

<u>AGENDA ITEM</u> MEETING DATE: January 27, 2015 SUBJECT: Shoreline Master Program (SMP) Meeting MEMO DATE: January 16, 2015 Prepared By: Mike Shuttleworth	<u>TYPE OF ACTION</u> NEEDED	Consent Agenda
	Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Public Meeting X Discussion X Other

BACKGROUND INFORMATION

Benton County is required by RCW 90.58.080 (2)(a)(v) to review, update, and adopt its Shoreline Master Program (SMP) in accordance with the provisions of the Shoreline Management Act (SMA) and the SMP Guidelines (WAC 173-26). The County duly entered into a grant contract with the Department of Ecology (ECY) to help fund the update program, which allows completion and the update was completed in June 2014. The County adopted the draft SMP on June 3, 2014 and sent it to the Washington State Department of Ecology for their review and approval. The Department of Ecology sent a letter to Benton County on January 7, 2015, conditionally approving the SMP. The approval was subject to 5 required changes and 6 recommended changes.

STAFF REVIEW AND ANALYSIS

The County has updated its SMP in accordance with state law and guidelines. The Washington State Department of Ecology has reviewed the updated SMP and conditionally approved the plan. The conditional approval had 5 required changes and 6 recommended changes. The Planning Department has reviewed the required and recommended changes to determine if the wording would be consistent with the original document. The Planning Department does not see any issues with making the changes to the plan.

RECOMMENDATION

It is the recommendation of the Benton County Planning Staff, that the Board of County Commissioners accept the changes proposed by the Washington State Department of Ecology.

FISCAL IMPACT

No fiscal impact is determined at this time, this is a non-project proposal.

MOTION

The Board accepts Washington State Department of Ecology’s changes, as outlined in Attachments B and C to the Ecology’s letter dated January 7, 2015 and authorizes the chairman to sign the attached letter.

RESOLUTION

BEFORE THE BOARD OF COMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE BENTON COUNTY SHORELINE MASTER PROGRAM UPDATE (SMP) IN ACCORDANCE WITH WASHINGTON STATE SHORELINE MANAGEMENT ACT (SMA) RCW 90.58.

WHEREAS, the Shoreline Management Act (RCW 90.58.080) provides a timetable that requires the County to amend its master program by December 31, 2013, and an extension to June 30, 2014 was granted by the Washington State Department of Ecology and approved in the grant agreement G1200022 authorized by the Benton County Commissioners in Resolution 2012-101; and,

WHEREAS, the County developed a public participation plan that provided widespread public notice, a project website, public meetings with a Shoreline Advisory Committee, public forums in several venues in the County, a Vision Community Questionnaire, a Public Access Focus Group, and public meetings and hearings before the Planning Commission and Board of County Commissioners between June of 2012 and June of 2014; and,

WHEREAS, an Environmental Determination was made by Benton County in File No. EA 2014-15, issued on March 21, 2014; and,

WHEREAS, the 60 day Notice of Proposed Amendment was submitted to Washington State Department of Commerce and acknowledged received on March 21, 2014; and,

WHEREAS, the Board of County Commissioners at the Open Record Hearing reviewed all testimony and public hearing exhibits that were entered into evidence; and,

WHEREAS, the Board of County Commissioners approved the Shoreline Master Program for Benton County on June 3, 2014 based on findings recorded in Exhibit CCM 1.1; and,

WHEREAS, the County approved Shoreline Master Program was sent to the State of Washington Department of Ecology for review and approval; and,

WHEREAS, on January 7, 2015, the Washington Department of Ecology approved the Benton County Shoreline Master Program subject to the required changes listed in Attachment B and the recommended changes shown in Attachment C to Ecology's letter; and,

WHEREAS, the Board of County Commissioners has reviewed the changes proposed by the Washington State Department of Ecology and finds them to be consistent with the goals and policies of the Benton Shoreline Master Program; NOW THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

Section 1. The Board of County Commissioners accepts the Washington State Department of Ecology's changes, as outlined in Attachments B and C to Ecology's letter dated January 7, 2015.

