

From: Bob Vreeland
Sent: Thursday, February 19, 2015 2:06 PM
To: zSMP
Subject: Comments of the 11/14 Draft SMP

Mr. Steve Gray,

The following comments are provided by Robert Vreeland.

Chapter 1

Pg. 1-20, 1.8 Jurisdictional Limits, #2 states "The Administrator may require proponents of shoreline development proposals to provide site-specific information..." but there is no indication in #3 (pg. 1-21) if this information will be compared with map and database maintained by the County to determine the accuracy of the proponents data. Shouldn't there be a statement in #2 that says something like "The proponent's data will be compared with the County map and database for accuracy. If there are discrepancies, these shall be resolved by County staff through discussions with the proponent and/or site visits." This would provide a justification for why the Administrator might require the proponents to provide the data and ensure the proponents that if there are errors in the map or database, those would be resolved during the application review.

Chapter 2

It is unclear to me why the Management Policies within each of the environmental designations all use the word "should" (eg. pg. 1-3, #3 "The Aquatic environment should...") rather than "shall" or "will." The use of "should" implies to me that the policies are not necessarily a requirement and may or may not be followed in all cases. They might be followed if the County staff has time or has been directed that they be followed, or they might not if the staff doesn't have the time or for some reason has been instructed not to follow the policies in some cases. A substitution of "shall" or "will" seems more like a guarantee that the management policies are to be applied in all cases. Also, the "should" for Policies and "shall" for Regulations is not consistent throughout the SPM.

Pg. 2-3, 2.3.3.e: It is unclear to me how a new in-/over water structure could "serve more than one approved use..." Does it mean, for example, that a boat dock should serve more than one user/development or does it mean that if I moor my yacht and float plane at my proposed dock, I have met this requirement? Perhaps this needs an example or two to clarify what is meant by the above phrase.

Pg. 2-3, 2.3.3.f: Something like the following needs to be added to the end of the f "...and not create habitat for predators that prey on listed species."

Pg. 2-3, 2.3.3.g: The phrase "minimize impacts" is not defined in Chapter 11 and appears to me to violate No Net Loss. Perhaps a phrase like "...to minimize the required mitigation for impacts" is more to the point.

Pg. 2-4 Natural Designation: When I look at Tables 2.1 and 2.2 I get a very different impression of what is permitted in this designation than I get from reading the Management Policies. Why not just state at the beginning of the Management Policies that all development in this designation requires a conditional use permit except for restoration and enhancement.

Pg. 2-5, 2.4.3.i: The phrase "potential adverse impacts related to climate change" needs to be added to the 3rd line.

Pg. 2-5, 2.4.3.j: The 2nd sentence needs to refer the reader to Chapter 6, 6.5 Regulations-Shoreline Buffer Clearing rather than stating "Clearing of vegetation for views SHOULD BE MINIMIZED." There is no definition of how an applicant would "minimize" clearing for views in Chapter 11; however, this is clarified in Chapter 6.

Pg. 2-6, 2.4.5: It is unclear to me why this is included at this point given that Chapter 1, Section 1.7 clearly states that NP and tribal lands are exempt from the SMP. Perhaps if a reminder is needed in 2.4, the reader could be referred to Section 1.7.

Pg. 2-7, 2.5.3.d: It is unclear what is meant by "... (e.g., forest practices) that do not substantially degrade ecological functions or the predominant forested and natural character of the shoreline reach." The phrase "substantially degrade" is not defined in Chapter 11. The word "substantial" is defined in Chapter 11, but does not seem to me to fit here. It also does not seem to me that "do not substantially degrade ecological functions" meets the No Net Loss requirement. Perhaps a phrase something like "achieves no net loss" needs to replace "that do not substantially degrade."

Pg. 2-7, 2.5.3.h: The phrase "potential adverse impacts related to climate change" needs to be added to the list of items property owners need to know.

Pg. 2-8, 2.5.3.j: The term "significant" is not defined in Chapter 11 of the SMP. The why this Management Policy is written it seems to me to undermine the No Net Loss concept. This policy must state something like "Vegetation removal of a permanent nature that would reduce the capability of vegetation to perform normal shoreline ecological functions shall not be allowed" to meet my view of the No Net Loss requirement.

Pg. 2-8, 2.5.3.n: The phrase "significant adverse impacts" is defined in Chapter 11 of the SMP; however, the definition is unacceptable in my view because it appears to me to allow low to moderate adverse impacts without mitigation, which I view as unacceptable under No Net Loss. Perhaps this policy could be stated something like "If forest lands are converted to another use, any adverse impacts to shoreline functions or processes must be mitigated."

Pg. 2-8, 2.5.3.o: The words "discouraged or" must be removed from the last line of this policy.

Pg. 2-8, 2.6.1: In the 5th line of this Criteria implies that we know "ecological functions are not substantially degraded." The phrase "substantially degraded" seems to me to be well defined in Chapter 11 but may leave plenty of room for different interpretations regarding the viability of habitat and species depended on said habitat, etc. Perhaps any differences in interpretations of this Criteria could be resolved by removing the "and no net loss is achieved."

Pg. 2-10, 2.6.3.g: As in 2.5.3.o, the words "discouraged or" must be removed. Discouraging an action could lead to a loss of ecological functions does not necessarily prevent that action. If the "discouraged" action takes place despite the discouragement leading to an unmitigated loss of ecological functions, then in my view, No Net Loss has been achieved.

Pg. 2-10, 2.6.3.h: The phrase "potential adverse impacts related to climate change" must be added to the list of items property owners need to know.

