

10 January 2014

Kevin Varness  
Grays Harbor County  
Utilities and Development Division  
100 West Broadway, Suite 31  
Montesano, WA 98563

**Re: Proposed Grays Harbor County Shoreline Jurisdiction**

Dear Kevin:

The Watershed Company (TWC), working in collaboration with the project team, has developed a preliminary map showing the proposed shoreline jurisdiction for the Shoreline Master Program (SMP) update for Grays Harbor County (County). [Enclosed]

The proposed shoreline jurisdiction shown in the map is determined based upon the State Shoreline Management Act (SMA) and current Washington Department of Ecology (Ecology) rules and guidance documents. Under the SMA, all of the following areas are regulated as “Shorelines of the State” under the SMP:

- Marine waters
- Streams and Rivers with over 20 cubic feet per second (cfs) mean annual flow; their floodway and contiguous floodplain areas extending 200 feet from the floodway;
- Lakes 20 acres or greater in size, measured from Ordinary High Water Mark (OHWM);
- Shorelands 200 feet landward from the OHWM of all marine waters, jurisdictional streams, rivers, and lakes; and
- Associated wetlands that are hydrologically connected to any of the shorelines described above, located within 200 feet of a jurisdictional waterbody, or are entirely/partly located within the waterbody’s 100-year floodplain.

Our first step towards updating the County’s shoreline jurisdiction was to review the precise shoreline boundaries and associated wetlands definitions found in the SMA and Ecology rules and guidance documents. We then compiled and reviewed existing GIS data to determine the

best available data from which to assemble shoreline jurisdiction. Table 1 below lists the specific GIS data components that were used to assemble shoreline jurisdiction.

**Table 1. Grays Harbor Shoreline Jurisdiction Component Data.**

Component	Source Layer Name	Source Layer Agency	Source Layer Date	Notes on Usage
20 CFS, 1,000 CFS	SMA_Pnts_Sugg.shp (Point)	Ecology	January 2010	This layer provides the upstream extent of proposed jurisdiction based on the USGS study (described below), and those rivers which are considered Shorelines of Statewide Significance
Ordinary high water line	1. MSP_Combined_Shoreline.shp (Polyline) 2. NHDFlowline (Polyline) 3. NHDArea (Polygon) 4. NHDWaterbody (Polygon) 5. SMA_Poly_Adopt.shp (Polygon)	1. WA Marine Spatial Planning 2. USGS (National Hydrography Dataset) 3. USGS (National Hydrography Dataset) 4. USGS (National Hydrography Dataset) 5. WA Department of Ecology	1. 2013 2. 2013 3. 2013 4. 2013 5. 2012	OHWL of Grays Harbor and Pacific coastline (#1 &2), rivers (#3), and waterbodies (#4 &5). Stream centerline (#2) was used for smaller tributaries.
Floodway (Preliminary DFIRM)	S_FLD_HAZ_AR.shp (Polygon)	FEMA (provided by Grays Harbor County)	2013	Areas coded FW under "FLOODWAY" field
100 year Floodplain (Preliminary DFIRM)	S_FLD_HAZ_AR.shp (Polygon)	FEMA (provided by Grays Harbor County)	2013	Areas coded either A, AE, AH, AO or VE under "FLD_ZONE" field
Potentially Associated Wetlands	CONUS_wet_poly (Polygon)	USFWS (National Wetland Inventory)	2013	These mapped wetlands have not been field verified and are for informational purposes only

While the proposed shoreline jurisdiction reflects the best available data, the level of accuracy remains limited and might require ground-truthing at the time of a development action review. Particularly in areas with dynamic ecological processes like estuarine and marine influences or stream/river meandering, site-specific analysis of the OHWM, wetland boundary and connectivity will be needed. Each jurisdiction map therefore will include the following disclaimer, derived from Ecology's recommendation:

*“Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation at the project level may be needed to confirm/verify information shown on this map.”*

### **Marine Waters**

Marine shorelines and the area 200 feet landward of the OHWM are included under the County’s proposed shoreline jurisdiction, except for marine shorelines encompassed by the Cities of Ocean Shores and Westport. Shorelines within the Quinault Indian Reservation are included in the mapping and will be included in the analysis, however the SMP development process for these tribal areas will be separate from the County’s. The National Hydrography Dataset published by USGS<sup>1</sup> was used as the marine shoreline boundary (OHWM) for the county’s Pacific coastline, as well as the southwestern portion of Grays Harbor between City of Westport and west of Johns River. For the rest of the Grays Harbor and nearshore estuary system, the combined marine shoreline identified in the Final Report of Coastal Marine Spatial Planning Priorities of 2013<sup>2</sup> was deemed more accurate and was used to delineate that portion of marine OHWM instead of the National Hydrography Dataset.

