</p> <p>Page 3-16</p>                          | <p>5. If allowed within shoreline jurisdiction, parking facilities shall be located landward of shoreline buffers identified in Table 2-3.</p>       | <p><del>5. If allowed within shoreline jurisdiction, parking facilities shall be located landward of shoreline buffers identified in Table 2-3.</del></p> <p><b>5. Accessory parking for authorized water-oriented uses shall be allowed within the shoreline buffers identified in Table 2-3.</b></p> | <p>The allowance of accessory parking, within the proposed shoreline buffers, for authorized water oriented uses will allow for the necessary support and public access to existing, redeveloped or future recreational and boating facilities per WAC 173-26-241(k).</p>  |
| <p>Chapter 3: Policies and Regulations for Specific Shoreline Uses, Development and Modifications</p> <p>Section 3.7 Recreation Subsection 3.7.3 (4)(e)</p> <p>Page 3-18</p>                             | <p>e. The ability of the proponent to offset unavoidable impacts through compensatory mitigation on-site or at an appropriate off-site location.</p> | <p>e. The ability of the proponent to offset unavoidable impacts through <b>compensatory the mitigation sequence. on-site or at an appropriate off-site location.</b></p>  | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768. The redevelopment of a recreational use in a pre-existing disturbed buffer area may not require compensatory mitigation to meet the “No Net Loss” standard, protection actions as identified in Table 1-1 of the SMP Restoration Plan may be all that is required.</p> |

Attachment A: Matrix containing suggested alternative language by section for the Nov 2012 Draft SMP – Continued

|   |  |   |  |
|---|--|---|--|
| <p>Chapter 3: Policies and Regulations for Specific Shoreline Uses, Development and Modifications</p> <p>Section 3.14 Boating Facilities and Moorage</p> <p>Sub Section 3.14.3(9)</p> <p>(b) &amp; (c)</p> <p>Page 3-41</p> | <p>b. Water-oriented accessory uses reasonably related to marina operation may be located over water or near the water’s edge by conditional use permit if an overwater or water’s edge location is essential to the operation of the use and if public access is provided.</p> <p>c. Parking shall be located away from the water’s edge and landward of shoreline buffers prescribed by this Program.</p>  | <p>b. Water-oriented accessory uses reasonably related to marina operation may be located over water or near the water’s edge <b>within the shoreline buffers identified in Table 2-3</b> by conditional use permit if an overwater or water’s edge location is essential to the operation of the use and if public access is provided.</p> <p>c. <b>Accessory parking</b> <del>Parking shall be located away from the water’s edge and landward of shoreline buffers prescribed by this Program.</del> <b>for authorized water-oriented uses shall be allowed within the shoreline buffers identified in Table 2-3.</b></p>  | <p>This additional clarification maintains document consistency and mirrors the detail identified in Figure 4-5 of the Draft SMP and allows for water-oriented uses directly adjacent to marinas and boating facilities.</p> <p>The allowance of accessory parking, within the proposed shoreline buffers, for authorized water oriented uses will allow for the necessary support and public access to existing, redeveloped or future recreational and boating facilities per WAC 173-26-241(k).</p> |
| <p>Chapter 4: General Policies and Regulations</p> <p>Section 4.2 Buffers and Vegetation Conservation</p> <p>Subsection 4.2.2 (6)</p> <p>Page 4-3</p>   | <p>6. New developments and uses should be designed to minimize tree removal and vegetation clearing. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability.</p>   | <p>6. New developments and uses should be designed to minimize tree removal and vegetation clearing. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability. <b>The re-vegetation of a buffer to meet the well vegetated conditions detailed in the SMP shall be considered a measure to compensate for adverse impacts resulting from new development located landward in the Shoreline Jurisdiction.</b></p>  | <p>Provides an incentive and a mechanism for the planting and enhancement of a buffer.</p>   |
| <p>Chapter 4: General Policies and Regulations</p> <p>Section 4.2 Buffers and Vegetation Conservation</p> <p>Subsection 4.2.3 (9)(b)</p> <p>Page 4-5</p>  | <p>b. The reduced buffer width:</p> <p>i. For a traditional single family residence – equivalent to the estimated annual rate of erosion times seventy five (75) plus allowance for bank recession equal to largest documented landslide in the vicinity; or</p> <p>ii. For a mobile/motor home or travel trailer that is not used as a primary residence – equivalent to the estimated the estimated annual rate of erosion times 50 plus allowance for bank recession equal to largest documented landslide in the vicinity.</p> | <p>b. The reduced buffer width:</p> <p>i. For a traditional single family residence – equivalent to the estimated annual rate of erosion times seventy five (75) plus allowance for bank recession equal to largest documented landslide in the vicinity; or</p> <p>ii. For a mobile/motor home or travel trailer that is not used as a primary residence – equivalent to the estimated the estimated annual rate of erosion times 50 plus allowance for bank recession equal to largest documented landslide in the vicinity.</p> <p><b>iii. For commercial or industrial development – equivalent to the estimated the estimated annual rate of erosion times 50 plus allowance for bank recession equal to largest documented landslide in the vicinity or a buffer width recommended by a licensed Engineering Geologist in the geotechnical report identified below.</b></p> | <p>Provides further detail for all types of future developments.</p>   |