Pg. 2-10, 2.6.3.i: The phrase "and minimize" must be removed from the end of the 3rd line. Minimize is not defined in Chapter 11 and is open to interpretation.

Pg. 2-11, 2.7.3.e: This policy seems to me to be far too liberal. According to the definition of "structure" in Chapter 11, new shoreline stabilization and flood control structures could be allowed to protect "...temporary edifice or building or any piece of work artificially built up or composed of parts joined together in some definite manner on, above, or below the surface of the ground or water." Examples include fences, landscaping walls/decorative rockeries and apparently buildings that could be easily moved. The definition along with this policy seems to me to allow the potential for "new shoreline stabilization and flood control structures" for just about anything. It may not make much sense, but a property owner could apply for and perhaps get conditional user permit to construct a new structural shoreline stabilization for flood control structure at a cost equal to or greater than the cost of simply moving the existing structure out of harms way! This seems to me to open a large loophole that would not achieve No Net Loss. I think this policy needs to be tightened up considerably to prevent abuse and a Net Loss of ecological functions. Perhaps this could be done by adding a phrase something like "where no viable alternative to the new shoreline stabilization or flood control structure exists and mitigation for said structure is achievable." The regulations for new or expanded shoreline stabilization (pg. 4-23 section 4.6.4.1) are far more restrictive regarding new structural shoreline stabilization and flood control. Section 4.6.4.1.c clearly states it is for "an existing primary structure, including a residence" not just "an existing structure" as stated in 2.7.3.e.

Pg. 2-11, 2.7.3.f: The phrase "potential adverse impacts related to climate change" must be added to the list of items property owners need to know.

Pg.2-12, 2.8.3.g: Same as 2.7.3.f above.

Pg. 2-17, Table 2-1, Accessory Dwelling Units, Resource Conservancy: According to the definition of accessory dwelling unit and footnote 4, a property owner could be permitted to construct accessory dwelling units to an existing structure as long as the units share a common wall or floor/ceiling with the primary dwelling unit. I can imagine abuse of this permitted use. I suggest accessory dwelling units be a variance or at least conditional use in Resource Conservancy rather than a permitted use to prevent potential abuse.

Pg. 2-17, Table 2-1, Natural Designation, Mooring buoys: Single-family Residences and Mooring buoys are conditionally allowed, but Private beach access structures are prohibited. So a property owner could build a single-family residence on their property and place a mooring buoy for their boat/yacht/float plane but not be allowed to have a private beach access structure to directly access their boat/yacht/float plane from their property? Perhaps the private beach access structure needs to be a conditional use in this case?

Pg. 2-17 & 2-20, Tables 2-1 & 2-2: The last sentence of footnote 1 makes no sense to me for Aquatic Pacific Ocean. If the County has no jurisdiction for shorelands along the Pacific, how can the County review and issue any permits under Aquatic - Pacific Ocean?

Pg. 2-18, Table 2-2: Why have a line for "Aquaculture activities other than geoduck or finfish" that is permitted in Shoreline Residential - Intensive and Conservancy and Resource Conservancy? Why not make aquaculture of any type a conditional use in all shoreline designations? The existing Table seems to me to be inconsistent with the aquaculture policy 3.2.6 (pg. 3-4) which appears to be allow geoduck and finfish aquaculture in existing Shoreline Residential - Intensive (based on Table 2-2), but if there is a existing/permitted aquaculture facility there should be no intensive residential uses (based on Policy 3.2.6).

Pg. 2-18, Table 2-2, Boating facilities (marinas) Shoreline Residential-Conservancy: Permitting, even conditionally, does not seem to me to be consistent with Criteria 1.b & d (pg 2-9) and Management Policies 3.c, d, e, g, & i (pgs. 2-9 & 2-10). Perhaps a clarifying footnote is needed here?

Pg. 2-18, Table 2-2, Natural Designation: Beach access structures-Public are not allowed, but under Boating facilities, public boat launches are conditionally allowed. This makes no sense. How could a public boat launch be used if there is no beach access structure? The Chapter 11 definition of beach access structure does not include roads, so I guess a road to the public boat launch could be allowed but not a "pathway/walkway for purposes of providing pedestrian access to a beach or shoreline area." But then the definition goes on to say "...not for motorized vehicle access." So a road could be allowed but a pathway not for motorized vehicle access would not be allowed? It seems to me that a road to a public boat launch and the boat launch itself are inconsistent with management policies 2.4.3. c, d, e, & g. It seems to me that public boat launches should not be allowed in the Natural designation.

Pg. 2-18, Table 2-2, Boating facilities: Docks, piers, floats, lifts - non-residential: Since the title of Table 2-2 is Non-Residential Uses, the "non-residential" can be removed from Docks, piers, floats, lifts.

Chapter 3

Climate change warnings are included in the policies for restoration (pg. 3-27, 3.9.1) and transportation (pg. 3-31, 3.11.1) but are absent from policies for 3.1 Agriculture, 3.2 Aquaculture, 2.2 Commercial and Industrial Development, 3.4 Forest Practices, 3.5 Mining, 3.6 Parking, 3.7 Recreation, 3.8 Residential Development, 3.10 Signs, and 3.12 Utilities. This needs to be rectified.

Pg. 3-1, 3.1.1.d: It is unclear how one would define "minimize clearing of riparian areas." It seems to me that policy d (minimize clearing) is inconsistent with policy f. There must be mitigation required for clearing of any riparian areas. Also the definition of "significant adverse impact" in Chapter 11 appears to me to allow low to moderate impact without any mention of mitigation for those impacts. It also seems to me there is a minimal mention of mitigation for impacts throughout this draft SMP. It is mentioned in a few places but seems to be mostly missing. I suggest a thorough search of the SMP to insure mitigation for impacts is frequently mentioned.