The Pacific coast shoreline including harbors, bays, estuaries, and inlets, seaward from the ordinary high water mark and all shorelands associated with these waters are also considered “Shorelines of Statewide Significance”, a special category of shorelines where specific priority uses are preferred.

### **Streams/Rivers**

The upstream limit of shoreline jurisdiction for streams and rivers is that point where the mean annual flow shifts from greater than 20 cubic feet per second (cfs) to less than 20 cfs. The upstream 20 cfs point is based on a 2003 study by USGS provided by Ecology<sup>3</sup>. For purposes of this preliminary map set, shoreline jurisdiction is shown extending up to the USGS 20 cfs points as directed by Department of Ecology. Based on the USGS data, there are 208 distinct streams/rivers and tributaries which meet the SMP shoreline definition in the County.

Additionally, the current County preliminary FEMA DFIRM flood data (2013) was used to identify both the floodway and 100-year floodplain, where present. Per the SMA, all areas within the floodway are included as part of shoreline jurisdiction, as well as the area up to 200 feet landward of the floodway where a contiguous floodplain is present.

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<sup>1</sup> <http://nhd.usgs.gov/>

<sup>2</sup> Final Report: Coastal MSP Priorities, June 30, 2013. University of Washington Olympic National Resources Center

<sup>3</sup> <http://pubs.usgs.gov/wri/wri034042/pdf/wri034042.pdf>

All streams and rivers which have mean annual flow of 1,000 cfs or greater are considered Shorelines of Statewide Significance. Within Grays Harbor County, the following streams and rivers meet this definition:

- Chehalis River;
- Humptulips River (mainstem);
- Quinault River;
- Satsop River (East Fork and mainstem);
- North Creek (southernmost portion, downstream from the mouth of Lower Salmon Creek);
- Wynoochee River (downstream from the mouth of Schafer Creek); and
- Queets River (a small portion in the northwestern corner of the county).

### Lakes

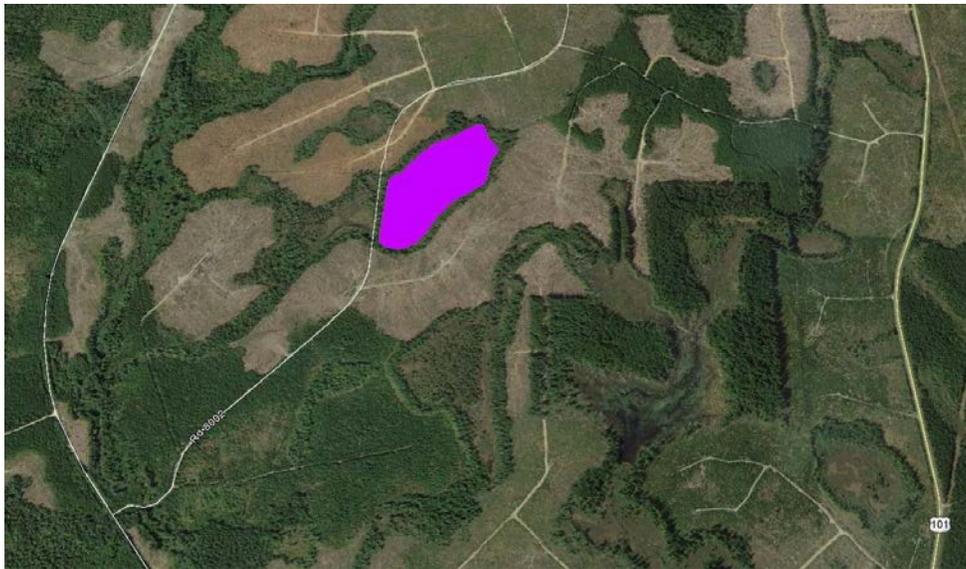
Within unincorporated Grays Harbor County, three lakes are currently listed by WAC 173-20-300 as Shorelines of the State (Failor Lake and two unnamed lakes). Failor Lake is a 60 acre lake approximately 6 miles north of the City of Hoquium. One of the unnamed lakes is actually part of the lower portion of Mox Chehalis Creek, near Malone (Figures 1 and 2) and therefore should not be considered as an individual waterbody. The second of these unnamed lakes is located approximately 4 miles north of Humptulips, just west of Hwy 101. Based on review of current and historical aerial photography (Figures 3-5), which indicates that the feature is likely wetland rather than an open water lake, this feature should not be considered as a shoreline jurisdictional waterbody.