Section 2. The Board of County Commissioners authorizes the Chairman to sign and send a letter to Washington State Department of Ecology accepting Ecology's changes to the Benton County Shoreline Master Program,

Section 3. The Board of County Commissioners directs the Benton County Planning Department to make the changes to Benton County Shoreline Master Program as provided in Ecology's Attachments B and C.

Dated this 27th day of January 2015.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest _____
Clerk of the Board

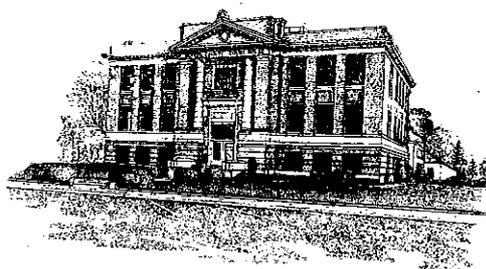
MES

Jerome Delvin
District 1
Shon Small
District 2
James Beaver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator



January 27, 2015

Maia D. Bellon
Washington State Department of Ecology
Attention: Director's Office
P.O. Box 47600
Olympia, WA 98504-6700

Re: Benton County Comprehensive Shoreline Master Program Update – Conditional approval, Resolution Number 2014-440

Dear Director Bellon:

The Board of County Commissioners has discussed your comments in Attachments B and C to your letter. Benton County is in agreement with the changes in both attachments and will be directing staff to make the changes to the Benton County Shoreline Master Program adopted under Resolution 2014-440.

Benton County appreciates the help provided by Angela San Fillippo and Lennard Jordan of Ecology's Central Office and looks forward to working with them as we move forward with the implementation of the Benton County Shoreline Master Program.

Please contact our Planning Manager, Mike Shuttleworth at (509) 786-5612 or by E-mail at mike.shuttleworth@co.benton.wa.us if you any additional questions.

Sincerely,

JEROME DELVIN, Chairman
Board of County Commissioners

cc: Michael Shuttleworth, Planning Manager



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

RECEIVED

January 7, 2015

JAN 14 2015

Board of County Commissioners
Benton County
PO Box 190
Prosser, WA 99350

Benton County
Planning Department

Re: Benton County Comprehensive Shoreline Master Program Update – Conditional Approval, Resolution Number 2014-440

Dear Commissioners:

I would like to take this opportunity to commend Benton County for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update. The SMP will provide a framework to guide development and habitat restoration along the County's shorelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point, the County may:

- Agree to the proposed changes (required and/or recommended changes), or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally developed by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the County and Ecology agree on language that meets statutory and Guideline requirements.

Benton County Board of County Commissioners

January 7, 2015

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Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that the Board of County Commissioners, County staff, the Planning Commission, and the community have put into the Shoreline Master Program update.

We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Angela San Filippo, at Angela.SanFilippo@ecy.wa.gov/(509) 454-3619.

Sincerely,

A handwritten signature in black ink that reads "Maia D. Bellon". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Maia D. Bellon
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 3799]

cc: Michael Shuttleworth, Benton County
Gary Graff, Ecology
Angela San Filippo, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE COUNTY OF BENTON
SHORELINE MASTER PROGRAM**

SMP Submittal accepted June 26, 2014, Ordinance No. 2014-440
Prepared by Angela San Filippo on December 11, 2014

JAN 14 2015

Benton County
Planning Department

Brief Description of Proposed Amendment:

Benton County has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the County's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The original County SMP was approved by Ecology in 1974 and has never been comprehensively updated. This SMP update is also needed to address land use changes that have occurred along the County's shorelines over the past 40 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the County's Critical Areas regulations, Comprehensive Plan, Comprehensive Parks Plan, and Hanford Site Comprehensive Land Use Plan.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the County's existing SMP. This SMP will regulate approximately 330 miles of the Columbia and Yakima River shorelines. The updated SMP is a significant upgrade from the current 1974 SMP. Since 1974, much has changed along Benton County shorelines, including development pressures, state laws and guidance, knowledge of best development and conservation practices. The proposed SMP contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions that have been updated to reflect these changes. Overall, the state SMP guidelines are more restrictive than they were for the 1974 SMP and this SMP is consistent with the most current guidelines.