Pg. 3-2, 3.1.1.6: New agricultural uses must be required, not just encouraged, to use USDA Natural Resource Conservation Service and/or Clallam Conservation District best management practices.

Pg. 3-4, 3.2.1.4: Locating Aquaculture in areas that "will minimize adverse environmental impacts" does not imply to me that it will meet No Net Loss. Why not just use the phrase "will achieve no net loss?"

Pg. 3-4, 3.2.1.4.b: "Minimize damage" and "important nearshore habitats" are not defined in Chapter 11, thus are left open to interpretation. Again I believe this must say something like "achieve no net loss in nearshore habitats" or "mitigate for any damage to nearshore habitats to achieve no net loss of ecological functions."

Pg. 3-4, 3.2.1.4.c: Rather than "minimize" interference with navigation", aquaculture must "present no interference with navigation." Since "minimize" is not defined, I suggest "limit interference with public use of surface waters to the sit of the facility."

Pg. 3-4, 3.2.1.4.d: Again, replace "minimize" with something like "achieve net loss of ecological functions due to cumulative impacts."

Pg.3-4, 3.2.1.6: Seems to me to be in conflict with what is permitted under Aquaculture, Shoreline Residential - Intensive in Table 2-2 which permits aquaculture in an existing intensive residential use. So if aquaculture is permitted in Shoreline Residential - Intensive, why is there a policy here that says that intensive residential uses should not be allowed if aquaculture is located there?

Pg. 3-4, 3.2.1.8.b, c, d: Since the definition of "cause significant adverse effects" is not defined in Chapter 11, substitute "achieve no net loss of" or "to" in "d."

Pg. 3-5, 3.2.1.12: I do not believe non-native finfish species should be allowed in Clallam County waters. They could be allowed on shoreline land if there is not potential for escapement, disease transmission and waste entering Clallam County waters. At the end of the 3rd line, "significant waste-related environmental impacts" is not defined in Chapter 11, thus substitute "waste-related impacts that prevent achieving no net loss."

Pg. 3-5, 3.2.1.13: The 3rd line needs to say the Administrator will determine if the development accessory to aquaculture planting and harvesting is required to be located in, over, or adjacent to the water.

Pg. 3-5, 3.2.1.14 & 15: These could be interpreted as the public recreation agencies and/or County should pay for required mitigation for public use of public shorelines and restoration.

Pg. 3-5, 3.2.1.17: Add "after review" after "The County" in the 1st line.

Pg. 3-6, 3.2.2.11: Given the definition of "significant adverse impact" in Chapter 11, it appears to me that low to moderate adverse impacts are acceptable. I suggest substituting "achieving no net loss" for "significant adverse impact." If the water quality is acceptable for shellfish aquaculture, I question the "beneficial effects that shellfish species can have on water quality." What beneficial effects are being considered here? If it's sediment, I not sure there is a beneficial effect. If it's toxic algae, the shellfish may not be fit for human consumption.

Pg. 3-6, 3.2.2.12: The idea of this regulation is laudable, but I'm concerned, given the lack of research on the potential for spreading disease and establishment of new non-native species, this is possible. At this point, given inadequate research, the only way to determine if the design and location is inappropriate

is after the spread of disease and establishment of non-native species. This to me is another reason to make all aquaculture a conditional use.

Pg. 3-7, 3.2.2.17: I believe the bond must cover the restoration for a net loss of ecological function caused by the aquaculture development.

pg. 3-7, 3.2.4: There needs to be a regulation requiring a baseline inventory of the bottom below the net pen site prior to establishment of operation and periodic inventories after production begins. The application requirements (pg. 3-9, 3.2.5.6) only state the Administrator MAY require this. The "may" must be removed.

Pg. 3-8, 3.2.5.2: It must be a requirement that Application include a visual analysis of the bottom type under net pens in the form of video, DVD or other reviewable visual record.

Pg. 3-9, 3.2.5.6: This needs to be a requirement in the Application not just at the Administrator's discretion. Also substitute "net loss to ecological functions" for "significant adverse impacts" in line 3.

Pg. 3-10, 3.3.1.1: Substitute "achieve no net loss of ecological function" for "and minimize adverse impacts on." If there are adverse impacts, they must be mitigated.

Pg. 3-10, 3.3.1.2: Substitute "result in no net loss" for "be minimized" at the end of line 5.

Pg. 3-10, 3.3.1.6: This policy seems like it could be impractical for commercial and industrial development. This seems to me to be a place to add "...should be encouraged to provide..." in the 1st line. Again substitute "prevent achieving no net loss" for "create a significant ecological impact."

Pg. 3-10, 3.3.1.7: Isn't this referring to encourage to restore "previously" impaired shoreline ecological function and processes? Certainly if the shoreline ecological function and processes were impaired by the new commercial and industrial uses there would be mitigation required.

Pg. 3-13, 3.3.3: "A description of mitigation measures proposed to ensure that the development..." needs to be required for all proposed uses not just commercial and industrial uses. Again substitute "a net loss of ecological functions" for "significant adverse environmental impacts."

Pg. 3-15, 3.5.1.1: Substitute "result in a net loss of ecological functions" for "be significant" since "significant" is not defined in Chapter 11.

Pg. 3-15, 3.5.1.2: Substitute "prevent a net loss of ecological function of" for "minimize disruption to" since "minimize disruption" is not defined in Chapter 11.