**Figure 1:** Shoreline polygon near Malone as currently listed under WAC 173-20-300



**Figure 2:** View of 2013 aerial image (Google Earth 5/5/13) of mouth of Mox Chehalis Creek near Malone.



**Figure 3:** Shoreline polygon north of Humptulips as currently listed under WAC 173-20-300

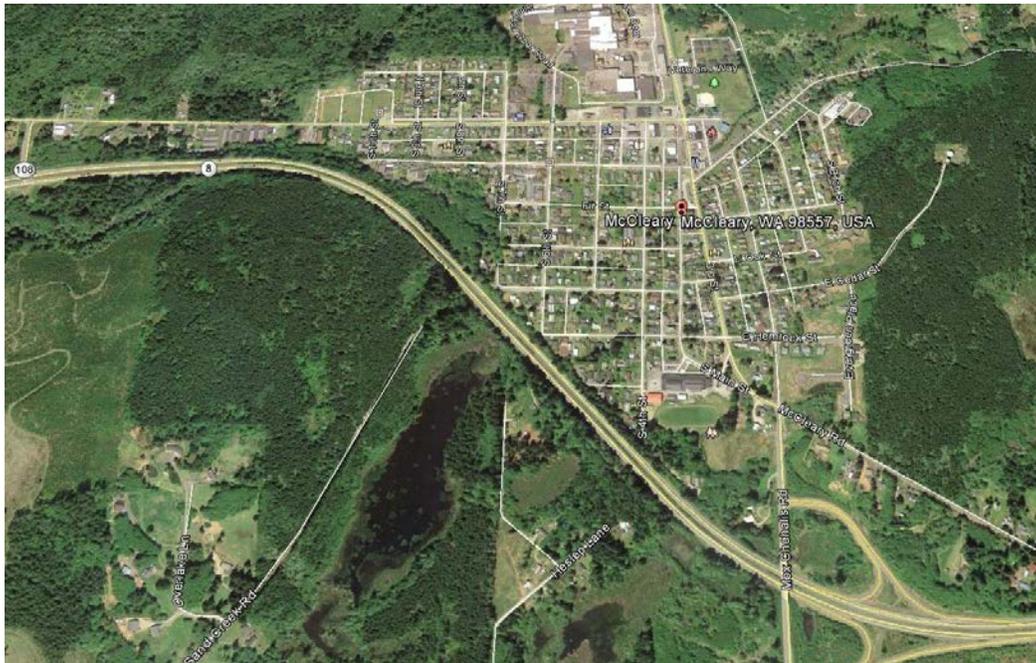


**Figure 4:** View of 2013 aerial image (Google Earth 5/5/13) depicting wetland and no open water for the unnamed lake.



**Figure 5:** Historical view of USGS 1994 aerial image (Google Earth) also depicting wetland and no open water for the unnamed lake.

Upon further examination of the National Hydrography Dataset, Ecology's suggested shoreline polygons, and current and historical aerial photographs, an additional four lakes are proposed for consideration. These include, Lake Quinault, Wynoochee Lake, Moores Lake near Elma (~36 acres), and one unnamed lake (~21 acres) near the City of McCleary (referred to as "unnamed pond" on the enclosed maps). Figure 6 shows the location of this unnamed waterbody.



**Figure 6:** 2013 aerial image of an unnamed waterbody (~21 acres) near the City of McCleary.

As mentioned above, Ecology’s suggested shoreline polygons (which is based upon the National Hydrography Dataset) was reviewed along with current and historical aerial photographs to determine if any other suggested waterbodies should be considered as Shorelines of the State. Although an additional 41 polygons are included in this dataset, only the four listed above appear to include open water.

Lakes greater than 1,000 acres are considered Shorelines of Statewide Significance. Two lakes within unincorporated Grays Harbor County meet this criterion (Lake Quinault and Wynoochee Lake).

