

Merrill, Hannah

From: zSMP
To: zSMPC
Subject: Port Angeles Business Association Comments on the 11/12 SMP Draft

From: Harry Bell [mailto:harry@greencrow.com]
Sent: Wednesday, April 10, 2013 5:10 PM
To: zSMPC
Cc: Ahlburg Kaj; Simpson Ted; Don Perry; NOTAC
Subject: Port Angeles Business Association Comments on the 11/12 SMP Draft

Hi Hannah,
Please distribute as necessary.
Thanks
Harry

Hi Hannah,

4.10.2013

The Port Angeles Business Association (PABA) members have been attending the Citizens Advisory Committee meetings for the Clallam County shorelines master plan (SMP) update. Here is a list of our general concerns followed by specific comments about specific sections of the November 2012 Draft SMP. Comments are listed by page and section.

GENERAL COMMENTS

Landowner Notification: Since the shoreline jurisdiction zone includes wetlands and setbacks measured from wetlands, and since wetlands are not shown on any of the maps to date, it is impossible for many landowners to know if they will be impacted by the SMP update. Since shoreline associated wetlands are common, many landowners are not aware that they will be impacted by the adopted policies and consequently will not participate in the public comment due process unless notified that they will be impacted by the adopted policies.

No-Net-Loss/Mitigation Local Appeals Process: In order to satisfy the permit specific No-Net -Loss mandate, county staff will be asked to quantify expected ecological loss and identify measures to mitigate that loss. While this may be a way to address the one-size –fits-all buffer problem, it necessarily will be very subjective because of the lack of data that demonstrate cause and effect nexus [the relation of “no net loss” to “one size fits all buffers” is not clear]. PABA feels strongly that a local appeal process, to local elected officials rather than to the growth management hearings board in Olympia, is needed. The “reconsideration” request procedure (page 5-8, section 5.18 4) is terribly inadequate. We suggest that the administrator, upon an applicant’s request, prepare a briefing of the issue and that an informal meeting with the applicant, administrator and the Director of Community Development be scheduled for the Director’s decision. Also, who is the Shorelines Hearings Board referenced in 5.14 4?

Annual Mitigation Review: Given the subjectivity of quantifying No-Net-Loss and adequate mitigation, PABA recommends, at a minimum, annual oversight by a citizens’ committee of all permits requiring mitigation. The objective would be to determine if the expected loss is material and if the required mitigation is proportional to that expected loss.

Restoration: Since the SMP in total is expected to produce No Net-Loss, we maintain that all restoration within the shorelines jurisdiction, whether or not it was done as part of an SMP permit, should be considered to contribute to the No-Net-Loss equation. This in should include “natural recovery” of impaired areas. In other words, “no net loss” should be calculated on an aggregate basis for the respective shoreline.

Integration of the Critical Areas Ordinance (CAO) and SMP: It is important to recognize that specific water dependent uses, in particular single family homes, are expected and encouraged within the SMP jurisdiction. Adopting CAO policies that disallow these uses in critical areas that occur within the SMP jurisdiction, or expanding SMP jurisdiction to include critical areas, would be in direct conflict with the shorelines legislation.

Generic Buffers: To date, no comprehensive analysis of the need for, or failure of, existing SMP buffers have been done. The same is true for the buffer addition proposals. The consultants admittedly based their recommendations on the “Precautionary Principle”, which proposes increased protection where science is lacking. PABA feels that using the Precautionary Principle here imposes significant costs on property owners without any scientific basis for doing so. This directly conflicts with the balance of public interest and private property rights expected by the legislature in the SMPs.

We have reviewed the 12/11/12 ESA Memo “Explanation of proposed shoreline buffer widths.” This document lists numerous studies and ranges of buffer widths. However, there is no discussion of how these ranges of buffer widths address the specific threats from permitted shorelines developments or why any buffer width beyond the minimum recommendations was selected.

SPECIFIC COMMENTS

Page	Section	Comment
1-12	1.3	there should be another paragraph that presents the exact text of RCW 90.58 in order to clearly distinguish between the legislative rights of timber harvest and exemptions that require mitigation under subsequent rules.
4-25	4.3.8	the buffer widths in Table 4-2 vary from those in the Forest Practices Habitat Conservation Plan and WAC 222. Unless a forest practices application is for conversion to another use, the stream buffers should be those in WAC 222. This should be made clear in the introduction paragraph in section 4.3.7.
2-14	Table 2-2	the legislative rights of timber harvest in RCW 90.58 cannot be diminished by subsequent rules. This table should distinguish between right to timber harvest in RCW 90.58 and those forest practices that require a conditional use permit. The right to timber harvest established in RCW 90.58 should not be constrained by a conditional use permit even in the Natural Shorelines designation.
3-11	3.4.2 2	make reference to the Programmatic Forest Practices Habitat Conservation Plan, as embodied in the RCW 76.09 and WAC 222 rather than the Forest and Fish Report.
3-11	3.4.2 3-6	these policies vary from RCW 76.09 and WAC 222 and will be a future source of confusion and potential administrative mischief. These should be replaced by specific policies in RCW 76.09 and WAC 222.
3-12	3.4.3 3a	the WAC’s not DNR prescribe reforestation standards
3-12	3.4.3 3b	since 3.4.3 3 addresses lands harvested and not reforested, the required conversion harvest plan does not make sense.
4-5	4.2.3 7	reference should be made to “A Restoration Framework for Federal Forests in the Pacific Northwest. J.F Franklin. 2012. Journal of Forestry 110(8):429-439. (It’s in our library). This article discusses the need for ecological restoration management of forests in order to provide a range of habitat diversity.
4-1	4	RCW 76.09 and WAC 222 address the consideration and protection of these resources for forest practices. There should be a reference to these practices in the introductory paragraph.
4-17	4.3.1	make reference to RCW 76.09 and WAC 222.
4-17	4.3.1 3.a	WAC 222 and the Forest Practices Board Manual require a different standard for wetlands delineation for forest practices. This should be referenced in this paragraph.