Pg. 3-15, 3.5.1.5: Substitute "are not substantially degraded by" for "do not experience significant adverse impacts from." Substantially degraded" has a much tighter definition in Chapter 11. Significant adverse impacts would allow low to moderate negative effect on environmental quality. It is possible that low to moderate negative effects on the environmental quality of adjoining properties could result in legal challenges to proposed mining that might be avoided by the better (in my view) of substantially degrade, particularly the "The change in condition will create a human health or safety hazard or cause a threat to people or property in the foreseeable future" clause.

Pg. 3-17, 3.5.4.1.b: Substitute "achieve no net loss" for "not have significant adverse impacts."

Pg. 3-17, 3.5.4.2: Substitute "achieve no net loss of ecological function" for "demonstrate that no adverse flood, erosion, or other significant adverse environmental impacts" in line 2. It also seems to me there must be no in-river mining in any anadromous salmonid spawning or rearing or any ESA listed aquatic species habitat. It is also curious to me that there is a regular monitoring plan required for in-river mining but not one for aquaculture. I believe there must be a regular monitoring required for aquaculture, particularly finfish net pens and goeduck.

Pg. 3-17, 3.5.4.6.a, b, & c: Up to this point "should" has been used in Policies (I believe it must be "shall" or "will") and "shall" has been used in Regulations, except for these 3 cases. Is there a reason for this? My view is change "should" to "shall" in all these cases.

Pg. 3-17, 3.5.4.6.d: Substitute "achieve no net loss" for "not have significant adverse impacts" in line 1.

Pg. 3-19, 3.2.6.5: This is the only regulation that states the a use shall not be allowed in the shoreline buffers identified in Tables 6-1 and 6-2. My view is that after passage of this SMP, no uses should be allowed in the buffers identified in Tables 6-1 and 6-2 unless a variance is issued.

Pg. 3-19, 3.6.2.7: Substitute "prevent achieving no net loss" for "minimize significant adverse impacts."

Pg. 3-21, 3.7.2.1.b: Substitute "achieves no net loss to" for "minimizes significant adverse impacts on" in lines 1 & 2.

Pg. 3-21, 3.7.2.3.c: Substitute "achieve no net loss to" for "minimize adverse effects on."

Pg. 3-21, 3.7.2.3.d: This is one of the few regulations in the SMP that mentions compensatory mitigation. This regulation must be more frequently included throughout the SMP.

Pg. 3-23, 3.8.1.2: Substitute "achieve no net loss to" for "minimize significant adverse impacts on."

Pg. 3-23, 3.8.1.3: If new residential development is proposed in an area subject to flooding, channel migration, marine bluff recession, erosion, landslides and other natural hazards in my view it should not be permitted. If this is impossible, then there needs to be a variance to the policy that allows the County the opportunity to assess the potential for future loss of property and life, litigation over that loss, and additional expense for litigation and loss to County taxpayers. It could also allow the County to negotiate a purchase of the property to prevent the development in harms way.

Pg. 3-23, 3.8.2.3: Substitute "substantial degradation of" for "significant adverse impacts." Based on the definition of significant adverse impacts in Chapter 11, minor to moderate impacts would be allowed to Archeological, Historical and Cultural Resources. I suspect that would not be acceptable.

Pg. 3-23, 3.8.2.4: Substitute "a net loss of shoreline ecological" for significant adverse impacts on shoreline."

Pg. 3-23, 3.8.2.4.a: This regulation implies to me that the buffer and vegetation requirements of Chapter 6 must be met. Chapter 6 does not make this clear, and seems to imply to me that the buffer

and vegetation requirements set forth are optional in some cases. Clarify here and in Chapter 6 that buffer and vegetation requirements must be met unless a variance is issued.

Pg. 3-23, 3.8.2.4.c: This is again a regulation that requires achieving no net loss or mitigation for the loss. This regulation needs to be included for all development, not just Residential.

Pg. 3-24, 3.8.2.9: It is unclear to me from the last 2 sentences of this regulation if a proposed residence on a vacant lot in a partially developed high-density residential development would be allowed to construct a bulkhead. If this is the case there will likely be a net loss of ecological function. In my view if any proposed development cannot meet the required buffers, a variance is needed to allow the County to assess the need and perhaps negotiate a purchase of the property to avoid future loss of property and life, litigation over that loss, and additional expense for litigation and loss to County taxpayers.

Pg. 3-25, 3.8.4.2: The reference to Table 2-2, should be Table 2-1.

Pg. 3-26, 3.8.4.4.j: Substitute "net loss of ecological function" for "significant adverse environmental impacts."

Pg. 3-27, 3.9.1.6: This policy is laudable and should be included throughout the SMP where appropriate, not just for restoration.

Pg. 3-28, 3.9.2.4: This regulation is laudable and should be included throughout the SMP where appropriate, not just for restoration.

Pg. 3-29, 3.9.2.6.b: In the second line is there a specific legal requirement that the Administrator provide comments within 15 days to WDF&W? I'm concerned that given limited County staff and tight budgets, this requirement may not be achievable. Would a 30 days be more reasonable?

Pg. 3-31, 3.11.1.5: This policy is laudable and should be included throughout the SMP where appropriate.

Pg. 3-34, 3.12.1: Add a policy for climate change as in Section 3.11.1.5 (pg. 3-31).

Pg. 3-39, 3.12.7.1: Substitute "a net loss of ecological function" for "substantial adverse effects" which is not defined in Chapter 11.

