

**Kittitas County Regional Shoreline Master Program Update  
January 2013 Initial Draft SMP  
Master Comment Response Matrix**

Comment #	Page #	Section or Line Number	Comment/Concern	Recommended Change	Commenter Name, date	Resolution/Response <sup>1</sup>
1.		5.1 Agriculture Policies	<p>“Recognize the importance of agriculture in Kittitas County and support its continued economic viability.”</p> <p>(A) You are not supporting the economic viability of agriculture by designating buffers through private &amp; public grazing lands. Shoreline buffers will be 75 to 150 ft., Non shorelines (critical areas) buffers will be 30 to 100 ft. Designating these buffers is the precursor to DOE regulating them.</p> <p>(B) The issues around buffers and private property were one of the main issues identified in the Ruckelshaus Center Critical Areas Ordinance discussions. There was and remains agreement throughout all of agriculture that regulatory buffers were and are unacceptable to private landowners. Regulatory buffers on private land is a deprivation of private property rights and is a per se takings.</p> <p>(C) Under what authority can this SMP Draft state that and guarantee that, preexisting use under critical areas and shorelines will not be regulated now or into the near future?</p> <p>(D) Creating buffers that go all of the way to the top of the watersheds create a taking's with no scientific data to support the need for the buffer.</p>		Duncan, D 1/23/13	<p>Shoreline buffers do not apply to existing and ongoing agricultural activities occurring on agricultural lands. See SMP 4.2.J.3.</p> <p>Provisions of the SMP update do not apply to existing agricultural activities occurring on agricultural lands. See SMP 6.2.B, which states:</p> <p style="text-align: center;"><u>Agricultural activities on agricultural lands.</u> Nothing in this SMP shall require modification of or limit agricultural activities occurring on agricultural lands. However, new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and development not meeting the definition of agricultural activities is subject to the provisions of this SMP.</p> <p>This provision is authorized by RCW 90.58.065, which does not limit or change the terms of the current exception to the definition of substantial development as authorized by RCW 90.58.030(3)(e)(iv), which states:</p> <p>(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;</p> <p>Although the Voluntary Stewardship Program (VSP)</p>

<sup>1</sup> Responses focus on comments on the Shoreline Master Program (SMP) update process and the January 2103 Initial Draft SMP. Comments regarding policies and regulations for critical areas (e.g. County Critical Areas Ordinance update or Voluntary Stewardship Program) or other topics outside the scope of the SMP will be considered during preparation of draft policies and regulations for those actions.



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						<p>developed through the Ruckelshaus Center has not yet been implemented, when and if it is implemented, it will apply to critical areas <u>outside</u> of the shoreline jurisdiction as it is anticipated that the SMP update will be adopted prior to adoption of a Kittitas County specific VSP.</p> <p>There are places in the SMP designation maps (Appendix A) where large areas are mapped as critical areas, such as Channel Migration Zones, where it is possible that most of a watershed could be included. However, it is anticipated that the County and Cities/Town will adopt the minimum jurisdictional area See RCW 90.58.030 and minimum and extended jurisdictional areas on SMP Appendix A mapping. Critical areas outside the jurisdiction of the SMP are regulated by the County, City, or Town critical areas ordinance.</p>
2.		Agriculture Policies	<p>“Appropriate vegetation management and Natural Resources Conservation Service conservation practices should be used to avoid and minimize water quality impacts from agriculture activities.”</p> <p>(A) Kittitas County farmers and ranchers working with our Conservation District on voluntary projects have accomplished much in the areas of water quality and quantity when funds are available.</p> <p>(B) BMPs that create a large economic hardship on landowners constitute a takings. Buffers that take private property out of production and still require the private property owner to assume all costs associated with the maintenance and operation of the buffer (water, taxes, weed control, etc) creates annual long term takings. Unmanaged buffers bring with them unintended consequences that are also regulated by other agencies</p> <p>(C) This SMP Draft speaks to funding for voluntary BMPs through the Ruckelshaus Center Critical Areas Ordinance which at present is totally unfunded and given the present economic condition of the State will never be funded enough to create and maintain these BMPs on the hundreds of miles of buffers contained in this draft. Not having a funding mechanism to compensate private property owners for their losses now and into the future this</p>		Duncan, D 1/23/13	<p>The Shoreline Management Act requires jurisdictions to include policies and regulations that protect the ecological functions and values of shorelines. The County will work with members of the agricultural community during this SMP update process to ensure that agricultural production is protected and made a priority to the extent possible under state law, including provisions for new agricultural activities on land not currently in agricultural use. See WAC 173-26-241(3)(a).</p> <p>See also response above about the applicability of the SMP to existing agricultural activities. The SMP update is required to include provisions for new agricultural activities. These provisions are included in SMP 5.3.A and B. Note that there is a typo in B.2.in regard to the date related to new agricultural activities (“... lands that do not have agricultural activities in place on March 5, 1975...”). This date will be the date that this SMP update is approved by Ecology in 2014. See related County comment below (Comment #5)</p>