The following elements outline the key differences between the county's proposed SMP and the existing 1974 SMP:

Environment Designations

Benton County's existing SMP has four environment designations: Urban, Rural, Conservancy, and Natural Environments. The proposed SMP has eight environment designations: Urban Transition Area, Rural Industrial, Rural, Residential, Conservancy, Natural, Hanford, and Aquatic Environments. The proposed SMP environment designations include a purpose statement, designation criteria, and management policies for each shoreline environment. In addition, the proposed shoreline environments are more descriptive, tailored to Benton County's unique shorelines, and meet current state SMP guidelines.

Shoreline Uses and Modifications Matrix

The existing SMP does not distinguish between water-oriented and non-water-oriented uses and does not provide a shoreline use and modification matrix.

The proposed SMP distinguishes between water-oriented and non-water-oriented uses for commercial, industrial, institutional, and recreational uses. The proposed SMP includes a shoreline use and modification matrix (Table 04.110-1) that outlines categories and subcategories of uses and modifications and identifies whether they are permitted, conditional, or prohibited uses and whether they are subject to use limitations. Through the shoreline use and modification matrix and the accompanying text the proposed SMP contains detailed policies and regulations with more direction and detail for specific types of uses.

Development Standards Matrix

The existing SMP does not include a development standards matrix. The proposed SMP includes a development standards matrix with height limits, minimum shoreline lot frontages, buffers, and minimum structure setbacks from side property lines.

Amendment History, Review Process: The County indicates the proposed SMP amendments originated from a local planning process that began in February 2012. The record shows that regional public forums were held in 2013 on the following dates:

- January 9,
- January 10,
- June 5,
- June 6,
- October 9, and
- October 10.

A Shoreline Advisory Committee representing a cross-section of interests served as a sounding board for the project management team; advised the Benton County Planning Commission about the community's vision for the shoreline areas; and recommended SMP goals, policies, and regulations. Shoreline Advisory Committee meetings were held on:

- October 18, November 8, and December 13, 2012;
- January 17, February 14, March 14, April 11, May 9, June 13, July 11, August 8, September 12, October 10, November 14, and December 12, 2013; and
- January 9, 2014.

A joint Planning Commission and Shoreline Advisory Committee meeting was held on February 4, 2014. In addition, a postcard and online visioning survey was sent to shoreline property owners in March 2013.

Affidavits of publication provided by the County indicate notice of the hearing was published on May 16, 2014. A public hearing before the Board of County Commissioners was held on June 3, 2014.

With passage of Resolution #2014-440, on June 3, 2014 the County authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on July 17, 2014. Notice of the state comment period was distributed to state task force members and interested parties identified by the County on July 30, 2014, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 11 and continued

through September 11, 2014. Ecology sent all oral and written comments it received to the County on September 16, 2014. On November 12, 2014 the County submitted to Ecology its responses to issues raised during the state comment period (see Attachment D).

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the County.

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on March 21, 2014. Notice of the SEPA determination was published in the Tri-City Herald on May 16, 2014. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the County in support of the SMP amendment:

These supporting documents include:

- Channel Migration Zone Maps
- Cumulative Impacts Analysis (includes net effect on ecological function), April 2014,
- Shoreline Analysis Report, April 2013
- Shoreline Restoration Plan, April 2014
- Public Access Framework, June 2014

Summary of Issues Raised During The Public Review Process:

Ecology received three written comments. Commenters focused on a variety of topics including the location and regulation of irrigation return flow facilities on the Yakima River, public access, archaeological resources, and critical areas.

Once commenter expressed concern that the shoreline administrator can approve another public access plan and that public access for subdivisions larger than four parcels and residential development with more than four parcels is not adequately address. Another commenter recommended requiring consultation and archaeological investigations for areas suspected to contain archaeological resources.

Comments on critical areas included the following recommendations:

- Expand shoreline jurisdiction to include critical area buffers;
- Provide more specific avoidance criteria for wetlands;
- Include areas of specific susceptibility and site classes (per Department of Natural Resources’ Liquefaction Susceptibility Site Class Maps) as geological hazards;
- Give county staff the authority to require a geotechnical report when proposed buildings are susceptible to damage from landslides or other geological hazards; and

- Set buffers for landslides on a case-by-case basis using the site analysis.