Pg. 3-40, 3.12.8.1: Restate this Regulation as follows: "Outfall pipelines and diffusers associated with municipal/public and water-dependent but shall be located to avoid a net loss of ecological function."

Pg. 3-41, 3.12.12.1.e & f: These application requirements are laudable, but this is the only place I can recall them occurring in this Chapter. I believe they should be included in all appropriate application requirements in Chapter 3.

Chapter 4

Pg. 4-1, 4.1.2: I continue to be puzzled why single-family residences and mooring buoys can be conditionally approved in the Natural designation but beach access structures are prohibited. It seems

to me that if a beach access structure could be designed to cause no net loss to ecological functions, meet the other requirements in the SMP, and not be visually obtrusive, it could be conditionally approved. It doesn't seem logical that a single-family residence would have no access to their vessel/plane moored at their conditionally permitted mooring buoy.

Pg. 4-5, 4.2.2.9: Substitute "achieve no net loss" for "avoid significant adverse impacts" in line 3.

Pg. 4-6, 4.2.3.1.e: If a boat launch achieves no net loss, wouldn't it avoid adverse impacts? Maybe say something like "Incorporates mitigation to achieve no net loss."

Pg. 4-6, 4.2.4.1.b: Why is it that mitigation is required for boat launches to achieve no net loss, but piers, docks and floats, non-residential are only required "to minimize the impacts to nearshore habitats and processes?" If no net loss cannot be achieved in all new development, then mitigation must be required.

Pg. 4-10, 4.2.6.1.a: Substitute "achieve no net loss in" for "avoid significant adverse impacts" in line 1.

Pg. 4-10, 4.2.6.1.d: Substitute "achieve no net loss of" for "not adversely impact"

Pg. 4-12, 4.3.1.2: Substitute "achieve no net loss" for "minimize."

Pg. 4-12, 4.3.1.2.a & b: Remove "Adverse impacts."

Pg. 4-14, 4.3.4.3.a: Substitute "achieve no net loss" for "not cause significant and/or ongoing damage."

Pg. 4-16, 4.4.2: Why is there no regulation requiring flood control structures to achieve no net loss or mitigate for any loss? There must be such a regulation. Under 4.4.3.3 Application Requirements (pg. 4-17) the Administrator may require a mitigation plan, but if there is a regulation requiring the achievement of no net loss, and this cannot be achieved then a mitigation plan would be required.

Pg. 4-17, 4.4.3.3: The application must require a mitigation plan if no net loss cannot be achieved. This cannot be left up to the discretion of the Administrator.

Pg. 4-18, 4.5.2: This policy uses "shall," so why not use shall for all policies in the SMP?

Pg.4-19, 4.5.2.9: This regulation states that natural in-stream and in-water features "SHOULD" be left in place implying that they don't have to be left in place. All the other regulations use "shall" except this one. If you substitute "shall" for the "should" there is no difference in the regulation (except consistency) because of the "...unless it can be demonstrated..." phrase in line 2.

Pg. 4-20, 4.6.1.4: This policy begins by stating "New development SHOULD be located and designed to avoid the need for future shoreline stabilization..." then goes on to say, in lines 4 and 5 that "New development on steep slopes or bluffs SHALL be set back sufficiently to ensure that structural shoreline stabilization will not be needed..." This implies that future shoreline stabilization is OK except on steep slopes or bluffs. If new development requires shoreline stabilization, it must mean buffer requirements can't be met, then a variance must be issued for the development and mitigation will be likely.

Pg. 4-21, 4.6.1.6: The last line implies there are feeder bluffs with existing armoring. Are there really any, other than the Port Angeles land fill in Clallam County?

Pg. 4-22, 4.6.2.4.e: This regulation does not seem to cover a situation where effects on upstream and downstream properties cause a net loss and cannot be mitigated. Need to add that if no net loss cannot be achieved upstream and downstream of the shoreline stabilization a permit will not be issued unless there is adequate mitigation.

Pg. 4-23, 4.6.4.1.c: The last sentence contains another "should/shall" inconsistency when it states "The geotechnical analysis SHOULD...." This is a regulation, so why isn't "SHALL" used instead of "should?" These type of inconsistencies must be cleaned up in the SMP.

Pg. 4-23, 4.6.4.3.c: Substitute "A net loss from" for "Adverse effect of" in line 1. This is one of the few places I have noted that "compensatory mitigation" is required when no net loss cannot be achieved. This requirement needs to be added to all regulations.

Pg. 4-24, 4.6.5.3: Adding the climate change regulation is laudable. This needs to be done throughout the SMP regulations where appropriate.

Pg. 4-24 & 25, 4.6.7.1: This regulation appears to me to imply revetments are only used in streams, but does not specifically states that they could not be used along shorelands of the Strait of Juan de Fuca. Is this intended? Definition 292 Revetment (pg. 11-29) mentions "stream banks and other shorelines" and can be "constructed of rip-rap or other suitable material placed on stream banks or other shorelines to retard bank erosion..." Bulkheads can also be constructed of rock (pg. 11-6, #52). The rip-rap definition (pg. 11-29, #293) states it is "dense, hard, angular rock.....often used for bulkheads, revetments...." My concern is that a property owner could argue that they are putting in a bulkhead along a stream or wetland to avoid the specific regulation for revetments. Perhaps the easy solution is to combine the regulations for revetments and bulkheads?