Attachment A: Matrix containing suggested alternative language by section for the Nov 2012 Draft SMP – Continued

|   |   |   |   |
|---|---|---|---|
| <p>Chapter 4: General Policies and Regulations<br/>Section 4.2 Buffers and Vegetation Conservation<br/>Subsection 4.2.3 (12)<br/>Page 4-7</p> | <p>12. Buffer Modification without Compensatory Mitigation: The Administrator may allow limited clearing, grading, thinning, and/or pruning in a shoreline buffer in accordance with this section. Such allowances shall not require compensatory mitigation provided that the amount and extent of buffer modification is the minimum necessary to accommodate the allowed use, the modification is located within pre-existing disturbed areas with low habitat value or within the ‘active use’ area prescribed in subsection 4.2.3.8, and modification will not impact a geologically hazardous area, and all other requirements of the Program are met. This requirement is meant to ensure that impacts are avoided and minimized to the extent possible:</p>   | <p>12. Buffer Modification without <b>Compensatory</b> Mitigation: The Administrator may allow limited clearing, grading, thinning, and/or pruning in a shoreline buffer in accordance with this section. Such allowances shall not require <b>compensatory</b> mitigation provided that the amount and extent of buffer modification is the minimum necessary to accommodate the allowed use, the modification is located within pre-existing disturbed areas with low habitat value or within the ‘active use’ area prescribed in subsection 4.2.3.8, and modification will not impact a geologically hazardous area, and all other requirements of the Program are met. This requirement is meant to ensure that impacts are avoided and minimized to the extent possible:</p>   | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768.</p> |
| <p>Chapter 4: General Policies and Regulations<br/>Section 4.2 Buffers and Vegetation Conservation<br/>Subsection 4.2.3 (13)<br/>Page 4-9</p> | <p>13. Buffer Modification with Compensatory Mitigation: The Administrator may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate water-dependent and water-related shoreline uses or modifications in sections 3.2 (Aquaculture), 3.3 (Commercial and Industrial Development), 3.5 (Mining), 3.7 (Recreation), 3.9 (Restoration), 3.14 (Marinas), 3.15 (Dredging), 3.16 (Flood Control Structures), 3.17 (In-stream and In-water Structures), and 3.18 (ShorelineStabilization), that meet all of the requirements of this Program. Such uses/ modifications require a location in, on or immediately adjacent to the water and may have adverse impacts on shoreline functions and processes. The Administrator shall require compensatory mitigation in accordance with the applicable provisions of Section 4.4 if the water-dependent or water-related use/modification has significant unavoidable adverse impacts on shoreline functions or processes.</p> | <p>13. Buffer Modification with <b>Compensatory</b> Mitigation: The Administrator may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate water-dependent and water-related shoreline uses or modifications in sections 3.2 (Aquaculture), 3.3 (Commercial and Industrial Development), 3.5 (Mining), 3.7 (Recreation), 3.9 (Restoration), 3.14 (Marinas), 3.15 (Dredging), 3.16 (Flood Control Structures), 3.17 (In-stream and In-water Structures), and 3.18 (ShorelineStabilization), that meet all of the requirements of this Program. Such uses/ modifications require a location in, on or immediately adjacent to the water and may have adverse impacts on shoreline functions and processes. The Administrator shall require <b>compensatory</b> mitigation in accordance with the applicable provisions of Section 4.4 if the water-dependent or water-related use/modification has significant unavoidable adverse impacts on shoreline functions or processes.</p> | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768.</p> |
| <p>Chapter 4: General Policies and Regulations<br/>Section 4.4 Mitigation and No Net Loss<br/>Subsection 4.4.3 (3)<br/>Page 4-37</p>          | <p>3. The Administrator shall first determine whether identified impacts have been avoided and secondly minimized. Unless otherwise stated, development proposals that do not fully conform to the dimensional requirements, performance standards, and/or design criteria in this Program shall require compensatory mitigation to ensure no net loss at the project scale. The Administrator shall require compensatory mitigation for development proposals that:</p>  | <p>3. The Administrator shall first determine whether identified impacts have been avoided and secondly minimized. Unless otherwise stated, development proposals <b>that have not secondly minimized adverse impacts on shoreline functions through initial steps of the mitigation sequence and</b> that do not fully conform to the dimensional requirements, performance standards, and/or design criteria in this Program shall require compensatory mitigation to ensure no net loss at the project scale. The Administrator shall require compensatory mitigation for development proposals that:</p>  | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768.</p> |