Summary of Issues Identified by Ecology as Relevant To Its Decision:

The county's responses to public comments are contained in Attachment D. Ecology finds the county's proposed response are consistent with relevant citations and did not lead to any required or recommended changes. Ecology's required changes include formatting changes to reflect proper internal citation and clarity over when the SMP and corresponding regulations take effect. Ecology's recommended changes include additional clarity with regard to updates to the SMP Guidelines, rewording to establish clarity over non-development activities, editorial changes, and added language to provide specificity to definitions by including language from the WAC.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and 2020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the County, be included in Ecology's approved SMP amendments.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the County has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the County has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the County's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the County. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.

Attachment B: Ecology Required Changes to Benton County's proposed SMP (6/26/2014, Ordinance 2014-440)

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	SMP Submittal Provision	BILL FORMAT CHANGES (underline = additions, strikethrough = deletions)	RATIONALE
<p>1. 15.01.030 Applicability</p>	<p>RECEIVED</p> <p>JAN 14 2015</p> <p>Planning Department</p> <p>(a) Except as described in Subsections (b) and (c), all proposed uses and developments occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 15.01.010 and this SMP.</p> <p>(b) This SMP does not apply to the following activities. The following are examples of activities that are not considered development and are therefore not subject to this SMP:</p> <p>(1) Interior building improvements that do not change the use or occupancy;</p> <p>(12) Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure; and</p> <p>(23) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; and.</p> <p>(3c) Consistent with Section 15.02 (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, <u>this SMP shall not require modifications of or limit agricultural activities on agricultural lands as of the date of adoption of the SMP (June 3, 2014).</u></p> <p>(4) As of the effective date of the SMP insert date, legal pre-existing residential uses and structures where no change or new activity is proposed.</p> <p>(ed) Activities that are exempt from the permit system in Section 15.09.040 shall comply with this SMP whether or not a permit or other form of authorization is required.</p> <p>(4e) The shoreline permit procedures, policies and regulations established in this SMP shall apply countywide to all nonfederal uses, activities, and development.</p> <p>(f) This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.</p>	<p>Changes to 15.01.030 are required for clarity and consistency as follows:</p> <p>Item (a) is amended to reflect changes in formatting to section 15.01.030(b).</p> <p>Item (b) is modified for clarity to remove duplicate numbering.</p> <p>Item (b)(3) is renumbered as item (c) because the provisions are fundamentally different. While this SMP does not apply to the activities in (b)(1) – (3) because they are not considered development, this SMP does not apply to agricultural activities on agricultural lands because they have been specifically addressed in the WAC Guidelines and in statute. Under RCW 90.58.065 and WAC 173-26-241(3)(a), Master Programs shall not require modifications of or limit agricultural activities occurring on agricultural lands. The language in item (c) was revised to match this statutory language exactly.</p> <p>The reference to the local date of adoption is deleted because the effective date of the SMP is fourteen days from Ecology's final letter indicating approval, rather than the June 3, 2014 local adoption date.</p> <p>Item (b)(4) is already included in Section 15.08.010, it is unnecessary to repeat it here. The statement reads as if this SMP does not apply to legal pre-existing uses and structures. It is more accurate to state that legal pre-existing uses and</p>	

ATTACHMENT B- DEPARTMENT OF ECOLOGY REQUIRED CHANGES TO BENTON COUNTY PROPOSED SMD (6/26/2014, ORDINANCE NO. 2014-440)