### **Associated Wetlands**

Associated wetlands are those that are “in proximity to and either influence or are influenced by ... a lake or stream subject to the Shoreline Management Act” and “[t]he entire wetland is associated if any part of it lies within the area 200 feet from either the ordinary high water mark or floodway” or “if any part is located within the 100 year floodplain of a shoreline”<sup>4</sup>. Wetlands meeting the latter two criteria are mapped as “Potentially Associated Wetlands” in the attached map. Location and boundary of these wetlands are drawn from GIS data of National Wetlands Inventory (NWI).

Non-associated wetlands are intentionally omitted from this map set. However, wetlands that are either outside of the floodplain or the 200-foot standard shorelands area may still be

<sup>4</sup> [http://www.ecy.wa.gov/programs/sea/sma/st\\_guide/jurisdiction/Shorelands.html](http://www.ecy.wa.gov/programs/sea/sma/st_guide/jurisdiction/Shorelands.html)

associated on the basis of a hydraulic connection to the shoreline. Wetlands that are separated by an obvious topographic break from the shoreline are not associated, provided they are outside the shoreland zone, and that the break is not an artificial feature such as a berm or road. These possible additional shoreline-associated wetlands can only be determined on a project-level basis at the time of permit application. Further, the NWI wetland data are drawn from high resolution aerials and might not be completely accurate at a parcel level. Therefore, actual wetland presence and boundaries must be verified at the project level.

### **Optional Shoreline Jurisdiction Boundaries**

The information above describes assembly of the minimum shoreline jurisdiction. The County may further elect to expand jurisdiction to include:

- 1) All or part of the 100-year floodplain, and/or
- 2) Buffers of associated wetlands<sup>5</sup> that would otherwise encompass areas outside of shoreline jurisdiction.

Under either of these options, the area of shoreline jurisdiction increases and additional properties or areas of properties would be subject to the SMP and its additional layer of permitting requirements.

RCW 36.70A.480(6) says “If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(f), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).” Ecology’s SMP Handbook chapter on Shoreline Jurisdiction explains the implications of this RCW as follows:

If the local government chooses not to extend its shoreline jurisdiction under RCW 90.58.030(2)(f)(ii), the CAO will protect the entire critical area and its buffers (see RCW 36.70A.480(6)). The CAO will continue to apply to the entire critical area and its buffers, even after SMP approval. However, the SMP will also apply to the portion(s) of the critical area and its buffers that lie within shoreline jurisdiction. This means the subject critical area and some or all of its buffers will have “dual coverage” with regulation by both the SMP and the CAO.

Thus, extending SMA jurisdiction helps to reduce regulatory duplication in the future. This is a fundamental issue that should be carefully considered by the County. The attached map

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<sup>5</sup> The RCW actually allows for expansion of jurisdiction to include *critical area* buffers, not just wetland buffers. However, this generally is limited to wetland buffers in practice. The nature of non-shoreline streams as a mostly perpendicular element to a shoreline waterbody already brings their full buffer into shoreline jurisdiction. Geologically hazardous areas are generally assigned a setback, not a buffer. Critical aquifer recharge areas (CARAs) are not addressed in the SMA or SMP Guidelines, and CARAs further are not assigned a setback or a buffer.

currently does not include expanded shoreline jurisdiction to include critical area buffers and/or floodplain. Classification of associated wetlands, which would ultimately determine the regulatory buffer, has not been conducted and would be done on a site-by-site basis at the time of a development application. Evaluation of the impact from expanding jurisdiction to include floodplains can be assessed by viewing the floodplain maps which will be provided in the Shoreline Inventory Map Folio (in development).

### **Federal & Tribal Land Ownership**

The SMA generally does not include federal and tribal lands in shoreline jurisdiction. As stated in RCW 90.58.280: "The provisions of this chapter shall be applicable to all agencies of state government, counties, and public and municipal corporations and to all shorelines of the state owned or administered by them." However, WAC 173-27-060 says that "lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership" are subject to the SMA. For these purposes all federal and tribal lands will be included in the mapping and analysis. Provisions can be included in the County SMP addressing any future unanticipated nonfederal leases or easements on federal lands adjacent to shoreline waterbodies. The actual SMP development for tribal and federal areas will be a separate process.

The proposed shoreline jurisdiction excludes areas within the Cities of Ocean Shores, Westport, Aberdeen, Cosmopolis, Elma, Hoquiam, McCleary, Montesano and Oakville.

Please call if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Nickel", with a stylized flourish at the end.

Dan Nickel  
Environmental Engineer

Enclosures