Attachment A: Matrix containing suggested alternative language by section for the Nov 2012 Draft SMP – Continued

|  |   |   |   |
|--|---|---|---|
| <p>Chapter 4: General Policies and Regulations<br/>Section 4.4 Mitigation and No Net Loss<br/>Subsection 4.4.3<br/>Page 4-39</p>                             | <p>f. The Administrator shall require the applicant/proponent to post a bond or provide other financial surety equal to one hundred and fifty percent (150%) of the estimated cost of the mitigation to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.</p> <p>8. Compensatory mitigation plans shall be prepared by qualified professionals with education, training and experience in the applicable field:</p>   | <p>f. The Administrator shall require the applicant/proponent to post a bond or provide other financial surety equal to one hundred and fifty percent (150%) of the estimated cost of the mitigation to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.</p> <p><b>8. Mitigation Plans with any related studies required by other state and federal agencies may be combined with required SMP documents. The mitigation plans shall be submitted to those agencies as part of their required regulatory review and permitting process.</b></p> <p><b>8. 9.</b> Compensatory mitigation plans shall be prepared by qualified professionals with education, training and experience in the applicable field:</p>                  | <p>Maintains that compensatory mitigation procedures detailed in 33 CFR 332, and WAC 220-110-020 and WAC 163-201A-300-330 will be accepted during the SMP permitting process.</p> |
| <p>Chapter 4: General Policies and Regulations<br/>Section 4.7 Mitigation and No Net Loss<br/>Subsection 4.7.3<br/>Subsection 4.4.3 (3)(c)<br/>Page 4-49</p> | <p>c. Tier 3 Developments - All industrial development; commercial and residential development which generates more new or replaced impervious surface than is allowed in Tier 2, converts three-quarters acre or more of native vegetation to lawn or landscaped areas, or converts 2.5 acres or more of native vegetation to pasture; and all commercial projects that use hazardous substances: A stormwater management site plan prepared by a licensed engineer must be prepared in accordance with the [INSERT DATE] Ecology Stormwater Management Manual for Puget Sound. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be from a source approved by the Administrator.</p> | <p>c. Tier 3 Developments - All industrial development; commercial and residential development which generates more new or replaced impervious surface than is allowed in Tier 2, converts three-quarters acre or more of native vegetation to lawn or landscaped areas, or converts 2.5 acres or more of native vegetation to pasture; and all commercial projects that use hazardous substances: A stormwater management site plan prepared by a licensed engineer must be prepared in accordance with the [INSERT DATE] Ecology Stormwater Management Manual for <b>Western Washington Puget Sound</b>. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be from a source approved by the Administrator.</p> |   |

Attachment B: Matrix containing suggested alternative language by section for the Feb 2013 No Net Loss Report

|  |  |   |  |
|--|--|---|--|
| <p>Chapter 6.0 How does the Draft SMP Address Identified Threats?<br/>Section 6.3<br/>Page 127</p> | <p>Other water-dependent and water-related uses are allowed within the buffer if they provide compensatory mitigation. These types of uses are not required to fully avoid impacts (because by definition they need to be located close to the water) so the first step of the mitigation sequence is not applicable. They are still required to minimize impacts but unlike the modifications listed above, they are reasonably likely result in more than minimal impacts. As a result, compensatory mitigation is required so that the individual actions do not cause a net loss of functions.</p> | <p>Other water-dependent and water-related uses are allowed within the buffer if they provide compensatory mitigation. These types of uses are not required to fully avoid impacts (because by definition they need to be located close to the water) so the first step of the mitigation sequence is not applicable. They are still required to minimize impacts but unlike the modifications listed above, they are reasonably likely result in more than minimal impacts. As a result, <b>compensatory</b> mitigation is required so that the individual actions do not cause a net loss of functions.</p> | <p>This allows any impacts to be avoided or minimized through the appropriate mitigation sequence detailed throughout the Draft SMP and in line with the SEPA Mitigation sequence per WAC 197-11-768. The redevelopment of a recreational or boating facility use in a pre-existing disturbed buffer area may not require compensatory mitigation to meet the “No Net Loss” standard, protection actions as identified in Table 1-1 of the SMP Restoration Plan may be all that is required.</p> |
|--|--|---|--|