		<p>structures can be considered conforming as included in Section 15.08.010 and WAC 173-26-191(2)(a)(iii)(A).</p> <p>Items (c) – (e) are amended to reflect the change in citation sequence noted above.</p>													
<p>2. 15.02 Definitions</p>	<p>“Shorelines Hearings Board”, a quasi-judicial body within the state Environmental and Land Use Hearings Office for the purpose of the local SMD administration by Benton County, means up to a six member quasi-judicial body, created by the SMA, or the Hearings Examiner, which hears appeals by any aggrieved party on the issuance of a shoreline permit. See RCW 90.58.170 et seq. for the role of the Washington State Shorelines Hearings Board.</p>	<p>The Shorelines Hearings Board is a state level board created by the SMA. It is confusing to include the Hearings Examiner in this definition, as the Hearings Examiner would never be referred to as a Shorelines Hearings Board.</p> <p>References to Shorelines Hearings Board within this document seem to be referring to the state level board expect when included together with Hearing Examiner as ‘Shoreline Hearings Board/Hearing Examiner.’ In the Required Change below, these have all been changed to just ‘Hearing Examiner.’</p>													
<p>3. 15.06.020 Wetlands (d)</p>	<p>(d) Categories. Criteria for categorizing a wetland are those specified in the Washington State Department of Ecology’s Washington State Wetland Rating System for Eastern Washington, March 2007 or as revised (Publication #94-06-45,14-06-030).</p> <p>(1) Category I Wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands; wetlands of high conservation value; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well. These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.</p>	<p>Ecology’s wetland rating system was updated in October 2014 and will become effective January 1, 2015. This reference as well as the terminology to refer to Category I wetlands needs to be updated to reflect the most current Ecology guidance and terminology.</p>													
<p>4. Table 06.020-1. Wetland Buffers</p>	<table border="1"> <tr> <td data-bbox="223 451 371 630">Wetland Category</td> <td data-bbox="223 630 371 808">Standard Buffer Width Scores 3-4 habitat points</td> <td data-bbox="223 808 371 987">Additional Buffer width if wetland scores 21-25 habitat points</td> <td data-bbox="223 987 371 1165">Additional buffer width if wetland scores 26-29 habitat points</td> <td data-bbox="223 1165 371 1354">Additional buffer width if wetland scores 30-36 habitat points</td> </tr> <tr> <td data-bbox="158 451 223 630">Category 1: Based on total</td> <td data-bbox="158 630 223 808">75 ft</td> <td data-bbox="158 808 223 987">Add 15 ft</td> <td data-bbox="158 987 223 1165">Add 45 ft</td> <td data-bbox="158 1165 223 1354">Add 75 ft</td> </tr> </table>	Wetland Category	Standard Buffer Width Scores 3-4 habitat points	Additional Buffer width if wetland scores 21-25 habitat points	Additional buffer width if wetland scores 26-29 habitat points	Additional buffer width if wetland scores 30-36 habitat points	Category 1: Based on total	75 ft	Add 15 ft	Add 45 ft	Add 75 ft	<p>The habitat points have been updated to reflect the most recent Ecology wetland rating system which was updated in October 2014 and will become effective January 1, 2015.</p>			
Wetland Category	Standard Buffer Width Scores 3-4 habitat points	Additional Buffer width if wetland scores 21-25 habitat points	Additional buffer width if wetland scores 26-29 habitat points	Additional buffer width if wetland scores 30-36 habitat points											
Category 1: Based on total	75 ft	Add 15 ft	Add 45 ft	Add 75 ft											

5. 15.09.020 Administrative Responsibilities	Score				
	Category I: Forested	75 ft	Add 15 ft	Add 45ft	Add 75 ft
	Category I: Bogs	190 ft	N/A	N/A	N/A
	Category I: Allkall	150 ft	N/A	N/A	N/A
	Category I: Natural Heritage Wetlands	190 ft	N/A	N/A	N/A
	Category II: Based on total score	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
	Category II: Vernal pool	150 ft	N/A	N/A	N/A
	Category II: Forested	75 ft	Add 15 ft	Add 45 ft	Add 75 ft
	Category III (all)	60 ft	Add 30 ft	Add 60 ft	N/A
	Category IV (all)	40 ft	N/A	N/A	N/A
<p>(a) The County shall designate a SMP Administrator. The SMP Administrator in Benton County is the Planning Manager and shall have overall administrative responsibility of this SMP. The SMP Administrator or his/her designee is hereby vested with the authority to:</p> <p>(1) Administrate this SMP. (2) Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP. (3) To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions. (4) Make field inspections as needed, and prepare or require reports on shoreline permit applications.</p>					
<p>The language in reference to the 'Shorelines Hearing Board/Hearings Examiner' as well as the 'Board of Adjustment' is unclear.</p> <p>The Shorelines Hearings Board is a state level review board while the Hearing Examiner works at the local level, therefore these two entities are not interchangeable. In provision (5) it is not clear why the first sentence references 'Shoreline Hearings Board/Hearing Examiner' and the following sentence references the 'Board of Adjustment.'</p>					