Pg. 4-25, 4.6.8.1.b: This regulation implies that breakwaters, jetties, and seawalls are used for existing public water-dependent uses. Is this only public water-dependent uses? There is nothing in the definitions of breakwaters (pg. 11-6, #52), jetties (pg. 11-18, #184) and seawalls (pg. 11-30, #305) that states or implies that they are only for public water-dependent uses. If breakwaters, jetties and seawalls are ONLY for existing water dependent uses, then this should be so stated. If not, then I'm concerned a property owner could claim they are only building a bulkhead or revetment to avoid the mitigation regulation for building a breakwater or seawall. This could be resolved by requiring mitigation for construction of a bulkhead and revetment.

Pg. 4-25, 4.6.9.e: Substitute "net loss of ecological function" for "adverse impacts." Although the application requirement "e" states that mitigation must be included, since regulations for bulkheads and revetments do not include specific mitigation requirements, I'm concerned a land owner could claim the application does not require mitigation. Again, this could be resolved by adding that mitigation is required if no net loss cannot be achieved for bulkheads and revetments.

Pg. 5-1, 5.1.2.1: This regulation states that only over-water residences and existing non-water-oriented commercial or industrial uses are considered nonconforming; however, 5.1.2.2 makes no differentiation for expansion or modification of conforming and nonconforming uses, thus appears to me to allow expansion or modification of over-water residences and existing non-water-oriented commercial or industrial uses. Then regulations 5.1.2.3 through 5.1.3.9 specifically use the term "grandfathered," thus seeming to not apply to over-water residences and existing non-water-oriented commercial or industrial uses. But, regulations 5.1.3.10 & 11 (pg. 5-4) do not specifically use the term "grandfathered" implying that these are the regulations that apply to the nonconforming and conforming uses. Is this the intent? Could one really get a variance to enlarge or expand an existing over-water single-family residence? Are there any over-water residences in Clallam County? Does this mean that a non-water-oriented commercial or industrial use can be expanded or enlarged without a variance and avoid conforming with the SMP (pg. 5-2, 5.1.3.3) since it is not grandfathered? Is regulation 5.1.3.11.b (pg. 5-4) the only one that applies to non-water-oriented commercial or industrial uses since they are not grandfathered, and this is the only regulation for non-residential structures that does not specify grandfathering? Some clarification is needed.

Pg. 5-2, 5.1.3.5: It appears to me that if a property owner were able to do the maintenance and/or repair of a grandfathered structure themselves, avoiding the labor costs, the owner could potentially avoid the regulations in Section 7.16. I don't see a resolution to this situation.

Pg. 5-3, 5.1.3.6.c: Doesn't the last sentence "structures located within the floodway shall not be rebuilt within the floodway make the 50% of market value requirement moot? If the cost of rebuilding is say 45% of the before damaged market value, it still has to be rebuilt outside the floodway, right? Of does this regulation intended to say that if the cost of rebuilding is 50% or less of the before damaged market value, the the owner doesn't have to comply with floodplain regulations in Section 7.16? If, that's the case, then what building codes must the reconstruction meet (pg. 7-16, Section 7.16.1)? Are then land disturbing activities allowed within the floodway (pg. 7-17, Section 7.16.6.6)? Clarification is needed.

Pg. 5-3, 5.1.3.6.c: Allowing a 40-foot high expansion (4 stories) seems very liberal for a 10% reduction in structure footprint. So if I have a flooded single-family residence with attached garage in a floodway, that is damaged by a flood, I have to reconstruct outside the floodway, and can put the garage on the 1st floor and build a 4 story house over the garage as long as I have reduced the structural footprint by 10%? If I did all the work myself to keep the cost of reconstruction below 50%, I wouldn't have to comply with the building codes in Section 7.16 and disturb all the floodway area on my property that I wanted to? This sounds like a pretty good deal to me, perhaps too good to be true? This 40-foot height expansion may not be allowed under some circumstances specified in Section 10.2.12.2, Pg. 10-8. Perhaps a reference to Section 10.2.12.2 is needed?

Pg. 5-3, 5.1.3.7.a: This appears to allow a 10% expansion of a single-family residence or accessory structure(s) that may be in buffer or floodway as long as the existing structure is not already in the water and the expansion is landward of existing structure's foundation. If that is the case, then it appears that if I were a really good friend of the Administrator, I might be able to add value to my property and potentially litigate a greater damage claim from the County when my home and/or accessory structure(s) are damaged by a flood, since the County approved the expansion! I believe this regulation needs to be rethought.

Pg. 5-3, 5.1.3.8: It appears that conditional use permit or shoreline variance isn't required (given that regulation 5.1.3.9 requires a conditional use permit and regulation 5.1.3.10 requires a shoreline

variance) in this regulation but that is not specifically stated. This should be clearly stated to eliminate any confusion. It also is unclear what is met by "...or increase the structure height up to the limits allowed by this Program..." Should this state "height beyond" rather than "up to" or does it actually mean just below the height limits allowed? This needs to be clarified. It also appears that the expansion can occur even if the grandfathered residence (should this be limited to single-family?) is already located in a buffer area. Section 5.1.3.8.d requires that an equivalent area (I'm assuming this means an area equal to the percent increase of the expansion) be enhanced through with native vegetation. What if there is no buffer in existence on the property? Does that mean the owner must plant one, if so where, between the house and the OHWM or anywhere? If a conditional use permit or variance is not required for this 10% to 25% expansion, why is the buffer enhancement required here but is not specifically required for expansions greater than 25% (pg. 5-4, Sections 5.1.3.9 & 10)?

Pg. 5-4, 5.1.3.9.a: Why is there not required buffer enhancement required as in 5.1.3.8.d? It must be specifically required in this regulation.