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			<p>SMP Draft will lead to regulation, restriction and penalties resulting in massive economic hardship for livestock producers without any clear expectation of improving water quality or the need to improve water quality.</p> <p>(D) It appears that Kittitas County Government is buying into the concept that limiting private property rights yields cleaner water.</p> <p>(E) Any one wanting to truly understand the intentions and desired outcome of regulating (2 above) by the DOE should read the 3DT BMP Implementation Approach of which the DOE desired to make into law this session. It created such a firestorm that it was recently sent back for study for another year. It contained "permanent exclusion of animals from surface water in riparian buffer zones". It stated that "foundation water quality BMPs are not adequate and need more restriction" but contained no science or reference to research work conducted in the fields of managed grazing, soil science, plant physiology or livestock behavior. It introduced the concept of "Substantial Potential to Pollute" which basically said that if you had a cow or a turd in a buffer area DOE will regulate and issue penalties on a "Potential violation" with no science to support water quality degradation.</p> <p>(F) As to grazing on Agency lands now owned or purchased in the future this SMP Draft yields the management concept of "working forests and grazing lands" unworkable due to restrictions and costs. This management concept has been an important economic driver in Kittitas County.</p>			
3.	22		In reading the draft, I came across a WAC that I can't find. WAC 173-27-211 is referenced.		Teske, M 1/24/13	This citation is a typo that was repeated throughout Chapter 3. The correct citation is WAC 173-26-211. Revisions will be made in future drafts.
4.		4.1 Archeological and Historical Resources	For millennia the Yakama People have had an intimate knowledge of our environment. We understand the variety and utility of the resources across the diverse landscapes of the ceded and traditional use lands. We expect the resources of cultural value to be preserved and protected for future generations. Some of the sacred foods of the Yakama People include chíish (water), núsux	The Department of Archaeology and Historic Preservation (DAHP) has a confidential database with known archaeological sites. Kittitas County should enter into an agreement with DAHP for access to the database so that the county can screen every permitted project and insure that archaeological sites are not disturbed (RCW 27.53.060).	Yakama Nation, 1/31/13	<p>The January 2013 initial draft SMP contains regulations that generally meet the requests of the Yakama Nation. The April 2013 will retain these regulations with minor revisions, as explained below.</p> <p>The County does not currently have access to DAHP's confidential database. This comment is noted and will be investigated further.</p>

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			<p>(salmon), pyáxi (bitterroot), lúksh (biscuitroot), sawítk (wild carrots), xamáash (camas), and wíwnu (huckleberries). Some sacred animals include pnít (elk), yáamash (deer), anahuy (bear), and xwayamá (eagle).</p> <p>Archaeological resources are a kind of cultural resource. They are important to the Yakama Nation for their cultural value. Archaeological resources are physical manifestations of our ancestors in the landscape. Archaeological sites contain value to the Yakama People. They demonstrate the variety of activities by our ancestors across the diverse landscapes of Washington. Shorelines were a focus of multiple activities for millennia. Shorelines contain archaeological resources, whether previously recorded or still unrecognized (RCW 27.53.040).</p> <p>To facilitate the preservation and protection of resources of cultural value across the ceded and traditional use areas of the Yakama Nation, we expect Kittitas County to utilize a systematic interdisciplinary approach that integrates natural and social sciences [RCW 90.58.100(1)(a)] including archaeological field investigations when permitting all shoreline ground disturbing activities. The varieties of activities indigenous people have engaged in along the shorelines of Kittitas County demonstrate the historic and cultural values contained in all of the shorelines in Kittitas County [(RCW 90.58.100(2)(g)]. Systematic archaeological field investigations of shoreline developments are necessary to insure that still unrecognized archaeological resources (RCW 27.53.040) are not disturbed.</p>	<p>Any project with a known archaeological site must be assessed by a professional archaeologist to determine site boundaries and protection plans. DAHP has created an archaeological predictive model for Washington State. DAHPs model should be used to trigger archaeological surveys whenever any portion of a proposed project includes "high risk" and/or "very high risk" for archaeological resources.</p> <p>Every permit needs to include an archaeological resource incidental discovery clause so the proponent knows what measures must be taken if archaeological resources are discovered during the project.</p> <p>The Washington State Legislature finds that the resources and ecology of the shorelines should be protected [RCW 90.58.020] and their management is required to be coordinated with affected Indian tribes [WAC 173-26-221 (1)(c)(ii)]. This necessitates that a consultation process with the Yakama Nation is established in the Kittitas County Shoreline Master Program.</p>		<p>The current draft SMP contains the following requirement regarding site investigation for cultural resources:</p> <p>Prior to issuance of a permit in areas documented to contain archaeological resources, a cultural resources site inspection or evaluation by a professional archaeologist shall be required in coordination with affected Indian tribes. The requirement to conduct a cultural resources site inspection can b[e] waived by the Administrator. (SMP Chapter 4.1.B.2)</p> <p>Further, the SMP contains an inadvertent discovery regulation:</p> <p>Developers and property owners shall immediately stop work and notify the local government, the Department of Archeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation. Construction may recommence pursuant to RCW 27.44.040, RCW 27.53.040 and WAC 25-48-030. (SMP Chapter 4.1.B.1)</p> <p>Language will be added to a future draft of the SMP clarifying that notification of this regulation should be included in shoreline permits.</p>
5.	83	5.3.B.2	Current draft should be revised to clarify that new agricultural activities are those not existing at the time of adoption of the current Master Program update.	1. New agricultural activities on lands that did not have agricultural activities in place on <del>March 5, 1975 (the date of</del> <u>at the time of adoption of this Master Program)</u> ; conversion of agricultural lands to non-	Kittitas County, 2/6/2013	This date should be the date that this SMP update is approved by Ecology in 2014. The recommended change will be made in the April 2013 draft SMPs.

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				<p>agricultural activities; the development of non-agricultural activities on agricultural lands; and uses in support of agricultural activities are governed by the provisions of this Master Program and subject to the following criteria:</p> <ul style="list-style-type: none"> <li>a. Uses and activities shall be consistent with the environment designation;</li> <li>b. Uses and activities shall be located and designed to ensure no net loss of ecological functions;</li> <li>c. Uses and activities shall not have a significant impact on other shoreline resources and values.</li> </ul>		

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