December 11, 2014

ATTACHMENT B- DEPARTMENT OF ECOLOGY REQUIRED CHANGES TO BENTON COUNTY PROPOSED SMP (6/26/2014, ORDINANCE NO. 2014-440)

	<p>(5) Make written recommendations to the Shorelines Hearings Board/Hearing Examiner, Planning Commission and Board of County Commissioners as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustments/Hearing Examiner regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and Board of County Commissioners.</p> <p>(6) Advise interested persons and prospective applicants as to the administrative procedures and related components of the SMP.</p> <p>(7) Determine and collect fees for all necessary permits as provided in County ordinances or resolutions. The determination of which fees are required shall be established by resolution of the Board of County Commissioners.</p> <p>(8) Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.</p> <p>(b) The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible official is designated in accordance with the Benton County Code.</p> <p>(c) The Shorelines Hearings Board/Hearing Examiner is authorized to:</p> <p>(1) Grant or deny Shoreline Variances, and Shoreline Conditional Use Permits under this SMP.</p> <p>(2) Decide on appeals of administrative decisions by the Administrator of this SMP.</p>	<p>For clarity and consistency, these references have all been changed to 'Hearing Examiner.'</p>
<p>15.09.090 Procedures Applicable to Shoreline Conditional Use Permits</p>	<p>(a) Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shorelines Hearings Board/Hearing Examiner and by Ecology. Shoreline Conditional Use Applications shall be processed consistent with this SMP and BCC Chapter 17.10, Permit Review Process.</p>	<p>The Shorelines Hearings Board is a state level review board while the Hearing Examiner works at the local level, therefore these two entities are not interchangeable. For clarity and consistency these have all been changed to 'Hearing Examiner.'</p>

Attachment C: Ecology Recommended Changes to Benton County's proposed SMP (6/26/2014, Ordinance 2014-440)

The following changes are recommended to clarify elements of Benton County's updated SMP:

ITEM	SMP Submittal Provision	BILL FORMAT CHANGES (underline = additions, strikethrough = deletions)	RATIONALE
1.	A. Introduction paragraph (1)-3 rd	The SMA directed in 2003 the Washington State Department of Ecology (Ecology) to prepare updated the SMP guidelines in 2003 (referenced as SMP Guidelines). The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparation of a locally tailored program that represents the vision and interests of our citizens and meets the needs of our rural communities. The SMP is required to be updated and adopted by June 2014.	Reword to provide clarity. In 1995 the state legislature directed Ecology to update the SMP Guidelines. The history is not entirely necessary, but the recommended rewording does clarify this statement.
2.	15.01.040 Findings (c)	(c) The Benton County Shoreline Analysis Report, Inventory and Channel Migration Maps, Cumulative Impacts Analysis, and voluntary Restoration Plan were utilized for the development of the Benton County SMP update, and which was prepared in conformance with RCW 90.58 (SMP guidelines Shoreline Management Act) and WAC 173-26.	This is primarily an editorial change, it is difficult to decipher if the final statement in this sentence is in reference to all the supporting documents mentioned or just in reference to the SMP. I believe it is meant to be just referencing the development of the SMP. Also, RCW 90.58 is the Shoreline Management Act.
3.	15.02 Definitions	"Appurtenance, residential" is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenance includes a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.	Consider adding language from WAC 173-27-040(2)(g) to add more specificity to this definition so that it is more than just a list.