Pg. 5-4, 5.1.3.10.a: Expansion of a single-family residence into a buffer or critical area must not be allowed without a variance. The buffers proposed in this SMP are to accomplish no net loss and protect people and property. If buffers are non-existent or less than proposed in this SMP, allowing expansion waterward beyond the existing foundation into a buffer or critical area reduces the potential to achieve no net loss and puts people and property at greater risk of natural disaster, not to mention the County at greater legal risk for allowing such expansion.

Pg. 5-4, 5.1.3.11.a: Allowing expansion of existing residences already in a floodplain makes no sense to me. According to regulation 5.1.3.6 one cannot rebuild a grandfathered residence in a floodway, but this SMP allows an expansion of a residence already in the floodplain. Based on the definition of floodplain and floodway in Chapter 11, it appears to me that a floodplain includes the floodway but not the reverse. If I am correct with my assumption, then this regulation needs to specify it is for structures in the floodplain but not also in the floodway. If an owner does the expansion themselves, eliminating labor costs, this regulation may allow for a very large expansion.

Pg. 5-4, 5.1.3.11.b: This regulation applies to existing non-residential structures, but it's not clear if substantial expansion for non-residential structures is that same more than 50% as for residential structures. This need clarification.

Pg. 5-4, 5.1.4.1.b: It is unclear to me how this regulation can be applied given the allowed expansion in regulation 5.1.3. Section 6.3 appears to me to establish new buffer widths and requirements. Regulation 5.1.4.1.b appears to be for existing development. Existing development may be in the buffer areas established in Section 6.3, or there may be insufficient area or location to establish the buffers required in 6.3. This regulation appears to be inconsistent with regulation 5.1.3. This needs clarification.

Pg. 5-6, 5.2.2.4.d: This regulation appears to allow fill waterward of the OHWM making it inconsistent with (at least) regulations 4.4.2.3.b, c, d (pg. 4-16); 4.6.3.3 (pg. 4-22); 4.6.4.1.b & c (pg.4-23); 4.6.4.3.b & c (pg. 4-23); 4.6.5.3 & 4 (pg. 4-24); 4.6.7.1 (pg. 4-24 & 25). A reference to the appropriate sections in Chapter 4 is needed to clarify that other regulations apply as in 5.2.2.5 (pg. 5-6).

Pg. 5-6 & 7, 6.2.2.6: The information required for fill below the OHWM are significantly less than application requirements in Chapter 4. This should not be the case. Since this is fill below the OHWM

the information required must be more stringent than for fill landward of the OHWM. There is nothing about achieving no net loss, mitigation, or any impacts on species living in or using the area to be filled.

Pg. 5-10, 5.4.2.2.c: Substitute "materials" for "substances" at the end of the paragraph since there is no definition for "hazardous substances" in Chapter 11.

Chapter 6

Pg. 6-1: It must be stated here that if development is proposed on lots too small to meet the buffer requirements in this Chapter, a variance is needed for the development.

Pg. 6-1, 6.2.1.a: Need to add "climate change impacts such as storm surges and sea level rise" to the 2nd line.

Pg. 6-2, 6.3.: I believe the 2nd sentence needs to be highlighted to ensure that new uses and developments shall be located OUTSIDE the proposed buffers. I also believe that if this is not possible there must be a variance to allow the County to assess the potential for human health or safety hazards or cause a threat to people or property in the foreseeable future and achieve no net loss. It could also allow the County to negotiate potential purchase of the property if any of the previously mentioned potentials are too great.

Pg. 6-3, 6.3.4: Allows the greater of a 20% reduction or at least 15 linear feet of water frontage without any mitigation. According to the definition of impervious surface (Chapter 11, pg. 11-17, #171) includes "a hard surface area that either prevents or retards the entry of water into the soil" and "Common impervious surfaces include, but are not limited to,....packed earthen materials..." which lawn becomes after frequent mowing and other use. In my view lawn is or quickly becomes impervious surface, which should not be part of a buffer. This section also seems to me to imply that anyone can get the 20% reduction in buffer area for lawn, even if their lot size allows a full buffer (based on Tables 6-2 & 2) and development and lawn is possible outside the specified buffer. The buffers are meant to protect lives and property, why set safety buffers (6.3.3) and lop of 20% of the buffer for lawn? This needs clarification.

Pg. 6-3, 6.3.5: Add "lawn" before "mowing" at the end of the last line to clarify this is not mowing down native vegetation in the buffer.

Pg. 6-4, 6.3.8: If I'm reading this correctly, it doesn't make any sense. Is the developed lot located between the water and the undeveloped lot? That's the way I'm reading this. Don't you mean the buffer for the undeveloped lot does not extend into the developed lot that is waterward of the undeveloped lot? I'm not sure how this would work anyway. If the developed lot (waterward of the undeveloped lot) had the required buffer based on Table 6-1 & 2, why would the undeveloped lot (landward of the developed lot) need to even have a buffer. If the developed lot's buffer is insufficient to satisfy the requirements of Table 6-1 & 2, it's not clear to me what buffer would be required on the undeveloped lot. Clarification is needed.

Pg. 6-5 & 6, Table 6-1 & 2: A footnote guiding the reader to where to find the definitions of Minor new Development and Major New Development in the text of this chapter is needed, given that definitions for these terms are not in Chapter 11.

Pg. 6-7, 6.4.1: The first line states "The Administrator may approve, without a shoreline variance..." In my view, if a development cannot meet the buffer requirements in Tables 6-1 & 2, then a variance is needed. This will allow a greater scrutiny of whether the buffer averaging proposed puts the single-family residence or water-dependent/related development in harms way. It would also allow for negotiations to prevent putting structures in harms way or purchase of the property to prevent the development if the potential for future harm is too great.