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ATTACHMENT C- DEPARTMENT OF ECOLOGY RECOMMENDED CHANGES TO BENTON COUNTY PROPOSED SMP (6/26/2014, ORDINANCE No. 2014-440)

<p>4. 15.05.030 Shoreline Vegetation Conservation (e)</p>	<p>(e) Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new development or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include: (1) Removal of native trees, shrubs, or groundcovers; (2) Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or (3) Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.</p>	<p>For consistency capitalize each of these provisions.</p>
<p>5. 15.06.020 Wetlands (c)</p>	<p>(c) Boundaries, identification and delineation. Wetlands shall be identified and delineated by a qualified professional in accordance with WAC 173-22-035 and designated based on the definitions, methods, and standards set forth in the guidelines in the currently approved Federal Wetland Delineation Manual and applicable regional supplements shall be used when precise delineation of a wetland boundary is necessary.</p>	<p>Modifications to this provision to provide more specificity and clarity.</p>
<p>6. 15.06.030 Rivers and Creeks (e)(4)(b)(3)</p>	<p>b. Application Requirements: 1. Drawings of existing park facilities, including a narrative that identifies area (sq. feet) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas. 2. Drawings of proposed park facilities, including a narrative that identifies area (sq. feet) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas. 3. Any increase in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis include an explanation as part of the application that addresses the requirement for increased public facilities, what size facilities are needed by existing and projected park users, and the needed locations of similar facilities. 4. Expansion of public/park facilities shall be accompanied by a mitigation plan that addresses that design elements and the design and management standards above, addresses any critical area impacts, addresses mitigation sequencing, and demonstrates no net loss of shoreline ecological functions.</p>	<p>This reference to a needs analysis implies this is a separate report of some sort but there is no definition or explanation for what this needs analysis requires. Recommend changing the language here slightly so that it is clear that the 'needs analysis' referenced here is defined within this provision and is part of the application itself and not an additional report.</p>

Attachment D:

Benton County response to public comments

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Public Comment Summary: Benton County Locally Adopted SMP

FOR THE COUNTY
PLANNING DEPARTMENT

Ecology Public Comment Period, August 11 – September 11, 2014

Prepared by Angela San Filippo, WA Dept. of Ecology, September 16, 2014

Comment Number	Comment Topic and Section Number (Citation)	Commenter	Comment	Local Government Response and Rationale
1	Benton County Use Map??	Sunnyside Valley Irrigation District	SVID irrigation and return flow facilities are specifically excluded from the Washington SMA and therefore are to be excluded from regulatory oversight under the Benton County SMP. Comment letter included maps identifying the location of eleven SVID irrigation return flow facilities returning flow to the Yakima River.	On page 15 of the Draft Shoreline Master Program submitted by Benton County, is reference to exemptions fully described and listed in WAC 173-27-040. WAC 173-27-040(i) provides: "(i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands"
2	Non-specific	Washington State Department of Natural Resources	DNR has no significant comments on the proposed Benton County Shoreline Master Program update. Comment included a statement to create awareness within Benton County regarding DNR's work in developing an Aquatic Lands Habitat Conservation Plan and conducting extensive review and analysis on the environmental impacts of DNR-authorized activities on state owned aquatic lands and the species that use those lands.	Thank-you for reviewing the documents.
3	Profile of Benton County's	Futurewise	Clarify that the shoreline jurisdiction can expand as necessary to provide the buffers required to protect critical	The County shall continue to regulate those critical areas and required buffers pursuant to

	Shoreline Jurisdiction, page 3 and Shoreline Jurisdiction, page 14		areas within shoreline jurisdiction. The buffers necessary to protect certain critical areas extend beyond shoreline jurisdiction. Benton County must either provide that shoreline jurisdiction expands to include necessary buffers and the other protective measures necessary to protect critical areas or rely on its critical areas regulations with the amendments needed to comply with the Shoreline Management Act and the SMP Guidelines. Recommendation that the SMP provide that shoreline jurisdiction expands to include the necessary buffers. Recommendation that consultation and archaeological investigations be required for suspected cultural and archaeological sites, with specific reference to Washington State Department of Archeology and Historic Preservation's predictive model. In order to facilitate use of DAHP's predictive model Futurewise recommends changing the wording of section 15.05.010(a) to include not only areas that are documented to contain archaeological resources require a site inspection by a professional archaeologist but those that are likely to contain archaeological resources as well.	RCW 36.70A.060(2), Benton County Critical Areas Ordinance
4	Chapter 15.05.010 Archaeological and Historic Resources, page 48	Futurewise	The plans identified in Chapter 15.05.050(c) are not specific enough in identifying public access improvements and public access locations to qualify as a public access planning process as described in WAC 173-260221(4)(c). Statement of concern that the administrator can approve another plan as a public access plan. Futurewise believes that Ecology must review and approve such plans after providing opportunities for public comment.	Benton County submitted a shoreline public access plan to Ecology as part of this process. That plan is part of the Benton County Shoreline Master Program.
5	Chapter 15.05.050 Public Access, pages 52 - 54	Futurewise	Futurewise states that Chapter 15.05.050 does not require the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses for the subdivision of land into more than four parcels or residential development of more than four units. Futurewise believes that since the county has not undertaken a public access planning process Section 15.05.050(j), which addresses shared community access, should be deleted and public access should be required as	Benton County submitted a shoreline public access plan to Ecology as part of this process. That plan is part of the Benton County Shoreline Master Program.
6	Chapter 15.05.050 Public Access, pages 52-54	Futurewise		

			<p>mandated by WAC 173-26-221(4)(d)(iii). Futurewise believes more specific avoidance criteria are needed for wetlands. Futurewise recommends the following language, a modified version of model language prepared by the Washington State Department of Ecology, be added as a subsection to Chapter 15.06.020(e):</p> <p>A wetland or its required buffer may not be altered unless the following avoidance criteria are met. Any alteration approved pursuant to this Section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland or buffer.</p> <ol style="list-style-type: none"> 1. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where an existing public facilities must be expanded or extended into the wetland, a utility must be located in a wetland because there is no other site that can serve the utility's function, or a reasonable use exception or variance allows the impact. Full compensation for the loss of wetland and buffer acreage and all functions that can be replaced shall be provided as required by these regulations. 2. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, it is presumed that an alternative development location exists; activities and uses shall be prohibited unless the applicant can demonstrate that: <ol style="list-style-type: none"> A. The basic purpose cannot reasonable be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and B. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as reduction in the size, scope, configuration or density of 	<p>Benton County does not have many wetlands and the language would probably not substantively change how Benton County's SMP is implemented. Futurewise has cited Ecology's <i>Wetlands in Washington State Volume 2</i> however, because of the lack of wetlands and the nature and intensity of land uses in Benton County, the <i>Wetlands Guidance for Small Cities</i> was deemed adequate for preparing wetland protection policies and regulations in the SMP update.</p>
7	Chapter 15.06.020 Wetlands	Futurewise		

			<p>3. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective.</p>	
8	Chapter 15.06.06(a) Geological Hazards	Futurewise	<p>Recommendation that the geological hazard provisions should be updated to incorporate the Washington State Department of Natural Resources' Liquefaction Susceptibility and Site Class Maps. Futurewise recommends that areas classified as having a liquefaction susceptibility of "moderate," "moderate to high," "high," and "peat deposit" be identified as geological hazards. The Site Class map identifies areas where the underlying geology is likely to amplify shaking on the ground surface. Futurewise recommends that areas classified as having a site class of "D," "D to E," "E," and "F" be designated as geological hazards.</p>	<p>The subject of liquefaction was not discussed during the public process of the development of the Draft Shoreline Master Program. This subject needs to be studied in more detail and part of a county wide review not just in the shoreline area.</p>
9	Chapter 15.06.06 Geological Hazards	Futurewise	<p>Recommendation that the provisions for landslide hazard areas is strengthened in two ways. Staff should be authorized to require a geotechnical report for all land where the proposed building could be damaged by a landslide or other geological hazard with the potential to destroy the home. Secondly, landslide buffers should be set on a case by case basis based on the site analysis. The site analysis required by Chapter 15.06.06(e) should require recommended buffers for landslide buffers and should include a requirement that buffers be adequate to protect people and property based on this evaluation.</p>	<p>The Benton County Draft Shoreline Master Program defines a geologically hazard area as: "Geologically Hazardous Areas" are areas which pose potential threats to life or property because of unstable soil, geologic or hydrologic conditions, or steep slopes. Geologically Hazardous Areas shall include, but are not limited to, all landslide and seismic hazard areas." This definition and the requirements of 15.06.060 address the concerns raised by Futurewise.</p>