Pg. 6-8, 6.4.4.a: Add "and allowing for potential impacts of future climate change" to the statement in brackets.

Pg. 6-9, 6.4.5.b: Need to include the potential for increased flooding (both frequency and quantity) resulting from potential climate change to this paragraph.

Pg. 6-9, 6.4.6: Add "and projected climate change impacts" after "activity" and before "warrants" in the 4th line.

Pg. 6-10, 6.5.5: It is unclear to me if the 6 foot wide private pathway through the buffer is lawn (constructed of pervious material doesn't fit my definition of lawn) and if so, is it included in the 20% calculation of buffer reduction (which I'm opposed to) for lawn in 6.3.4.

Pg. 6-11, 6.7.1: This regulation for common line setback does not say it can only be used if the setback provides sufficient room for the buffers in Tables 6-1 & 2, but it should. If this regulation is intended for properties that cannot meet the buffer requirements established in Tables 1 & 2, then common line setback must not be used. In my view, if buffer requirements cannot be met for a new development, the development shall only be approved with a variance. In any case, if a development cannot meet the buffer requirements set forth, any structures must be set as far back on the property as possible, not closer as implied in Figure 6-6a.

Pg. 6-12, 6.7.2: This regulation must specify that common line setback cannot be used on bluffs of any kind or channel migration zone where it would put the development into the safety buffers specified in Tables 6-1 & 2.

Chapter 7

Pg. 7-11, 7.7.9: At the very top of the page substitute "a net loss of" for "adverse effects on" since adverse effects is undefined in Chapter 11.

Pg. 7-12, 7.11.1.a.iii: Substitute "mitigation" for "compensation" near the end of line 4 since compensation is undefined in Chapter 11.

Pg. 7-14, 7.13.1.d: Add "and account for potential climate change impacts" after "development" in line 2.

Pg. 7-15, 7.14.4.d: Add "and account for potential climate change" after "stability" in line 1.

Pg. 7-16, 7.15.1: Need to add something regarding the increased likelihood of flooding due to climate change impacts somewhere in this Section.

Pg. 7-18, 7.17.1: Need to add something regarding the increased likelihood of saltwater intrusion into critical aquifers as a result of sea level rise caused by climate change somewhere in this Section. Is saltwater intrusion something for which critical aquifers will need to be tested in the future? I think it should be.

Chapter 8

Pg. 8-2, 8.2.3.g: Perhaps substitute "red/brown macro algae and eelgrass" for "kelp" at the end of the line, since I'm not sure everyone considers eelgrass or all macro algae as kelp.

Pg. 8-3, 8.3.2.b: It's unclear to me that "minimizing impacts" meets the no net loss standard. I suggest substitute "achieves no net loss" for "minimizing impacts."

Pg. 8-4, 8.3.5: Climate change needs to be added to the items the Administrator shall consider.

Pg. 8-6, 8.4.1.b.i & ii: Substitute "mitigation" for "compensation" (line 1 for i & line 3 for ii), since compensation is undefined in Chapter 11.

Pg. 8-6, 8.4.1.d: Substitute "mitigation" for "compensation" end of line 1.

Pg. 8-7, 8.4.1.f: Substitute "mitigation" for "compensation" toward the end of line 3.

Pg. 8-9, 8.7.1.j: Add "potential climate change including increased flood frequency, intensity, and duration, sea level rise" after "due to" in line 1.

Pg. 8-9, 8.8.1.b: Add "salinity" to the list.

Chapter 10

Pg. 10-3, 10.2.2.3.d: Substitute "achieve no net loss at" for "will not cause adverse effects to the" since adverse effects is undefined in Chapter 11.

Pg. 10-3, 10.2.2.4: Substitute "shall achieve no net loss or substantially degrade other shoreline uses" for everything after the "and" near the end of the 2nd to last line. Again "significant adverse effect" is undefined in Chapter 11. "Significant adverse impact" is defined in Chapter 11 but it allows for a minor to moderate negative effect on environmental quality which I don't believe meets the no net loss standard.

Pg. 10-4, 10.2.3.5.c: Substitute "substantially degrade" for "adversely affected" and the end of the sentence.

Pg. 10-4, 10.2.3.6: Substitute "achieve no net loss of" for "not cause substantial adverse effects to" in the last line.

Pg. 10-6, 10.2.9.3.a & b: It is unclear here if the 10% increase in pier, dock or floating structure or ground area cover get evaluated for no net loss or cumulative impact. Is this 10% increase allowed without any additional review? Clarification is needed.

Pg. 10-8, 10.2.12.2: This requirement seems to me to be inconsistent with the vertical expansion allowed in Regulation 5.3.6.c (pg. 5-3)

Chapter 11

Pg. 11-29, #292 Revetment: This definition implies that a revetment would/can only be used on streams. Is that the case?

Pg. 11-32, #329 Significant adverse impact: This definition appears to allow low to moderate negative effects on environmental quality. I don't believe this meets no net loss. I suggest removing this definition and any use of significant adverse impact from the text of the SMP. In it's place use achieve no net loss, or substantially degrade if no net loss is not appropriate.

Exhibit A

Map 10: Is there a reason for not including the Olympic Discovery Trail on this Map? The Trail is included on Map 12.

Maps 13, 14: Will these maps be revised to show the present Elwha River channel or is line needed in the legends to indicate that the Elwha Dam has been removed so these maps only show the former shoreline of Lake Aldwell, pre-dam removal?